LEGISLATIVE, FINANCE, AND ADMINISTRATION COMMITTEE

A G E N D A

April 27, 2009 - 6:00 P.M. - Council Chambers - City Hall - City of Dover

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

AGENDA ADDITIONS/DELETIONS

1. Review and Recommendation - Filling Critical Positions

2. Recommendations - Phase II of the MAG Study

3. Proposed Ordinances
   A. 2009-05 - Chapter 102 - Taxation
   B. 2009-09 - Consolidation of Fees - Appendix F

4. Recommendations of Civilian Pension Board
   A. Scope of Work and Cost Estimate Analysis of Re-opening the Defined Benefit Plan
   B. Recommendation of Civilian Pension Board - Cost of Living Adjustment (COLA)

5. Adjournment by 7:00 P.M.

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

ACTION FORM

PROCEEDING: Legislative, Finance and Administration Committee **AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Human Resources **DATE SUBMITTED**: 4/1/09
PREPARED BY: Anthony DePrima, City Manager and Kim Hawkins, Human Resources Director
SUBJECT: Implementation of Management Advisory Group (MAG) Phase 2 –Pay for Performance Evaluation System
REFERENCE: Phase 2 of MAG report
RELATED PROJECT: Phase 1 of MAG report
APPROVALS: City Council
EXHIBITS: **Exhibit 1**: 21 Recommendations from MAG **Exhibit 2**: Employee Recommendations **Exhibit 3**: Performance Scores Definition **Exhibit 4**: PFP Instructions **Exhibit 5**: PFP Policy **Exhibit 6**: MAG Phase 2 Report
EXPENDITURE REQUIRED: **AMOUNT BUDGETED**: **FUNDING SOURCE (Dept./Page in CIP & Budget)**:
TIMETABLE: Some aspects will be completed immediately while others will be presented by February 2010.
RECOMMENDED ACTION: Implementation of Recommendations as Outlined in Exhibits

BACKGROUND AND ANALYSIS

In September 2007 City Council indicated a desire to have the Pay for Performance Policy and its implementation to be evaluated to determine whether it is meeting its original purpose. Interviews were held with two consultants in November /December 2007. At the January 28, 2008 Leg and Fin meeting, the request to award the bid was tabled awaiting mid-year review of the budget for funding purposes. At the March 10, 2008 Leg and Fin meeting it was recommended to approve the awarding of the bid to Management Advisory Group (MAG). Council approved this recommendation on March 24, 2008. In May 2008 the scope of the contract expanded to review the salaries of non-bargaining employees and the salary ranges of all non-bargaining positions.

MAG obtained our current PFP documents from the City Manager and Human Resources Director. MAG conducted two sets of mandatory on-site meetings with all non-bargaining employees. One set of meeting was held in October and the other in December. The meetings were intended to obtain the employee's perceptive of the weaknesses and strengths of the PFP system and solutions to their concerns. The meetings were also held with City Council members. At the conclusion of the second meeting, employees were encouraged to submit a confidential survey regarding the PFP evaluation system. MAG issued the final report on February 13, 2009 and presented its findings to LFA on February 23, 2009.

Based upon the conclusions that MAG developed, the following is their recommendations, as well as the City Manager's and Human Resources for your consideration.

Indicated in Exhibit 1 are MAG's 21 recommended changes to the current evaluation system. In addition, Exhibit 2 provides a summary of the comments from the employees that will be implemented or further studied. As previously mentioned, all non-bargaining employees and City Council had an opportunity to provide input to the strengths, weakness and solutions of the PFP evaluation system.

One of MAG's recommendations (recommendation #5-#7) was to change the title of three performance ratings. Exhibit 3 illustrations these suggested changes.

As a result of MAG's recommendation as well as the employee's comments, the PFP instructions and policy needed to be updated to reflect the recommendations. The updated instructions are provided in Exhibit 4 and the policy is Exhibit 5.

While the MAG Phase 2 report was provided at the February 23rd Leg and Fin meeting is it being provided once again in electronic format.

Exhibit 1

Management Advisory Group (MAG) Phase 2 Recommendation April 13, 2009

Rec. #	Page # in Phase 2 Report & Related Exhibit Attached	MAG's Recommended Action	City's Recommended Action	Estimated Completion Date
1	2-4 Exhibit 5, page 5 Exhibit 5-Appendix A	Change the PFP policy to require training for supervisors once per year. If training is not attended, deny any salary increase for which the supervisor may be eligible.	Update language: Change the PFP policy to require training for supervisors once per year. If training is not attended, deny any salary increase for which the supervisor may be eligible. **The City Manager may excuse a supervisor from the training.**	Immediately
2	2-5 Exhibit 4, page 1	Establish a more precise time frame within the set of Instructions so as to clearly define the time allotted for each step in the performance review cycle.	This recommendation is in reference to allowing sufficient time for the HR Director to review evaluations. The instructions have been updated to include a time frame of five days.	Immediately
3	2-5 Exhibit 4, page 2	Written quarterly reviews should be done by Department Heads, and documented in the evaluation by entering into the PFP software.	Required quarterly reviews will begin July 1, 2009 as this review cycle is ending.	Implement July 1, 2009
4	2-5 Exhibit 4 page 3	All evaluated employees should conduct self evaluation, with the purpose of then comparing them at the formal performance evaluation meeting.	The PFP instructions will be updated accordingly.	Effective with reviews to be completed by May 31, 2009.
5	2-6 Exhibit 3 Exhibit 4, page 4	Change the current performance form label of "Good" to "Meets Expectations" on the evaluation form.	The PFP evaluation will be updated.	Effective with reviews to be completed by May 31, 2009.
6	2-6 Exhibit 3	Change the current performance form label of "Acceptable with Some Improvements Needed" to Improvement Needed" on the evaluation form.	The PFP evaluation will be updated.	Effective with reviews to be completed by May 31, 2009.
7	2-7 Exhibit 3 Exhibit 4, page 4	Change the current performance label of "Outstanding" to "Results Rarely Achieved by Others."	The PFP evaluation will be updated.	Effective with reviews to be completed by May 31, 2009.

Exhibit 1

Management Advisory Group (MAG) Phase 2 Recommendation April 13, 2009

Rec. #	Page # in Phase 2 Report & Related Exhibit Attached	MAG's Recommended Action	City's Recommended Action	Estimated Completion Date
8	4-5	Create a committee structure to evaluate Council appointed positions that would make recommendation on compensation adjustments for the evaluated employee.	***If Council wants to pursue further, a separate Committee Action Form will be prepared and presented.***	FY10
9	4-5	Apply the changes noted in Section 5.0 to the development of Core Competencies for the Council positions. See recommendation #15 - *Streamline and enhance Core Competency and Element statements.*	This will become a goal for the HR Director for FY10. A committee will be formed to formally discuss.	Present to City Council by February 2010.
10	5-3	Base the movement within the pay grade on the concept of a "normal progression" career plan for employees who "Meet Expectations" to reach midpoint in 10 years.	According to MAG, this will be achieved by implementing Recommendation #11.	
11	5-4 Exhibit 5 page 1 & 2 Ex. 5 Appexd. A	Use the arithmetic midpoint of the position's assigned pay grade as the basis for calculating potential performance adjustments.	Use the described method for calculating July 1, 2009 pay increases.	July 1, 2009
12	5-6 Exhibit 5 – Appendix A	Establish a simple and straightforward program for potential adjustments of zero (0) through an annually determined percentage amount, based on budget availability.	Create a matrix for awarding July 1 pay increases. Appendix will be created based upon budget and market conditions.	July 1, 2009
13	5-8	Automate the statistical normalization of rater comparisons.	This will become a goal for the HR Director for FY10.	Present to City Council by February 2010.
14	5-8 Exhibit 4, page 1	Hold up salary adjustments until all evaluations are complete; publish stragglers on the City's intranet.	Not recommended for implementation. We wish to continue our current practice of extending the specific tardy department head's salary increase. "Stragglers" will be handled by the supervisor.	Immediately

Exhibit 1

Management Advisory Group (MAG) Phase 2 Recommendation April 13, 2009

Rec. #	Page # in Phase 2 Report & Related Exhibit Attached	MAG's Recommended Action	City's Recommended Action	Estimated Completion Date
15	5-12	Streamline and enhance Core Competency and Element statements. *See Rec. #9*	This will become a goal for the HR Director for FY10. A committee will be formed to formally discuss.	Present to City Council by February 2010.
16	6-1 Exhibit 4, page 2	Continue to complete performance evaluations annually as dictated by current policy.	No additional action needed.	
17	6-2 Exhibit 4, page 2	Require quarterly review of all employees being evaluated.	Additional monitoring of quarterly reviews will be maintained.	Implement July 1, 2009.
18	6-3	Add responsible participation in the PFP as a Supervisory Core Competency	The core competency for Supervisory Skills will be updated accordingly.	Effective July 1, 2009
19	6-3	Add monitoring and reminder goals to the Core Competency of the HR Director – *Include monitoring goals for the HR Director to ensure consistency with the City's Strategic Plan, reminding departments of the need for quarterly reviews, setting up annual training on the program, and identifying unusual scoring patterns to the City Manager, the Department Head and the rater. This should be reflected in the Supervisory Core Competency.*	Rather than modify the PFP evaluation for this one recommendation, this suggestion will become a standing goal for the HR Director.	Effective July 1, 2009
20	6-4 Exhibit 5, page 4	Continue the current process for appeals.	No action needed.	
21	6-5 Exhibit 5, page 2 Exhibit 5 – Appendix A	Any pay out for performance over the maximum of the range is a lump-sum one-time payout that does not roll into the base salary.	In addition to the proposed language, add, "the city reserves the right not to award any pay increase for employee's whose salary is over the maximum of the range."	Effective with pay increases awarded on July 1, 2009.

Exhibit 2

Management Advisory Group (MAG) Phase 2 Employee Comments April 13, 2009

Section 3 and Appendix 2 of Management Advisory Group's (MAG) Phase 2 report provides the anonymous views of employees and supervisors who attended workshops conducted by MAG in October and December 2008. The views are in response to a series of questions posed to employees who are evaluated under the PFP Evaluation System.

Employees were also asked to review the entire MAG Phase 2 report and submit any additional comments to either the City Manager or the Human Resources Director. While employees were provided approximately two and half weeks to submit additional comments, no additional comments were received.

In analyzing Section 3 and Appendix 2, the City Manager and Human Resources Director extensively reviewed all the comments. While all the comments were considered valuable and will be reviewed frequently, eight recommendations will be further addressed. They are indicated in the table.

Blank Intentionally

Exhibit 2

Management Advisory Group (MAG) Phase 2 Employee Comments April 13, 2009

Rec.	Employee Suggestion	Intended City's Recommendation	Date of Completion
1	Goals don't flow down in a timely manner Exhibit 4, page 5	City Council/City Manager and Mayor to establish goals for Department Heads by March 31 of each year.	Implemented in FY 10.
2	Goals are not realistic under current work load Exhibit 4, page 5 & 6 Exhibit 5, page 2	All supervisors are to be mindful of the number of goals being assigned. Employees can create their own goals for review by their supervisor. The HR Director will be more astute to the number being assigned.	Effective with evaluations for FY 10.
3	All evaluations are due at the same time thus causing a heavy work load in a short amount of time Exhibit 4, page 2	This issue is being addressed by requiring quarterly reviews. Thus as the fiscal year ends three fourths of the evaluation should be complete.	July 1, 2009
4	Implement weighting of goals	This option will be considered an evaluation committee that will be created.	If implemented, it will become effective in FY 10.
5	Do not require an explanation for a performance score of three and four Exhibit 4, page 4	Explanation for a score of three will not be required.	Effective for evaluations being completed for FY09.
6	High performers are not awarded	The salary matrix provides for additional compensation for employees who receive a higher than average performance score. An improved effort will be provided by supervisors in rewarding high performers with non-monetary incentives and actions.	Immediately
7	Provide educational training to employees on the PFP system and process Exhibit 5, page 5	Training will begin being offered to employees.	Immediately
8	Do not assign goals during probationary period Exhibit 4, page 2	It is realized that the probationary period is a time for learning. Only when necessary will goals be assigned.	Immediately

Exhibit 3

Management Advisory Group (MAG) Phase 2 Recommendations
Performance Rating Definitions April 13, 2009

PERFORMANCE RATING DEFINITIONS

~~OUTSTANDING~~:

RESULTS RARELY ACHIEVED BY OTHERS Performance Points 5

MAG Rec. #7, page 2-7 of MAG Phase 2 report

This level of performance represents the achievement of significant and exceptional results. The employee consistently achieved additional, significant results beyond established targets and significantly exceeds position requirements. The employee actively and continuously exhibits initiative and innovation and serves as a model for others.

COMMENDABLE: Performance Points 4

Demonstrates above-average knowledge, skills, abilities and effort. Performance goes beyond the position requirements and exceeds expected results. Performance measurably exceeds expectations. Employee exhibits initiative and resourcefulness in going beyond expectations of job performance in accomplishing goals and objectives.

~~GOOD~~: MEETS EXPECTATIONS Performance Points 3

MAG Rec. #5, page 2-6 of MAG Phase 2 report

The employee is effective, with good, solid performance as demonstrated by achieving a majority of results and demonstrating most competencies successfully. Job performance is accomplished in an efficient and competent manner. This performance is fully satisfactory and meets acceptable or expected standards for the job. Work efficiency and effectiveness support the overall productivity of the work unit. Employee accomplishes assigned tasks with expected direction and assistance.

~~ACCEPTABLE WITH SOME IMPROVEMENT NEEDED~~:

IMPROVEMENT NEEDED Performance Points 2

MAG Rec. #6, page 2-6 of MAG Phase 2 report

The employee has met the basic expectations however has not performed the assigned duties in a fully competent manner thus requiring additional support of others. Inefficiency and/or ineffectiveness effects the productivity of the work unit. Does not consistently demonstrate the required knowledge, skills, abilities and/or effort for this position. Higher level of performance may be possible through increased effort, training and guidance. Performance at this level will be subject to continued careful assessment.

UNSATISFACTORY: Performance Points 1

Minimum standards for the job are not met; job duties are performed at a marginal level or not performed, or must be performed by others. There is minimal contribution to work unit productivity. Employee is unwilling or unable to improve. A need for further improvement is clearly recognized, identified and must occur immediately. Employee requires constant and close supervision. Continued performance at this level, absent any potential or evidence of immediate improvement will lead to progressive discipline up to and including termination.

Exhibit 4

Management Advisory Group (MAG) Phase 2
Revisions to PFP Instructions April 13, 2009

Instructions for the Performance Review Cycle

Please realize that annual reviews are due to the Human Resources Director by May 31. A supervisor shall arrange to meet with the employee to discuss the employee's evaluation no later than June 25 of each year.

Failure to provide a completed evaluation for an employee in a timely manner, no later then July 1, will cause the effective date of the Department Head's pay-for-performance pay increase, if one was granted, to be extended by the number of days the evaluation was not received if the failure to submit a completed evaluation harms the evaluated employee. For example, if pay-for-performance increases are effective July 1 and the Department Head submits the evaluation on July 5 (five days late), the Department Head's pay-for-performance increase would be granted, if he or she was entitled to one, on July 5. The employee's increase, if one was granted, would be retroactive to July 1. MAG Rec. #14, page 5-8 of MAG Phase 2 report ***Sufficient time for review by the Human Resources Director shall be considered when determining a timely manner. ~~For example, submission of the evaluation on June 30 may not provide ample time for the Director to review and return to the evaluator. This may cause harm to the evaluated employee.~~*** **A minimum of five days should be allowed for review by the Human Resources Director.** MAG Rec. #2, page 2-5 of MAG Phase 2 report

Before conducting a performance evaluation, a supervisor must give an employee a reasonable time to demonstrate performance.

THROUGHOUT THE YEAR

Observe and document the employee's performance and give immediate feedback whenever possible. ~~Documentation at this point can be somewhat informal, but try to keep a record of what the employee does, both good and bad.~~ This record will be very helpful in completing the remarks/example section of the evaluation as well as ensuring the employee is not being evaluated on a short timeframe.

Ask the employee for input about their performance during the year. This is important because the performance review should be based on two-way communication, so that it is not merely a "report card." The employee's input can be any combination of the following:

- A draft performance appraisal prepared by the employee
- A list of accomplishments and significant events
- An informal discussion between the employee and supervisor

It is important to keep in mind that the supervisor should collaborate and seek advice from others in evaluating the employee throughout the year. Other supervisors, employees, customers, division and department heads may be able to provide important insights.

QUARTERLY REVIEW (generally October, December and March)

Meet ~~informally~~ **formally** MAG Rec. #3 & #17, page 2-5 and 6-2 of MAG Phase 2 report ~~-~~with the employee to discuss progress toward the goals and objectives as outlined in Part 3 of the Pay-for-Performance Evaluation for the previous year. Update, add or remove goals as necessary since the last review **in the PFP software**. MAG Rec. #3 & #17, page 2-5 and 6-2 of MAG Phase 2 report and Employee Rec. #3 ~~-~~Unexpected and unplanned assignments may arise. As new goals are added, it is important to evaluate the employee's capacity to accomplish already established goals. By keeping goals and objectives current, the necessity of documenting unplanned assignments in "Part 1" during the Annual Review will be minimized.

~~Indicate any additional comments by the supervisor or employee in the supervisor's log/journal.~~

PROBATIONARY REVIEW

All new employees shall receive a formal probationary review for no less than six months of active service and no more than seven months of active service. **It is understood that the probationary period is a learning period. Goals are not required during the probationary period however if appropriate, goals could be assigned.** Employee Rec. #8 (Exhibit 2) ~~Goals are to be established for the new employee to complete during the probationary period.~~ See next section, Annual Review, for additional information.

ANNUAL REVIEW

Annual reviews are required for all employees. MAG Rec. #16, page 6-1 of MAG Phase 2 report

Employees hired between July 1 and November 30 of each year shall receive a probationary review for no less than six months of active service and no more than seven months of active service in addition to an annual review in May. On July 1, the employee would be eligible for a pay-for-performance increase.

Employees hired between December 1 and June 30 shall not receive an annual review in May; however, they would receive a probationary review upon completion of six months of active service and no more than seven months of active service. Employees would be eligible for a pay-for-performance increase at their one-year employment anniversary. These employees would then receive an annual review in May of the following year and be eligible for a pay-for-performance increase on July 1 of the following year.

The pay-for-performance evaluation instructions are available on Public Docs in the Pay for Performance folder while the evaluation is available on the City's intranet, ~~http://intranet/projects/pfpfb/.~~ **http://intranet/new.** For assistance, please contact the Human Resources Department. It is important to inform the employee that his or her yearly evaluation is due. The supervisor shall set a meeting date and time with the employee to review the evaluation. This will ensure that everyone has ample time to prepare for the evaluation.

It is important to keep in mind that the supervisor should collaborate and seek advice from others in developing the evaluation. Other supervisors, employees, customers, division and department heads may be able to provide important insights into the evaluation process.

SELF EVALUATION

A self-evaluation is ~~not~~ required by the employee ~~unless requested by the supervisor~~. A self-evaluation ~~is strongly encouraged since it is~~ **provides** an opportunity for ~~an~~ **the** employee to inform the evaluating supervisor of surrounding circumstances or extraordinary efforts that were involved in the completion of the goals. MAG Rec. #4, page 2-5 of MAG Phase 2 report Evaluators will be specifically seeking the employee's synopsis of the results achieved on his or her planned and unplanned goals. The employee shall be given a copy of a blank evaluation **in July** by his or her evaluator so that he or she may ~~prepare a self-evaluation prior to the formal discussion of the evaluation~~. **maintain the evaluation for quarterly and yearly reviews.** MAG Rec. #4, page 2-5 of MAG Phase 2 report

The employee may also wish to indicate goals they would like to achieve in the next review period. Goals should be related to the overall vision and mission of the City as well as the employee's department.

Professional development opportunities are not considered goals and should not be noted in the goal section of the evaluation. For example, complete an Excel class.

JOB DESCRIPTION

Obtain the current job description for the employee's position to be reviewed by the employee and supervisor during the annual budget process. In general this review will occur in December or January each year. The job description shall be reviewed by the employee and the supervisor individually. Reviewing the job description annually will ensure that the job description remains up to date with current job duties. All changes must be submitted to the Human Resources Director for consideration and final approval. If appropriate, the HR Director may recommend the position be re-graded.

COMPLETING THE PAY FOR PERFORMANCE EVALUATION FORM

Page One

The intranet system will automatically complete Page 1 of the evaluation. Please realize that each non-bargaining position has been assigned a weight for goals and objectives and one for core competencies. If you think that the weights need to be changed, please contact the Human Resources Director. ~~If you need assistance, please contact the Human Resources Department.~~

PART 1: Planned Goal and Unplanned Assignment Results

This section is to include comment**s** on the degree and qualities of the results achieved and note any extenuating circumstances affecting the results. It should also be noted how well an

employee did in accomplishing the objectives and if they were completed in a timely manner. **A status report on each goal and unplanned assignment is required.** Assign performance points based upon the Performance Rating Definitions and the Key as noted in the Performance Rating tab of the Pay for Performance intranet system. The performance score shall be indicated

in the Performance Rating box. Narrative information is very important in the review process **and is required in Part 1 of the evaluation**; therefore, include remarks and whenever possible, specific examples. It is very important to consider the difficulty of the goals and objectives when scoring. Goals and objectives can have different degrees of difficulty. The completion of a relatively easy goal and objective should not be scored the same as completing a difficult goal and objective. An easily attainable goal that is completed should be rated "~~good~~ **meets expectations**," MAG Rec. #5, page 2-6 of MAG Phase 2 report-a more difficult goal should be rated "commendable," and achieving a very difficult goal should be "~~outstanding~~ **results rarely achieved by others**." MAG Rec. #7, page 2-7 of MAG Phase 2 report A very difficult goal or objective that may be only partially completed may score the same as an easily attainable goal that is completed. It is very important that the difficulty of the goal and objective not be gauged on the employee's ability, but on its relative difficulty when compared to goals and objectives assigned to others.

After completing the Planned Goals and Objectives section, proceed to the Major Unplanned Assignments contained in Part 1. This section should be completed in the same manner as Planned Goals and Objectives. Major unplanned assignments are assignments which either were not included on the previous year's evaluation or were added during the quarterly review and were not scheduled for completion throughout the fiscal year and required at least 40 hours to complete.

The performance score is determined by dividing the sum of the points by the number of Planned Goals and Unplanned Assignments. The result is then rounded to the nearest tenth. This figure will be automatically calculated once the evaluation is saved. Please refer to page one of the evaluation.

PART 2: Core Competency Elements

Each employee shall be evaluated on all the core competencies indicated in Part 2 with the exception of categories that pertain to employees who supervise. This category is indicated. The supervisor should review the Performance Rating Definitions on page 2 of the evaluation or contained in the Performance Rating tab of the Pay for Performance intranet system prior to completing this section.

Specific examples are to be provided in addition to remarks in the space provided. **It is required to provide documentation for a performance score of 1 and 2 as well as a performance score of 5. A performance rating of three does not require an explanation.** Employee Rec. #5 (Exhibit 2) **Specific examples and documentation is recommended for a performance score of 4. Employees need to be aware how they are deficient as well as how they performance is at or above the desired level.** The examples provided for each competency on

the evaluation form should be used as guidelines in developing the narrative in the remarks/example section rather than merely copied.

Upon the completion of evaluating all core competencies, save the evaluation. By saving the evaluation the score will automatically be calculated.

Once the weighted scores for planned goal and unplanned assignment results and core competencies have been calculated the employee's overall score will automatically be calculated by the intranet system. This is calculated by adding the two weighted scores together.

Overall Comments

A detailed narrative is be included in the Overall Comments section (located at the end of Part 2, Core Competencies) of the evaluation. This section should be used for the supervisor to express any comments or concerns that were not addressed previously in the evaluation.

PART 3: Major Responsibilities for Next Year

List goals and objectives for the coming year that are to be evaluated during the next evaluation. **Evaluators are to be mindful of the number of goals that are assigned to employees.** Employee Rec. #2 (Exhibit 2) **Each year Department Heads are to receive their goals by March 31.** Employee Rec. #1 (Exhibit 2)**This will assist the departments in preparing goals for their employees. It is encouraged that employee be involved in the development of the departments fiscal year strategic goals.** Employee Rec. #2 (Exhibit 2) **All** goals are to be written in the S.M.A.R.T. (**S**pecific, **M**easurable, **A**ttainable, **R**ealistically high, and **T**arget date) format. These goals are to be discussed with the employee during the formal evaluation process and reviewed quarterly to determine the employee's progress toward reaching them. For information regarding S.M.A.R.T., please contact the Human Resources Department.

PART 4: Employee's Professional Development Plan

Establish a Development Plan listing actions that the employee can take to improve performance for the coming year. This may include suggestions for education and training, reading material, research, job shadowing, counseling and other self-improvement programs. The Development Plan should include specific actions that the employee can take to enhance performance. This section of the evaluation affords the evaluator and the employee an opportunity to collaborate on how the employee's performance can be improved both as an individual and as a part of a team. This section should be taken very seriously and should be considered one of the most important parts of the evaluation.

Submission for ~~Additional Approval~~ *Human Resources Quality Control Review*

Upon completing the evaluation, please electronically "Forward" the evaluation. This function is within the Pay for Performance intranet system. This function indicates to the next approving supervisor/department head that the evaluation has been completed and is ready for their review. The intranet system allows the evaluation to be forwarded as well as "Returned". The proper

chain of command must be followed in order for the evaluation to reach the Human Resources Director for final ~~approval~~ **review**. Throughout the ~~approval~~ **review** process, a supervisor may return the evaluation to the previous level. This process should be continued until the final ~~approval~~ **review** is ~~received from~~ **completed by** the Human Resources Director.

The evaluation is not to be presented to the employee until it has been ~~approved~~ reviewed by the Human Resources Director. If the evaluation is presented to the employee before the Human Resources Director ~~approves~~ reviews it, the evaluator may be subject to presenting the evaluation again to the employee.

Review with the Employee

Once final ~~approval~~ **review** is ~~received from~~ **completed by** the Human Resources Director, the supervisor shall meet with the employee at the time and date originally scheduled at the beginning of the evaluation process. The supervisor ~~may~~ **shall** provide a copy of the **completed** evaluation ~~up to~~ **at a minimum of** two days prior to the meeting **to the employee**. **This will allow** ~~for~~ the employee **an opportunity** to ~~preview~~ **review the evaluation prior to the meeting**. At ~~this~~ **the same** time, the employee ~~may~~ **shall** give the supervisor a ~~preview~~ **copy** of ~~the~~ **his or her** self-evaluation. **Included in the self-evaluation should be at a minimum two SMART goals that the employee developed. The department head/supervisor can consider the goals for inclusion in the evaluation.** Employee Rec. #2 (Exhibit 2)During the review, the individual's performance, strengths, and developmental needs are to be discussed. Explain the reasons for the review. For example, probationary, annual, special or for another reason. During the review, an open line of communication should be maintained. This is when the employee~~'s~~ **and the supervisor will compare the employee's** self-evaluation ~~should be compared~~ with the supervisor's evaluation. The supervisor as well as the employee being evaluated should be open-minded toward comments made. After the formal review with the employee, the supervisor may need to modify the original evaluation to include information the employee presented during the review process.

Signatures

The employee and the supervisor must sign the evaluation once it has been reviewed together. The employee's signature does not necessarily indicate agreement with the evaluation. If the employee refuses to sign a performance evaluation, the supervisor must make a notation on the evaluation to indicate that the employee refused to sign the evaluation. The employee and supervisor may attach an addendum. The evaluation shall be presented to the Department Head for review and signature. The Department Head shall then forward the evaluation to the Human Resources Director.

Once the evaluation has been finalized, make a copy of the evaluation for the employee. Once the evaluation is submitted to Human Resources, the Human Resources Director will sign the evaluation. Human Resources will then forward to the department a copy of the signature page.

The employee shall be informed that the evaluation will be placed in the employee's personnel file maintained in the Human Resources Department. Evaluations become a permanent record in the employee's file.

Exhibit 5

Management Advisory Group (MAG) Phase 2
PFP Policy April 13, 2009

City of Dover

Performance Based Pay Policy
For Non-Bargaining Employees

~~**April 19, 2005**~~ **April 13, 2009**

I. Purpose

The City of Dover Performance Based Pay Policy is intended to provide equitable compensation based on performance for all exempt and non-exempt positions when considered in relation to each other and to general pay ranges for similar employment elsewhere. This policy rewards excellence in core competencies, as well as the ability to get results.

This will allow the City to maintain an effective, responsible and loyal work force, and allow us to recruit and retain high quality employees. The Policy establishes pay ranges and maintains an effective ongoing pay system for appropriate compensation recognizing the importance of results-based performance.

II. Pay Plan Maintenance

New market-based salary ranges shall be adopted every year after consideration of a market survey that considers both external and internal movement in market salaries. The ranges shall establish an entry-level rate~~, market rate~~ **a mid-point** MAG Rec. #11, page 5-4 of MAG Phase 2 report and a maximum rate. **The purpose of the market survey is to ensure our salaries are moving appropriately based upon the market. The key is to remain consistent in the yearly evaluation. Sources will include, however not limited to the following:**

- **Employment Cost Index (ECI)**
- **Local government organization:**
  - **Kent County**
  - **State of Delaware**
  - **City of Newark**
  - **City of Salisbury, Maryland**
  - **Any other government organizations that is deemed comparable**
- **The Bureau of National Affairs, (BNA) will to utilized to research percentage of increased awarded to bargaining units in the state and local government section.**
- **Salary increases awarded to City of Dover bargaining units**

Every five years the City will retain the services of a professional labor market researcher to determine if the City's ranges are being adjusted accordingly. The City Manager will forward the results of the market survey and his recommendations to Council for consideration during the annual budget

process. The increases in salary ranges shall not be considered as cost of living increases, but shall serve to keep ranges up to date so that employees' performance is properly evaluated within the context of where their salary lies within the market place.

III. Performance Evaluations and Advancement Guidelines

Performance evaluations must be completed annually, prior to any consideration for an increase in pay. No supervisor shall receive an increase in pay until subordinate evaluations are complete. The evaluation will include measurement of the results of predetermined goals and objectives, unplanned assignment results and core competencies. The evaluations shall give goals and objectives for the coming evaluation year.

The amount of the proposed pay increase will be determined by the overall Performance Score as applied to the Pay-for-Performance Worksheet in accordance with the table found on the worksheet. The Pay-for-Performance Worksheet shall be approved by City Council with the annual budget. Appendix A is the model Pay-for-Performance Worksheet; the areas where percentage increases will be placed have been left blank.

Each year, salary increases will be determined by a percentage of the mid-point of each salary range. Once the percentage of mid-point is determined, percentage decreases or increases will be awarded based upon the employee's individual score. MAG Rec. #11, page 5-4 of MAG Phase 2 report **Any salary increase granted to an employee whose salary is above the maximum of the labor range shall receive a one-time lump sum payment that does not roll into the employee's base salary.** MAG Rec. #21, page 6-5 of MAG Phase 2 report **The city reserves the right not to award any pay increase for employee's whose salary is over the maximum of the range.**
~~In general, the percentage increase for employees scoring between 21 and 30 evaluation points whose current salary is within the market range (within the 2nd third of their salary range) will receive an increase equivalent to market increases as determined by the annual market survey. In general, employees with lower scores will receive lower percentage increases, and those with higher scores will receive higher percentage increases. To advance employees to the market rate, employees who are compensated at levels below market will receive increases that are higher than those who are at and above the market with similar performance scores. In some cases with low scores or salaries above maximum, there may be no increases.~~ While it is the intent of the City to keep salaries competitive within the market place, the City Council reserves the right to set percentage increases based on what it determines the City can afford regardless of changes in the market.

IV. Evaluation Quality Control Systems

To ensure quality control, the Human Resources Department will review ~~the latest~~ employee performance evaluations ~~in August of~~ each year **prior to presentation to the employee** to ensure that they have clear and concise goals and objectives with expected results that are aligned with the City's Strategic Organizational Plan. Goals are to be **S.M.A.R.T.** (**S**pecific, **M**easurable, **A**ttainable, **R**ealistically High, **T**arget Date). **In addition, to review if ample or insufficient goals have been assigned to the employee.** Employee Rec. #2 (Exhibit 2)

The comments supporting the results achieved must be specific to the goals and/or competencies and not just a repetition of the goal or objective. Achievement or lack thereof of results and progression in core competencies are to be outlined in these comments.

The Human Resources Department will also review the evaluators for unusual patterns such as consistently high/low patterns of scoring, as well as incomplete or unrelated comments to support the performance points associated with the goals and objectives. While there are no formal quotas, there is an expectation that scoring will naturally fall into a normalized pattern, particularly as evaluations are considered over time and in groups. Feedback will be given to evaluators and their department heads to give them the opportunity to justify the perceived inequities or patterns and if necessary correct the problem(s).

V. Procedures for New Job Titles/Grades and Re-grading and Retitling Existing Positions

To establish new job titles, grade new positions, or re-grade and re-title existing positions where job responsibilities have changed, the following procedure must be followed **(Please note that the procedure could be modified by the City Manager during the budget process.)**:

1. Department heads must submit a proposed job description along with a completed Position Analysis Factor (PAF) Guide to the Human Resources Department with an explanation outlining the reasons for the new title, re-grade or new position. The Human Resources Department will enter the Position Analysis into the Job Analysis Qualification (JAQ) software to determine the salary grade. The Human Resources Director shall compile all of the new positions, new titles and new grades and forward them to the City Manager for consideration within the annual budget.

2. To ensure that existing job titles and grades are kept current, as part of the budget process each Department Head/supervisor will give the employee a copy of their current job description and ask the employees to review the description for accuracy. The employees will return the job descriptions

within one (1) week of receiving them from the Department Head/supervisor and discuss the changes (if any) with the Department Head/supervisor. The Human Resources Department will review the submitted information within one (1) week from receiving it from the Department Head for appropriateness and use the Position Analysis Factor Guide to reevaluate the position. When reclassification is initiated, all incumbents holding the same job title should complete a JAQ. A desk audit usually at the job site would then be conducted with the individual being considered for reclassification or with a representative number of people if the reclassification request affects a number of people with the same title. Key questions concerning the job should be answered to assist in determining the proper level within the overall pay and classification system. The analysis of all the information is then compared to the current position description for the various classifications' levels and weighted, using the same quantitative point-factor rating criteria used to establish the level of all positions in the City pay plan. The Human Resources Department will notify the Department Head and City Manager of the outcome of the review and recommendations. The employee shall be informed of the outcome by the Department Head. Proposed reclassifications will be included in the budget proposal of the City Manager.

3. Hiring, promoting and re-grading an employee to a new or open position will be done in accordance with established procedures outlined in the Employee Handbook.

4. Establishing the hiring salary or salary increase associated with a promotion or re-grading will be derived as follows:

   a. Employees will be placed within the approved salary range at the entry level. On occasion for highly skilled, technical, or managerial positions, it would be necessary to hire above the minimum rate in the range, but not above the ~~market rate~~ **mid-point**. In these cases, consideration will be given to the applicant/employee's education, equivalent experience, related experience and past performance. Recognizing that the current salary ranges are based on a 20-year period between the entry salary and maximum salary the individual may be placed within the salary range using the following guidelines: (1) The employee will be given credit for equivalent experience year for year; (2) Credit for related experience will be ½ year for year; (3) Year for year equivalent experience credit will be given for college experience beyond the minimum required where a related Master's or related Bachelor's Degree has been obtained. A recommendation to hire above the minimum rate in the range should be documented by the supervisor, reviewed and endorsed by the Human Resources Director and approved by the City Manager.

VI. Personnel *Performance* Evaluation Appeal Process MAG Rec. #20, page 6-4 of MAG Phase 2 report

Employees dissatisfied with **performance** evaluations are entitled to dispute the evaluation through the following appeal process.

1. Employees may request an appeal of the evaluation within seven (7) days of receiving the evaluation.

2. The appeal must be filed with the employee's immediate supervisor, in writing, stating the reason(s) for the dispute. The contents of the appeal request must include the specific categories being appealed, the rating sought, and the justification for the change. The immediate supervisor's decision will be rendered to the employee, in writing, within seven (7) days.

3. If an employee is dissatisfied with the immediate supervisor's decision, then the appeal will be forwarded within seven (7) days to the next level of supervision for that division along with a copy to the Human Resources Director.

4. If the employee is still dissatisfied with the decision, the process will continue through each level of supervision up to the City Manager or the Mayor and Council depending on the reporting relationship. City Manager and Council Appointee Department Heads shall have final decision on employees within their departments. Mayor and Council shall hear any appeals by the City Manager or Council Appointed Department Heads. Any appeal going as far as the City Manager, Council Appointed Department Heads, or Mayor and Council will be first submitted to the Human Resources Director.

VIII. Instructions for Using the Pay-for-Performance Evaluation

Detailed instructions are located on Public Docs in the Pay-for-Performance folder.

IX. Evaluator Training

All evaluators will receive detailed training in setting S.M.A.R.T. goals and objectives, preparing for and giving Pay-for-Performance evaluations, using the Pay-for-Performance Worksheet and completing the Position Analysis Factor Guide ~~prior to implementation of this new system~~. Ongoing and refresher training will take place as needed ~~but not less than two (2) times~~ each fiscal year**, however never less then once**. **Failure to attend the training will result in no salary increase awarded.** Training will be mandatory**, unless excused by the City Manager.** MAG Rec. #1, page 2-4 of MAG Phase 2 report ~~and~~ **Training** will include the following subjects: introduction of policy, purpose, guidelines, components of policy, evaluation, appeal process, S.M.A.R.T. goals and

objectives, JAQ scoring system and plan administration. **Each topic is to be addressed as it relates to the employee as an evaluator.**

X. Employee Training

Employee Rec. #7 (Exhibit 2)

All employees will be extended an invitation to attend annual training of the Pay for Performance system. Subjects to be discussed are as followings: introduction of policy, purpose, guidelines, components of policy, evaluation, appeal process, S.M.A.R.T. goals and objectives, JAQ scoring system and plan administration. Each topic is to be addressed as it relates to the employee.

***XI*. Weights for Each Position**

Each non-bargaining position was evaluated and weights were assigned that determined the degree of responsibility and control it contained versus recurring or scheduled tasks as identified in the position description. For example, if a position was determined to have fairly low responsibilities and required the same duties on a recurring basis, the core competencies weight will be greater than the planned goals and unplanned assignment results weight. Conversely, a department director's position would receive the highest weight for planned goals and unplanned assignment results and the lowest weight for core competencies since the position has a much higher level of autonomy and responsibilities.

Appendix A

P.F.P. Salary Calculation Worksheet (Adopted by City Council _____)		
Instructions: **Percentage of increase is determined based on the midpoint of the labor grade for the position in which the employee occupies. Fluctuation from the mid-point is based upon the employee's overall Pay for Performance score. Any salary increase granted to an employee whose salary is above the maximum of the labor range shall receive a one-time lump sum payment that does not roll into the employee's base salary.** MAG Rec. #21, page 6-5 of MAG Phase 2 report **The city reserves the right not to award any pay increase for employee's whose salary is over the maximum of the range.**		
OVERALL SCORE		MAG Rec. #11 and 12, page 5-4 and 5-6 of MAG Phase 2 report
FROM	**TO**	**ADJUSTMENT**
		For example:
10	19	0%
20	29	2% of mid-point
30	35	***3% of mid-point*** ***(Market research recommended movement)***
36	41	4% of mid-point
42	50	5% of mid-point

Overview of Scoring Using MAG Software
April 8, 2009
By Kim Hawkins

Parks and Recreation Director

	2003	2008
Organizational Value	n/a	4
Data	7	7
People	9	9
Assests	8	8
Experience	7	7
Education	5	5
Math	5	5
Communications	7	7
Judgement	7	7
Complexity	7	7
Impact of Decisions	7	7
Physical Requirements	2	2
Equipment Usage	4	4
Unavoidable Hazards	1	1
Safety of Others	5	5
EAC (Market Adjustment)	0	0
Total Points as determined by MAG software	1588	1867
Grade	129*	132

*Downgraded to 128

City Manager

	2003	2008
Organizational Value	n/a	0
Data	10	10
People	10	10
Assests	10	10
Experience	10	9
Education	5	7
Math	7	8
Communications	9	9
Judgement	10	10
Complexity	9	9
Impact of Decisions	9	9
Physical Requirements	2	3
Equipment Usage	2	7
Unavoidable Hazards	1	2
Safety of Others	9	9
EAC (Market Adjustment)	225	0
Total Points as determined by MAG software	2765	2854
Grade	139*	139

*Downgraded to 137

Planning Director

	2003	2008
Organizational Value	n/a	7
Data	9	7
People	9	8
Assests	5	7
Experience	8	7
Education	7	7
Math	6	6
Communications	7	7
Judgement	9	9
Complexity	9	9
Impact of Decisions	8	8
Physical Requirements	2	2
Equipment Usage	9	3
Unavoidable Hazards	2	2
Safety of Others	6	2
EAC (Market Adjustment)	0	0
Total Points as determined by MAG software	1952	2121
Grade	133*	134

*Downgraded to 131

Management Advisory Group, Inc.

MULTI-DIMENSIONAL EVALUATION CRITERIA©
QUICK REFERENCE GUIDE

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GUIDE TO USING THE POINT FACTOR ANALYSIS SYSTEM:

To the extent possible, the classifier is guided by the selection of levels by the subject matter experts on the job – the employee and the immediate supervisor – in assigning factor point levels for each of the compensable work factors.

The classifier should be aware that employees who complete a "self evaluating" Job Analysis Questionnaire are keenly aware that the results of the review and placement of the job is influenced by the level self selected. There fore it is incumbent on the classifier to use the "self selected" levels as a guide, but to objectively and thoroughly review the levels selected in light of the appropriate overall placement of the position within the organization hierarchy, remembering that the guide chart of point factors must be able to be applied to all positions in the organization from the most entry level job to that of ultimate responsibility for the entire organization.

The classifier should also be aware, that in interpreting the factor levels, the incumbent in the position is inherently drawn to make all decisions in his or her favor.

Keeping this in mind, if the factor being reviewed by the classifier has a total of 9 levels, and an employee, who is several levels down in the organization, ranks him or her self at one of the highest levels, it will be necessary to make some common sense adjustments.

As a guide each compensable work factor has the following number of levels:

Factor	Levels
DATA RESPONSIBILITY:	10
PEOPLE RESPONSIBILITY:	10
ASSETS RESPONSIBILITY:	10
VOCATIONAL/EDUCATIONAL PREPARATION	9
EXPERIENCE REQUIREMENTS	9
MATHEMATICAL REQUIREMENTS	9
COMMUNICATIONS REQUIREMENTS	9
JUDGMENT	10
COMPLEXITY	9
IMPACT OF ERRORS	9
PHYSICAL REQUIREMENTS	9
EQUIPMENT USAGE	9
UNAVOIDABLE HAZARDS	9
SAFETY OF OTHERS	9

The first three factors are considered the Major Factors. The other 11 factors are support factors. The Major Factor serve as multipliers of all other factors in the system and are the key factors that assess overall organizational responsibility. The overall responsibility one has for data, people and assets permeate all of the decisions and actions taken an impact on the remaining factor. All of the factors are additionally weighted to reflect their econometric value in the market place. For example, the market place values complexity of the work higher than it values physical demands.

The selection of a Major Factor will directly influence the value of the support factors and should be done only with a great deal of care and consideration.

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ORGANIZATION VALUE©

0. Trainee/Apprentice
1. Employee
2. Lead Worker – Office Manager
3. Supervisor/Coordinator - First Line Manager
4. Group or Unit Manager – Small
5. Group or Unit Manager - Large
6. Department Manager/Administrator
7. Second Level Director – Superintendent – Coordinator (as used in large Schools)
8. Director
9. Director reporting to CEO/CAO
10. Other (describe)

Some leeway should be shown in determining the appropriate level and this particular organizational structure (outlined above) is for a very large organization (up to 10,000 employees or more). Smaller organizations would have fewer levels and the points should be applied accordingly. Smaller organizations probably do not have more than 6-7 levels.

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COMPETENCY FACTORS

DATA RESPONSIBILITY

DEFINITION OF DATA

Data are information, knowledge, and conceptions obtained by observation, investigation, interpretation, visualization, and mental creation. Data are intangible and include numbers, words, symbols, ideas, concepts, and oral verbalizations.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Comparing or inspecting items against a standard
2	**Description:** Copying, transcribing, entering, or posting data or information
3	**Description**: Computing or performing arithmetic operations using data or information
4	**Description:** Summarizing, tabulating, or formatting data or information in accordance with a prescribed schema or plan, to facilitate the identification and extraction of useful information.
5	**Description:** Gathering, organizing, analyzing, examining, or evaluating data or information and may prescribe action based on such data or information
6	**Description:** Coordinating or determining time, place or sequence of operations or activities based on analysis of data or information and may implement and report on operations and activities
7	**Description**: Planning or directing others in the sequence of major activities and reporting on operations and activities which are very broad in scope
8	**Description**: Synthesizing or integrating analysis of data or information to discover facts or develop knowledge or interpretations; changes policies, procedures, or methodologies based on new facts, knowledge, or interpretations
9	**Description:** Developing new approaches or methodologies to solve problems not previously encountered by analyzing, synthesizing, or evaluating data or information using unconventional or untried methods.
10	**Description:** Formulating new concepts or theories based on original research, intellectual creativity, and ideas

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PEOPLE RESPONSIBILTIY

DEFINITION OF PEOPLE

People are defined in the normal sense of the word and means co-workers, customers, crime victims, patients, the general public, and any other persons the employee may encounter in the course of work.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Following instructions and orders of supervisor
2	**Description:** Serving others such as customers, attending to their requests and exchanging information with them
3	**Description:** Speaking or signaling to people to convey or exchange information of a general nature
4	**Description:** Giving information, guidance, or assistance to people which directly facilitates task accomplishment; may give instructions or assignments to helpers or assistants
5	**Description:** Persuading or influencing others in favor of a service, point of view, or course of action; may enforce laws, rules, regulations, or ordinances
6	**Description:** Supervising or leading others by determining work procedures, assigning duties, maintaining harmonious relations, and promoting efficiency
7	**Description:** Counseling or instructing/training others through explanation, demonstration and supervised practice or making recommendations based on technical expertise
8	**Description:** Negotiating, exchanging ideas, information, and opinions with others to formulate policy and programs or arrive jointly at decisions, conclusions, or solutions
9	**Description:** Directing or commanding others by issuing orders and instructions
10	**Description:** Mentoring others by advising, counseling, or guiding them regarding problems that may be resolved by legal, scientific, clinical, spiritual, or professional principles

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ASSETS REPONSIBILITY

DEFINITION OF ASSETS RESPONSIBILITY

Assets responsibility refers to the responsibility for achieving economies or preventing loss within the organization.

DEGREE **GRADING CRITERIA AND DESCRIPTION**

1 **Description:** I have minimum responsibility for only small quantities of low cost items or supplies where opportunities for achieving economies or preventing loss are negligible.

2 **Description:** I have some responsibility for achieving minor economies and/or preventing minor losses through the handling of or accounting for materials, supplies or small amounts of money.

3 **Description:** I have responsibility and opportunity for achieving moderate economies and/or preventing moderate losses through the management of a small division; handling supplies of high value or moderate amounts of money consistent with the operation of a small division.

4 **Description:** I have responsibility and opportunity for achieving considerable economies and/or preventing considerable losses through the management of a large division or minor department; and/or handling of very large amounts of money.

5 **Description:** I have responsibility and opportunity for achieving major economies and/or preventing manor losses through the management of a moderate sized department, authorizing expenditures of large amounts of money or supervising the purchasing of high value materials, supplies and equipment, or for providing routine legal counsel.

6 **Description:** I have responsibility for achieving major economies or preventing major losses through the management of a large department, or through interpreting policy as legal counsel.

7 **Description:** I have responsibility for achieving major economies or preventing major losses through the management of a highly complex and/or technical department, or through developing and recommending policy as legal counsel.

8. **Description:** I have responsibility and opportunity for achieving wide-spread economies and/or prevent losses through the management of a department that has an organization-wide impact or significant impact on the general population, or the supervision of a staff of attorneys.

9. **Description:** I have responsibility and opportunity for achieving widespread economies and/or preventing losses through the development and administration of organization-wide programs and policies that impact the operations of two or more major departments or three or more minor department, or for providing legal counsel to the elected officials.

10. **Description:** I have responsibility for the overall administration of fiscal and administrative policy with authority and responsibility over all departments or the direction of the organization's legal department. Reports directly to the top elected body.

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EXPERIENCE REQUIREMENTS

DEFINITION OF EXPERIENCE

Experience refers to the amount of work experience that is required for entry level into the position that would result in a reasonable expectation that the employee can perform the job. It may be experience that can be gained on the job or experience in a previous job.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Requires a short demonstration up to and including one month.
2	**Description:** Requires a minimum of three months
3	**Description:** Requires a minimum of 6 months.
4	**Description:** Requires a minimum of one year.
5	**Description:** Requires a minimum of three years.
6	**Description:** Requires a minimum of five years.
7	**Description:** Requires a minimum of eight years
8	**Description:** Requires a minimum of ten years
9	**Description:** Requires over ten years

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VOCATIONAL/EDUCATIONAL PREPARATION

DEFINITION OF VOCATIONAL/EDUCATIONAL PREPARATION

Vocational/Educational preparation includes job specific training and education that may be acquired in a school, work, military, institutional or vocational environment. It does not include the orientation time required of a fully qualified worker to become accustomed to the special conditions of any new job. Nor does it include the amount of time that a worker spends to learn reasoning, language, and mathematical skills, which are often learned in school.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Requires instruction that is sufficient for satisfactory job performance
2	**Description:** Requires High school, GED or specialized vocational training
3	**Description:** Requires High school diploma, GED and formal training, special courses or self-education that is equivalent to satisfactory completion of one year of college education or specialized advanced training
4	**Description:** Requires Associate's degree, vocational technical degree or specialized training that is equivalent to satisfactory completion of two years of college education
5	**Description:** Requires Bachelor's degree or education and training equivalent to four years of college education in business, liberal arts, or any field other than engineering or the hard sciences
6	**Description:** Requires Bachelor's degree in engineering or the hard sciences such as architecture, chemistry, geology, biology, mathematics, or physics or a Master's degree in Liberal Arts, Information, or Fire Science
7	**Description:** Requires Master of Science degree in a professional or scientific field such as physics, engineering, geology or closely related field
8	**Description**: Requires Master of Science degree in a professional or scientific field such as physics, engineering, geology or closely related field with one year Doctoral work
9	**Description:** Requires Medical Doctor, or Doctorate level degree.

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MATHEMATICAL REQUIREMENTS

DEFINITION OF MATHEMATICS

Mathematics requires the use of symbols, numbers and formulas to solve mathematical problems.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Using basic addition and subtraction, such as making change of measuring
2	**Description:** Using addition and subtraction, multiplication and division, and/or and calculating ratios, rates and percents
3	**Description:** Using basic algebra involving variables and formulas and/or basic geometry involving plane and solid figures, circumferences, areas, and volumes and/or computing discounts and interest rates
4	**Description:** Using mathematics involving the practical application of fractions, percentages, ratios and proportions; or measurements, logarithmic, or geometric construction; may use algebraic solutions of equations and inequalities; descriptive statistics; deductive geometry, plane and solid, and rectangular coordinates; mathematical classifications or schemes
5	**Description:** Using algebra working with such factors as exponents, logarithms, linear and quadratic equations; concepts of analytic geometry, differentiation and integration of algebraic functions; statistics applying such functions as frequency distribution, reliability, validity and correlation techniques; finance and economics using financial and econometric models
6	**Description:** Using advanced calculus using such factors as limits, real number systems, mean values; algebraic functions including very complex functions; inferential statistics and econometrics
7	**Description:** Using advanced mathematical concepts and models in experimental design
8	**Description:** Using theoretical mathematical theorems and concepts to solve theoretical and practical problems and in original research to advance the mathematical body of knowledge
9	**Description**: Developing advanced mathematical theories and concepts with application in such areas as nuclear science, chemistry, economics and physics

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COMMUNICATIONS REQUIREMENTS

DEFINITION OF COMMUNICATIONS

Communication involves the ability to read, write, and speak.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Comprehending simple signs, labels, symbols; understanding routine lists of instructions when explained; little or no reading or writing required by the job; basic speaking skills not necessarily including complete sentences
2	**Description:** Reading simple sentences, instructions, or work orders; writing simple sentences and completing simple job forms; speaking simple sentences using basic grammar
3	**Description:** Reading routine sentences, instructions, regulations, procedures, or work orders; writing routine sentences and completing routine job forms and incident reports; speaking routine sentences using proper grammar
4	**Description:** Reading technical instructions, procedures manuals, and charts to solve practical problems such as assembly instruction for tools, routine office equipment operating instructions, and methods and procedures for investigations, and in drawing and layout work; composing routine reports and specialized reports, forms, and business letters, with proper format; speaking compound sentences using normal grammar and word form
5	**Description:** Reading journals, manuals, and professional publications; speaking informally to groups of co-workers, staff in other organizational agencies, the general public, people in other organizations, and presenting training; composing original reports, training and other written materials, using proper language, punctuation, grammar, and style
6	**Description**: Reading professional literature and technical manuals; speaking to groups of employees, other public and private groups; writing manuals and complex reports
7	**Description:** Reading scientific and technical journals, abstracts, financial reports, and legal documents; speaking before professional and civic groups, participating in panel discussions and speaking extemporaneously on a variety of subjects; writing complex articles, reports, and developing presentations for sophisticated audiences
8	**Description:** Reading and interpreting professional materials involving advanced bodies of knowledge related to politics, economics, technology, law, medicine, and other complex disciplines; writing extremely complex papers and reports; speaking to high level scientific, political, economic, legal, medical, or other such groups
9	**Description:** Reading and interpreting highly complex scientific, medical, or professional materials involving abstract theories and concepts; speaking before scientific, professional, and civic groups; writing articles for scientific and technical journals, and developing papers and presentations for professional symposiums and conferences.

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JUDGMENT

DEFINITION OF JUDGMENT

Judgment refers to the frequency and complexity of judgments and decisions given the stability of the work environmental, the nature and type of guidance, and the breadth of impact of the judgments and decisions.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	I make very few decisions, affecting only the individual; working in a very stable environment with clear and uncomplicated written/oral instructions
2	I guide others requiring a few decisions, affecting the individual and a few co-workers; work in a stable environment with clear and uncomplicated written/oral instructions but with some variations from the routine
3	I guide others, requiring frequent decisions, affecting the individual, co-workers, and others whom depend on the service or product; work in a somewhat fluid environment with rules and procedures but many variations from the routine
4	I am responsible for actions of others, requiring almost constant decisions affecting co-workers, crime victims, patients, customers, clients or others in the general public; work in a moderately fluid environment with guidelines and rules, but frequent variations from the routine
5	I am responsible for actions of others requiring development of procedures and constant decisions affecting subordinate workers, crime victims, patients, customers, clients, or others in the general public; work in a very fluid environment with guidelines but significant variation
6	Decision-making is a significant part of job, affecting a large segment of the organization and the general public; works in a dynamic environment, responsible to assist in developing policy and practices
7	Decision-making a major part of job, affecting a major segment of the organization and the general public; works in a dynamic environment, responsible to develop policy and practices
8	Decision-making almost entire focus of job, affecting most segments of the organization and the general public; works in a highly dynamic environment, responsible to establish goals, objectives and policies
9	Decision-making is the main focus of job, affecting entire organization and surrounding population; works in an unstable environment with frequent and significant changes in conditions
10	Decision-making primary to job, affecting organization, related organizations, and major segments of the general population; works in an evolving environment with emerging knowledge and technologies, competing priorities, and changing politics

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COMPLEXITY OF THE WORK

DEFINITION OF COMPLEXITY OF THE WORK

Reasoning requires consideration of factors and variables to derive solutions to problems.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** I perform routine work using common sense; requires little attention for accurate results.
2	**Description**: I perform semi-routine work, following procedures, with occasional problems; requires normal attention for accurate results
3	**Description**: I perform semi-skilled work involving set procedures and rules but with frequent problems; requires normal attention with short periods of concentration for accurate results or occasional exposure to unusual pressure**.**
4	**Description:** I perform skilled work involving rules/systems with almost constant problem solving; requires normal attention with short periods of concentration for accurate results and occasional exposure to unusual pressure.
5	**Description:** I perform coordinating work involving guidelines and rules, with constant problem solving; requires continuous, close attention for accurate results or frequent exposure to unusual pressures.
6	**Description:** I perform supervisory work involving policy and guidelines, solving both people and work related problems; requires continuous, close attention for accurate results and frequent exposure to unusual pressures
7	**Description:** I perform work involving the application of logical principles and thinking to solve practical problems within or applying to a unit or division of the organization; requires continuous, close attention for accurate results and frequent exposure to unusual pressures
8	**Description:** I perform work involving the application of principles of logical thinking, scientific, medical, or legal practice to diagnose or define problems, collect data and solve abstract problems with widespread unit or organization impact; Requires sustained, intense concentration for accurate results and continuous exposure to unusual pressure
9	**Description:** I perform work involving the application of broad principles of professional management and leadership to solve new problems for which conventional solutions do not exist; Requires sustained, intense concentration for accurate results and continuous exposure to unusual pressure.

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IMPACT OF DECISIONS

DEFINITION OF IMPACT OF DECISIONS

Mistakes can cause consequences such as damage to equipment and property, loss of data, exposure of the organization to legal liability, and injury or death for individuals.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description**: I make decisions where the impact is very minor – affects only the individual
2	**Description**: Impact of decisions is minor – affects only those in immediate work area
3	**Description:** Impact of decisions is **m**oderate – affects those in work unit
4	**Description**: Impact of decisions is moderately serious – affects work unit and may affect other units or citizens or loss of life could occur but probability is low
5	**Description**: Impact of decisions is moderately serious – affects most units in organization, and may affect citizens or loss of life and/or damage could occur and probability is likely
6	**Description**: Impact of decisions is very serious - affects entire organization and the general public or loss of life and/or damage could occur and probability is very likely
7	**Description:** Impact of decisions is extremely serious -- affects entire organization and impacts other activities/organizations and the general public or loss of life and/or damage could occur and is highly likely
8	**Description:** Impact of decisions impact is severe - affects entire organization, other activities/organizations, the general public, and a wide geographic area or loss of life and/or damage could occur and is highly likely
9	**Description:** Impact of decisions is catastrophic - has a widespread impact on both public and private organizations, the general public, an extensive geographic area and may impact private citizens, the community or a larger geographic area; survival of organization is threatened or widespread loss of life and severe damage is probable

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PHYSICAL DEMANDS

DEFINITION OF PHYSICAL DEMANDS

Physical demands refers to the physical exertion and dexterity requirements involving coordination of limb and body movement.

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Sedentary work that involves sitting most of the time, but may involve walking or standing for brief periods of time; requires little or no dexterity
2	**Description:** Sedentary work that involves walking or standing some of the time and involves exerting up to 10 pounds of force on a regular and recurring basis or sustained keyboard operations
3	**Description:** Light work that involves walking or standing most of the time and involves exerting up to 20 pounds of force on a regular and recurring basis or skill, adeptness and speed in the use of fingers, hands or limbs on repetitive operation of mechanical or electronic office or shop machines or tools within moderate tolerances or limits of accuracy
4	**Description**: Light to medium work that involves walking or standing virtually all of the time and also involves exerting between 20 and 50 pounds of force on a regular and recurring basis or considerable skill, adeptness and speed in the use of the fingers, hands or limbs in tasks involving close tolerances or limits of accuracy
5	**Description**: Medium work that involves walking, standing, stooping, jumping, dancing, stretching, or lifting all of the time and also involves exerting between 20 and 50 pounds of force or exceptional skill, adeptness, and speed in the use of fingers, hands, or limbs in tasks involving very close tolerances or limits of accuracy
6	**Description:** Medium to heavy work that involves walking, standing, stooping, lifting, digging, pushing and raising objects and also involves exerting between 20 to 50 pounds of force on a regular basis and 50 to 100 pounds of force on a occasional basis
7	**Description:** Heavy work that involves constantly lifting, shoveling, and carrying 35 to 50 pounds on a regular and recurring basis and exerting 100 pounds of force on a frequent basis
8	**Description:** Very heavy work that involves constantly lifting, shoveling, and carrying 50 to 75 pounds on a regular and recurring basis and exerting 100 pounds of force on a frequent basis
9	**Description**: Very heavy work that involves exerting more than 120 pounds of force on a regular and recurring basis, loading and unloading, moving, lifting, fabricating and installing very large or very heavy equipment.

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EQUIPMENT USAGE

DEFINITION OF EQUIPMENT USAGE

Equipment usage involves responsibility for, materials, machines, tools, equipment, work aids, and products

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Handling or using machines, tools, or equipment requiring little or no prior experience such as shovels, picks, mops, brooms, copiers, calculators, kitchen equipment or similar small items
2	**Description:** Handling or using machines, tools, or equipment requiring brief instruction or experience such as hand and power tools, buffers, floor polishers, vacuum sweepers, outdoor hand-held power equipment, small mowers, commercial kitchen equipment, computers for data entry, fax, complex copiers, phone systems, and other similar equipment, services office machines including such actions as adding paper and changing toner.
3	**Description:** Handling or using machines, tools, or equipment requiring moderate instruction and experience such as large shop equipment and machines, firefighting apparatus, protective equipment, gang mowers, tractors, vehicles, police vehicles or light trucks, firearms, computers, peripherals, medical or dental equipment, software programs such as word processing, spreadsheets, or custom applications, switchboard OR may repair power tools and light equipment and office machines.
4	**Description:** Leading or operating or repairing complex machinery or equipment that requires extended training and experience such as HVAC equipment, heavy construction equipment, trucks using hydraulic pumping equipment, rescue vehicles, firefighting apparatus, aircraft, watercraft, protective equipment, electronic telecommunications equipment, electronic signaling equipment, commercial video equipment, medical, dental, or scientific equipment, complex drafting or GIS software, software used for programming custom applications; or the application of custom or commercial financial, accounting, administrative, legal, medical, dental, scientific or other complex software or systems; may involve installation and testing. Involves operations of limited scope.
5	**Description:** Coordinating the activities of those operating or repairing complex machinery or equipment that requires extended training and as described in item 4 above; may involve installation and testing. Involves operations of moderate scope.
6	**Description:** Supervising the activities of those operating or repairing complex machinery or equipment that requires extended training and experience such as those described in item 4 above; may involve development, installation and testing. Span of control and scope of operations is extensive involving a large number of facilities**.**
7	**Description:** Interpreting policy and establishing methods and procedures for acquiring, installing, testing, operating or repairing complex machinery or equipment that requires extended training and experience such as those described in item 4 above; preparing specifications for contracts for goods and services

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8 **Description:** Establishing policy for the acquisition, installation, testing, operation, maintenance and repair of complex machinery, equipment, or systems; includes establishing specifications for the acquisition of major pieces of equipment, rolling stock, machinery, and technology systems; establishing budgets for major construction repairs or new construction; determining the allocation of materials, equipment and supplies with respect to major construction projects.

9 **Description:** Establishing long range plans and programs, identify funding sources, allocate funds for, and implement long range capital improvements, major construction projects, major equipment, rolling stock, and new technology systems which support goals and objectives of the organization.

10 **Description:** Developing and establishing capital improvements plans, overseeing major construction projects, or having control and authority over the purchase of major equipment, rolling stock, and new technology systems

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UNAVOIDABLE HAZARDS

DEFINITION OF AN UNAVOIDABLE HAZARDS

Unavoidable hazards refer to the job conditions that may lead to injury or health hazards even though precautions have been taken.

DEGREE	GRADING CRITERIA AND DESCRIPTION

1 **Description: None**

Definition: Works in environmentally controlled situation such as office.

2 **Description**: Bright/dim light; Dusts and pollen

Definition: Works in dimly lit areas such as crawl spaces, outdoors in bright sunlight, or in other situations where excessively bright or dim light conditions prevail; or works in outdoor or indoor areas under dusty conditions or outdoor areas with pollen producing vegetation prevalent.

3 **Description:** Extreme heat and/or cold;: Wet or humid conditions

Definition: Works outdoors in very hot or very cold conditions or indoors in areas where cold or hot conditions are generated such as a cold storage room or boiler room, or works outdoors in wet or humid conditions or indoors in areas where wet or humid conditions are generated such as kitchen dish washing machine area or food processing area.

4 **Description:** Extreme noise levels; or Animals/wildlife

Definition: Works indoors in areas generating extreme noise levels such as heavy machine shop or outdoors in areas where heavy machinery such as bulldozers or jackhammers are at work; or works in area where exposure to animals and wildlife is deliberate such as a zoo or in relatively uninhabited outdoor areas involving heavy vegetation or swampy conditions.

5 **Description:** Vibration; or Fumes and/or noxious odors

Definition: Works in situation of exposure to a shaking object or surface such as operating a compressed air rock drilling machine; or works indoors in areas where fumes and noxious odors are generated such as painting booth, animal shelter, or engine repair facility or outdoors in such areas as landfills or refuse disposal facility.

6 **Description:** Traffic; Moving machinery

Definition: Operates vehicles in urban areas where heavy vehicle traffic is prevalent such as driving delivery truck to deliver mail and parcels within city; or works in proximity to moving mechanical parts such as in wood working or metal working shop.

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7 **Description:** Electrical shock; Heights

Definition: Words where exposure to bodily injury from electrical shock is a possibility such as operating high voltage equipment or repairing electrical generating equipment; or works in high, exposed places with risk of falling such as on power lines or scaffolding.

8 **Description:** Radiation; Disease/pathogens; Industrial Toxic/caustic chemicals; Explosives

Definition: Works in area where exposure to radiation is a possibility such as near x-ray equipment or in a nuclear reactor facility; or works in area where exposure to disease or pathogens is a possibility such as an animal control facility or hospital; or works in area where toxic or caustic chemicals are used, such as shop area where batteries are handled or charged or in areas where electronic parts are cleaned; or works in areas where explosions are possible such as maintaining gas lines or welding or where explosions are deliberate such as excavation or earth moving.

9 **Description:** Violence; Other extreme hazard not listed above

Definition: Works under circumstances where violence is a real and constant possibility such as in police work or in a prison facility; or works under other hazardous conditions such as underground where suffocation or crushing is possible or underwater where the bends or oxygen deprivation could occur.

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SAFETY OF OTHERS

DEFINITION OF SAFETY OF OTHERS

Safety of others refers to the level of responsibility for the safety of others, either inherent in the job or to assure the safety of the general public. .

DEGREE	GRADING CRITERIA AND DESCRIPTION
1	**Description:** Requires no responsibility and provides minimum opportunity for exercise of care to effect safety of others in performing duties of the position.
2	**Description:** Requires some responsibility for safety and health of others and/or for occasional enforcement of the standards of public safety or health.
3	**Description:** Requires responsibility for safety and health of others and for occasional enforcement of the laws and standards of public heath and safety.
4	**Description:** Requires considerable responsibility for safety or health of others and/or for continuous enforcement of the laws and standards of public health and safety.
5	**Description:** Requires considerable responsibility for the first-line supervision of the provision of continuous enforcement of the laws and standards of public health and safety.
6	**Description:** Requires considerable responsibility for the mid-level management of the provision of continuous enforcement of the laws and standards of public health and safety.
7	**Description:** Requires management level responsibility for application and interpretation of the policies regarding the provision of continuous enforcement of the laws and standards of public health and safety.
8	**Description:** Requires responsibility and authority for the development of policies regarding the provision of continuous enforcement of the laws and standards of public health and safety.
9	**Description:** Serves as the head of an agency or department that has primary responsibility for the enforcement of public safety laws.

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Class Evaluations List - Across All Pay Plans

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DRAFT Class Evaluations Across All Pay Plans

Sample

Proposed Class Title	Code	Exempt	Occ Category	Orgl vl	Data	People	Assets	Exper	Educat	Math	Comm un	Judg	Compl x	Impact	Physic	Equip	Hazard	Safety	EAC	Total	Grade	Proposed Pay Plan
Relief Fire Dispatcher	00673		Protective	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	38	102	Dover
Playground Leader I	00215		Labor	0	1	1	1	1	1	1	2	1	1	1	3	2	1	2	0	55	103	Dover
Library Page	00305		Office Support	0	1	2	1	2	2	2	2	1	2	1	1	1	1	1	0	74	103	Dover
Custodian I	00705		Labor	0	1	1	2	2	1	1	2	2	2	2	3	1	4	2	0	101	104	Dover
Police Cadet	00604		Protective	0	2	2	1	1	2	1	2	2	2	1	2	2	3	2	0	115	105	Dover
Youth Services Aide	00211		Professional, Administrative, and Techn	0	2	2	1	1	3	1	3	2	2	1	3	1	1	2	0	116	105	Dover
Mechanic Helper	00770		Labor	0	1	1	2	1	2	1	3	1	2	2	4	1	7	2	0	118	105	Dover
Playground Leader II	00220		Labor	0	1	3	1	3	3	1	2	2	2	2	3	1	1	2	0	127	105	Dover
Laborer	00710		Labor	0	1	1	2	2	2	1	2	1	2	3	6	1	8	2	0	136	105	Dover
Lifeguard	00205		Protective	0	1	2	2	2	2	1	2	2	1	2	3	1	4	4	0	137	105	Dover
Custodian II	00706		Labor	0	1	2	2	4	1	1	2	2	2	2	3	1	4	2	0	137	105	Dover
Library Clerk I	00310		Office Support	0	2	2	2	5	3	2	3	1	2	2	2	1	1	3	0	173	106	Dover
Field Service Rep I	01012		Labor	0	2	1	2	3	2	1	3	2	2	2	4	3	7	2	0	177	107	Dover
Motor Equipment Operator I	00720		Labor	0	1	2	2	2	2	1	2	3	2	1	5	4	6	4	0	183	107	Dover
Courier	00056		Office Support	0	2	2	2	2	2	1	2	3	3	3	5	1	4	3	0	200	107	Dover
Electrical Ground Crew Worker	00955		Labor	0	1	3	3	4	3	1	1	2	1	2	4	1	3	3	0	200	107	Dover
Nurseryman I	00739		Labor	0	1	3	3	3	3	1	1	3	2	2	4	1	3	3	0	209	108	Dover
Clerk Typist	0011		Office Support	0	2	3	2	3	3	2	3	4	2	2	2	1	1	3	0	211	108	Dover
Office Assistant I	00005		Office Support	0	2	3	2	3	3	2	3	4	2	2	2	1	1	3	0	211	108	Dover
Storekeeper I	00055		Labor	0	2	2	3	3	2	2	3	2	2	3	3	2	3	3	0	225	108	Dover
Library Clerk II	00315		Supervisory and Managerial	0	3	2	3	5	3	2	3	1	2	2	2	1	1	3	0	230	108	Dover
Parking Enforcement Officer	00665		Protective	0	2	2	3	4	4	1	3	3	3	3	1	1	2	4	0	235	108	Dover
Inventory Clerk	00053		Office Support	0	2	3	2	3	3	3	3	4	3	2	2	3	2	1	0	236	108	Dover
Field Service Rep II	01013		Labor	0	2	2	2	5	3	1	3	3	2	2	4	3	7	3	0	247	109	Dover
Pole Tagger	00958		Labor	0	2	2	2	3	3	2	3	3	3	3	5	4	4	3	0	248	109	Dover
HUMAN RESOURCES CLERK	00083			0	2	3	3	5	4	2	3	2	2	3	2	2	1	1	0	250	109	Dover
Motor Equipment Operator Ii	00722		Labor	0	2	2	3	4	2	1	2	3	2	1	5	4	6	2	0	256	109	Dover
Sign/Street Painter	00750		Labor	0	2	2	3	4	2	1	2	3	2	1	5	4	6	2	0	256	109	Dover
Utility Construction Worker I	00765		Labor	0	2	2	3	4	2	1	3	3	3	3	3	5	6	2	0	281	109	Dover
Nurseryman II	00740		Labor	0	2	3	3	5	3	1	2	4	3	2	4	1	3	3	0	286	110	Dover
Lead Laborer	00714		Labor	0	2	2	3	5	2	1	2	3	4	1	5	6	6	2	0	298	110	Dover
RECREATION CENTER COORDINATOR	00227			0	4	3	1	4	3	1	3	4	3	3	4	3	3	2	0	304	110	Dover
Library Assistant	00320		Office Support	0	2	3	3	5	4	1	3	3	4	5	3	1	1	3	0	305	110	Dover
Police Clerk I	00013		Office Support	0	3	3	3	4	4	3	3	3	3	3	2	2	2	1	0	313	110	Dover
Customer Service Clerk I	00101		Office Support	0	3	3	3	3	4	3	3	3	3	3	2	3	2	1	0	313	110	Dover
Youth Services Coordinator	00224		Protective	0	3	3	3	3	4	2	4	3	4	4	2	2	1	1	0	314	110	Dover
WEED & SEED PROGRAM COORDINAT	00222		Office Support	0	3	3	3	3	5	2	5	3	4	2	2	2	1	1	0	315	110	Dover
Head Lifeguard	00210		Protective	0	3	3	2	2	3	1	3	3	3	3	5	2	6	4	0	321	110	Dover

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DRAFT Class Evaluations Across All Pay Plans

Sample

Proposed Class Title	Code	Exempt	Occ Category	Orgl vl	Data	People	Assets	Exper	Educat	Math	Comm un	Judg	Compl x	Impact	Physic	Equip	Hazard	Safety	EAC	Total	Grade	Proposed Pay Plan
Tree Trimmer	00735	[ ]	Labor	0	1	2	3	4	3	1	1	4	3	3	7	7	9	5	0	322	111	Dover
Motor Equipment Operator III	00724	[ ]	Labor	0	2	2	3	5	2	2	3	4	4	2	5	5	6	2	0	322	111	Dover
Storekeeper II	00057	[ ]	Supervisory and Managerial	0	2	4	3	5	2	2	4	3	2	3	3	2	3	3	0	331	111	Dover
Office Assistant II	00020	[ ]	Office Support	0	3	3	3	3	3	2	4	5	3	3	3	2	1	3	0	334	111	Dover
BILLING CLERK	00121	[ ]	Office Support	0	3	3	3	3	4	3	3	4	4	3	2	3	2	1	0	335	111	Dover
Bldg. Maint. Craftsperson I	00728	[ ]	Labor	0	2	3	3	5	2	1	2	3	4	1	5	6	6	2	0	340	111	Dover
RECORDS MANAGEMENT COORDINAT	00074	[ ]	Office Support	0	4	3	2	3	3	2	4	4	4	5	3	2	1	2	0	344	111	Dover
Accounting Clerk I	00105	[ ]	Office Support	0	3	3	3	4	4	3	3	4	4	3	2	3	2	1	0	345	111	Dover
Animal Control Officer	00655	[ ]	Protective	0	2	3	3	4	3	3	3	3	3	3	5	1	6	4	0	348	111	Dover
Small Engine Mechanic	00776	[ ]	Labor	0	2	2	4	4	3	1	4	3	3	4	6	1	6	3	0	348	111	Dover
Water Plant Operator Trainee	00756	[ ]	Labor	0	3	3	3	2	3	2	4	2	3	3	5	1	5	4	0	351	111	Dover
Police Clerk II	00014	[ ]	Protective	0	3	3	3	5	4	3	3	4	4	3	2	3	2	1	0	355	111	Dover
Utility Locator I	00957	[ ]	Labor	0	3	4	3	4	2	1	3	3	3	3	3	1	6	2	0	355	111	Dover
Customer Service Clerk II	00107	[ ]	Office Support	0	3	3	3	4	4	4	3	4	4	3	2	3	2	1	0	355	111	Dover
Heavy Equipment Operator I	00768	[ ]	Labor	0	2	2	4	5	2	1	3	3	4	2	5	6	6	2	0	358	111	Dover
ADMINISTRATIVE ASSISTANT	00025	[ ]	Office Support	0	4	3	2	4	3	2	4	5	4	5	3	2	1	2	0	365	112	Dover
HUMAN RESOURCES SPECIALIST	00084	[ ]		0	4	4	1	4	4	3	5	4	5	2	2	3	2	1	0	367	112	Dover
RESIDENTIAL ASSESSMENT TECH	00073	[ ]		0	4	4	3	4	3	2	4	4	4	3	1	2	1	1	0	371	112	Dover
Accounting Clerk II	00110	[ ]	Office Support	0	4	3	3	4	4	4	3	4	4	3	2	3	2	1	0	395	112	Dover
Utility Construction Worker II	00766	[ ]	Labor	0	3	3	3	5	2	2	3	3	3	3	6	4	6	2	0	402	112	Dover
Bldg. Maint. Craftsperson II	00730	[ ]	Labor	0	2	2	4	6	3	3	3	3	4	2	6	6	6	2	0	405	112	Dover
Water Service Worker	00755	[ ]	Labor	0	3	2	3	5	3	3	5	5	4	3	5	4	4	3	0	406	112	Dover
Water Plant Operator I	00757	[ ]	Labor	0	3	3	4	3	3	2	4	3	3	3	5	1	5	4	0	413	113	Dover
Heavy Equipment Operator II	00769	[ ]	Labor	0	2	2	4	6	2	2	3	4	4	3	5	7	6	3	0	414	113	Dover
Crew Leader	00716	[ ]	Supervisory and Managerial	0	2	4	5	4	2	2	3	3	3	3	4	1	4	4	0	416	113	Dover
Victim Services Advocate	00663	[ ]	Protective	0	3	3	3	1	3	2	4	4	4	4	6	2	7	4	0	423	113	Dover
Utility Locator II	00752	[ ]	Labor	0	3	4	4	4	3	1	3	4	4	3	3	1	6	2	0	431	113	Dover
COMPUTER OPERATOR	00140	[ ]	Professional, Administrative, and Techn	0	4	3	4	4	3	2	4	4	5	4	3	1	2	2	0	433	113	Dover
Utility Maintenance Mechanic I	00760	[ ]	Labor	0	3	3	3	5	3	2	4	3	4	5	4	3	5	4	0	434	113	Dover
Electric Meter Tech I	01035	[ ]	Labor	0	4	3	3	4	3	3	3	3	3	3	6	1	5	4	0	435	113	Dover
Mechanic I	00772	[ ]	Labor	0	2	4	4	4	3	1	4	3	3	4	6	1	6	3	0	435	113	Dover
GIS TECHNICIAN	00148	[ ]		0	6	4	1	4	4	4	4	4	6	2	1	3	1	1	0	437	113	Dover
Bldg. Maint. Supervisor	00731	[ ]	Supervisory and Managerial	0	2	5	4	5	3	2	3	3	3	3	4	1	4	4	0	442	113	Dover
Photographer/Prop Evidence Clk	00652	[ ]	Protective	0	5	3	4	3	2	1	3	4	4	5	2	1	1	6	0	443	113	Dover
ACCOUNTING CLERK III	00115	[ ]	Office Support	0	4	3	4	6	4	4	3	4	4	4	2	3	2	1	0	472	114	Dover
Mechanic II	00774	[ ]	Labor	0	2	4	4	5	4	2	4	3	4	4	6	1	6	4	0	493	114	Dover
ASSISTANT CITY ASSESSOR	00065	[ ]	Professional, Administrative, and Techn	0	5	5	3	5	4	2	4	4	4	4	2	2	1	1	0	498	114	Dover
Communications Operator	00670	[ ]	Protective	0	4	5	5	3	2	1	3	4	4	5	2	1	1	5	0	501	114	Dover

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DRAFT Class Evaluations Across All Pay Plans

Sample

Proposed Class Title	Code	Exempt	Occ Category	Org lvl	Data	People	Assets	Experience	Education	Math	Comm un	Judg	Complx	Impact	Physic	Equip	Hazard	Safety	EAC	Total	Grade	Proposed Pay Plan
Fire Dispatcher	00671	[ ]	Protective	0	4	5	5	3	2	1	3	4	4	5	2	1	1	5	0	501	114	Dover
Arborist	00733	[ ]	Scientific and Legal	0	3	3	3	4	4	3	4	4	5	4	6	5	6	4	0	508	115	Dover
Electric System Dispatcher	00850	[ ]	Office Support	0	4	4	5	3	3	1	3	4	5	5	2	1	1	6	0	511	115	Dover
Senior Communications Officer	00675	[ ]	Office Support	0	4	5	5	4	2	1	3	4	4	5	2	1	1	5	0	517	115	Dover
Scada Technician	01033	[ ]	Computer Technology	0	4	2	5	5	4	3	3	4	4	5	3	4	1	5	0	521	115	Dover
Electric Meter Tech Ii	01040	[ ]	Labor	0	5	3	3	5	3	3	4	3	4	4	6	1	5	4	0	530	115	Dover
Interconnection Coordinator	00865	[ ]	Professional, Administrative, and Techn	0	3	4	4	6	4	2	4	3	4	4	5	1	5	5	0	543	115	Dover
Water Plant Operator II	00758	[ ]	Labor	0	4	3	4	5	3	3	4	4	4	3	5	3	5	4	0	544	115	Dover
Lineworker 3rd Class	00960	[ ]	Labor	0	3	3	4	3	3	4	4	4	6	5	6	1	8	4	0	551	115	Dover
ASSISTANT CITY CLERK	00075	[ ]	Professional, Administrative, and Techn	0	5	5	3	4	4	2	5	5	6	5	2	2	1	1	0	560	116	Dover
Inspector I	00405	[ ]	Professional, Administrative, and Techn	0	5	4	4	5	4	3	4	2	4	3	4	1	4	4	0	568	116	Dover
PUBLIC AFFAIRS COORDINATOR	00092	[ ]		0	6	4	3	5	4	2	5	6	5	4	3	2	1	1	0	575	116	Dover
Engineering Technician	00875	[ ]	Professional, Administrative, and Techn	0	5	4	4	5	4	4	4	3	5	5	3	1	1	4	0	586	116	Dover
CENTRAL SERVICES COORDINATOR	00639	[ ]	Professional, Administrative, and Techn	0	5	5	5	2	2	3	6	4	5	6	2	1	1	2	0	592	116	Dover
PLANNER I	00432	[ ]	Professional, Administrative, and Techn	0	5	5	4	4	5	3	5	5	4	5	2	1	1	2	0	602	116	Dover
ACCOUNTANT I	00159	[ ]		0	5	4	4	4	5	5	5	5	6	4	2	2	1	1	0	607	117	Dover
SPORTS COORDINATOR	00221	[ ]	Professional, Administrative, and Techn	0	3	5	3	6	5	3	5	5	5	5	4	2	4	4	0	610	117	Dover
RECREATION PROGRAM COORDINATO	00223	[ ]	Labor	0	5	6	1	5	5	2	5	5	5	4	5	3	3	2	0	611	117	Dover
Substation Technician	01025	[ ]	Labor	0	4	3	4	6	3	3	4	4	4	5	6	1	8	5	0	617	117	Dover
FIELD SERVICE REP III	01011	[ ]	Labor	0	2	3	3	6	3	1	3	3	3	2	4	1	7	3	290	620	117	Dover
CUSTOMER SERVICE SUPERVISOR	00119	[ ]	Supervisory and Managerial	0	5	6	2	5	4	2	7	6	6	4	2	2	2	1	0	621	117	Dover
Utility Construction Crew Leader	00504	[ ]	Supervisory and Managerial	0	3	4	4	7	3	3	4	5	4	4	5	4	6	5	0	632	117	Dover
PAYROLL SPECIALIST	00158	[ ]		0	5	3	5	6	4	5	4	4	5	7	2	3	1	1	0	633	117	Dover
Utility Maintenance Mechanic II / Pum	00762	[ ]	Labor	0	3	4	4	7	3	3	4	5	4	5	5	4	6	5	0	644	117	Dover
FIELD SUPERVISOR I	00785	[ ]	Labor	0	4	5	3	3	3	3	4	5	5	4	6	3	7	5	0	662	118	Dover
Draftsperson	01055	[ ]	Professional, Administrative, and Techn	0	5	4	4	6	4	4	4	4	5	4	3	4	1	5	0	662	118	Dover
VICTIM SERVICES COORDINATOR	00660	[ ]	Protective	0	4	6	3	4	5	4	6	4	6	5	2	1	2	5	0	663	118	Dover
RECORDS UNIT SUPERVISOR	00640	[ ]	Supervisory and Managerial	0	5	6	5	4	3	3	5	5	4	4	3	1	1	3	0	668	118	Dover
Electrician	00840	[ ]	Professional, Administrative, and Techn	0	4	4	3	7	3	3	4	6	5	4	6	3	7	5	0	670	118	Dover
Lineworker 2nd Class	00965	[ ]	Labor	0	4	4	4	4	3	4	4	4	6	5	6	1	8	4	0	675	118	Dover
Inspector II	00415	[ ]	Professional, Administrative, and Techn	0	5	5	4	6	4	3	5	3	4	3	4	1	5	4	0	676	118	Dover
PLANNER II	00433	[ ]		0	5	5	5	5	5	3	5	5	5	5	2	1	1	2	0	680	118	Dover
911 SUPERVISOR	00669	[x]	Protective	0	5	6	4	5	3	3	4	4	4	4	6	1	2	5	0	708	118	Dover
Public Works Inspector	00505	[ ]	Professional, Administrative, and Techn	0	5	5	4	6	4	3	5	5	4	4	4	1	5	4	0	726	119	Dover
INSPECTOR III	00425	[ ]	Professional, Administrative, and Techn	0	5	5	4	5	4	3	6	5	5	3	4	1	5	4	0	727	119	Dover
DEPT. BUDGET & SUPPORT SUPERVIS	00978	[ ]		1	5	5	5	5	5	3	4	3	7	5	2	3	1	1	0	728	119	Dover
GIS COORDINATOR	00147	[x]	Computer Technology	0	7	5	1	6	5	4	6	7	7	4	3	4	2	1	0	742	119	Dover
RELAY CREW LEADER	01030	[ ]	Supervisory and Managerial	0	4	4	4	5	3	3	5	5	4	5	6	5	8	5	0	743	119	Dover

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DRAFT Class Evaluations Across All Pay Plans

Sample

Proposed Class Title	Code	Exempt	Occ Category	Org lvl	Data	People	Assets	Exper	Educat	Math	Comm un	Judg	Compl x	Impact	Physic	Equip	Hazard	Safety	EAC	Total	Grade	Proposed Pay Plan
METER CREW LEADER	01045	☐	Supervisory and Managerial	0	4	4	4	5	3	3	5	5	4	5	6	5	8	5	0	743	119	Dover
SENIOR PLANNER	00430	☑	Professional, Administrative, and Techn	0	6	5	3	6	7	3	6	4	6	6	2	1	1	5	0	763	119	Dover
Lineworker 1st Class	00970	☐	Labor	0	4	4	5	6	4	4	4	4	6	5	6	1	8	4	0	776	119	Dover
LIBRARIAN I	00325	☐	Professional, Administrative, and Techn	0	6	6	4	4	7	2	6	4	5	6	3	1	1	3	0	780	119	Dover
Engineering Field Worker	00975	☐	Professional, Administrative, and Techn	0	4	5	3	8	3	3	4	5	5	4	6	5	7	7	0	785	120	Dover
FIELD SUPERVISOR II	00787	☐	Supervisory and Managerial	0	4	5	3	7	4	3	4	5	5	4	6	5	7	7	0	786	120	Dover
Journey Lineworker	00954	☐	Labor	0	4	4	5	6	5	4	4	4	6	5	6	1	8	4	0	792	120	Dover
COMMUNITY DEVELOPMENT MANAG	00086	☐	Executive	0	4	5	5	4	5	4	7	6	6	7	2	1	2	5	0	795	120	Dover
LAN ANALYST	00134	☐	Computer Technology	0	6	4	6	5	4	4	5	5	5	5	4	3	2	1	0	797	120	Dover
ACCOUNTANT II	00109	☐	Professional, Administrative, and Techn	0	5	5	5	6	6	4	6	4	6	6	2	1	1	5	0	817	120	Dover
EMERGENCY MANAGEMENT COORDI	00233	☐		0	5	5	3	6	4	2	7	7	6	6	4	3	4	7	0	841	120	Dover
SENIOR ACCOUNTANT	00116	☑	Professional, Administrative, and Techn	0	6	6	4	6	5	4	5	3	6	5	2	4	1	5	0	853	121	Dover
HR & SAFETY COORDINATOR	00088	☐		0	6	5	5	5	5	3	5	5	6	6	2	2	2	5	0	853	121	Dover
WEB APPLICATION PROGRAMMER	00145	☐	Professional, Administrative, and Techn	0	6	4	5	5	5	4	5	6	6	7	3	6	1	1	0	854	121	Dover
LIBRARIAN II	00330	☑	Professional, Administrative, and Techn	0	6	6	5	5	7	2	6	5	5	6	3	1	1	3	0	868	121	Dover
WATER/WASTE MAINTENANCE SUPE	00786	☐	Supervisory and Managerial	0	4	6	4	6	3	2	4	6	6	5	5	5	5	7	0	871	121	Dover
PROGRAMMER ANALYST	00144	☑	Computer Technology	0	6	4	5	4	6	4	5	6	6	7	3	6	2	1	0	872	121	Dover
Senior Lineworker	00973	☐	Labor	0	4	4	5	8	4	3	5	5	5	4	6	5	7	7	0	881	121	Dover
Senior Engineering Field Worker	00977	☐	Professional, Administrative, and Techn	0	4	4	5	8	4	3	5	5	5	4	6	5	7	7	0	881	121	Dover
SENIOR LAN ANALYST	00135	☐		0	6	5	6	7	4	4	5	6	6	5	4	3	2	1	0	927	122	Dover
SUPERINTENDENT OF GROUNDS	00788	☑	Supervisory and Managerial	0	4	4	6	5	4	3	5	6	6	5	7	5	7	5	0	935	122	Dover
GIS Manager	00157	☐		0	6	6	7	6	4	2	5	5	6	6	2	3	1	3	0	948	122	Dover
CUSTOMER SERVICE MANAGER	00125	☐		3	7	6	2	5	5	3	7	6	6	5	3	2	2	1	0	950	122	Dover
CONTRACT & PROCUREMENT MANAG	00061	☐		0	6	6	5	7	5	3	7	6	6	6	2	2	1	4	0	967	122	Dover
ASSISTANT LIBRARY DIRECTOR	00340	☐		0	6	6	6	7	6	2	6	6	6	6	3	1	1	4	0	1002	123	Dover
SENIOR COMPUTER PROGRAMMER A	00146	☐		0	6	5	5	7	5	4	6	6	7	7	3	6	2	1	0	1003	123	Dover
CITY ASSESSOR	00070	☑	Executive	0	6	6	6	5	5	5	6	6	8	8	1	2	1	1	0	1007	123	Dover
WATER PRODUCTION SUPERVISOR	00759	☐	Supervisory and Managerial	0	6	6	6	6	6	5	6	5	6	6	3	1	2	5	0	1063	124	Dover
CIVIL ENGINEER I	00525	☑	Professional, Administrative, and Techn	0	6	6	6	6	6	5	6	5	6	6	3	1	2	5	0	1063	124	Dover
ELECTRICAL ENGINEER I	01060	☑	Professional, Administrative, and Techn	0	6	6	6	5	6	5	6	5	6	6	3	1	4	5	0	1082	124	Dover
CHIEF BUILDING INSPECTOR	T001	☐		0	6	6	8	5	4	3	6	6	4	5	4	1	5	4	0	1084	124	Dover
FINANCIAL REPORTING AND ACCOUN	00117	☐		0	7	6	7	6	5	5	6	7	7	7	1	3	1	1	0	1142	125	Dover
PRINCIPAL PLANNER	00434	☐		0	7	6	6	7	6	4	7	7	7	7	2	2	1	2	0	1150	125	Dover
POLICE RESOURCES MANAGER	00638	☐	Professional, Administrative, and Techn	0	6	6	7	6	4	4	7	8	7	7	2	2	2	6	0	1212	125	Dover
ELECTRICAL ENGINEER II	01065	☑	Professional, Administrative, and Techn	0	6	6	6	6	6	6	6	6	6	7	3	3	4	6	0	1228	126	Dover
PUBLIC WORKS OPERATION MANAGE	00798	☐		0	6	5	5	7	5	6	7	8	8	8	2	9	2	6	0	1263	126	Dover
CIVIL ENGINEER II	00526	☐		0	7	6	6	8	6	5	7	7	7	7	3	1	2	5	0	1277	126	Dover
CONSTRUCTION/INSPECTION MANAG	00509	☐		0	6	5	6	6	6	6	7	8	8	8	2	6	2	6	0	1283	126	Dover

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DRAFT Class Evaluations Across All Pay Plans

Sample

Proposed Class Title	Code	Exempt	Occ Category	Organ lvl	Data	People	Assets	Exper	Educat	Math	Comm un	Judg	Compl x	Impact	Physic	Equip	Hazard	Safety	EAC	Total	Grade	Proposed Pay Plan
CITY CLERK	00080	☑	Executive	4	8	6	3	9	5	3	8	7	8	6	2	3	1	2	0	1333	127	Dover
LIBRARY DIRECTOR	00335	☑	Executive	0	8	7	8	7	7	4	6	5	6	7	3	1	1	4	0	1360	127	Dover
LINE CREW SUPERINTENDENT	00990	☑	Supervisory and Managerial	0	8	6	7	6	4	6	6	6	6	7	3	1	5	7	0	1380	127	Dover
ASSISTANT FINANCE DIRECTOR	00156	☐		2	7	7	7	6	5	5	8	8	8	7	1	2	1	1	0	1402	128	Dover
ENG. SERVICES & SYSTEM OPS SUP	00515	☐	Professional, Administrative, and Techn	0	7	7	7	7	4	6	5	7	7	6	3	1	5	7	0	1407	128	Dover
POLICE MAJOR	00633	☑	Protective	0	7	8	7	9	4	3	6	6	6	8	6	1	7	8	0	1615	130	Dover
WATER/WASTEWATER MANAGER	00789	☐		0	8	8	7	8	6	5	7	8	8	8	3	4	3	5	0	1733	131	Dover
CENTRAL SERVICES DIRECTOR	00059	☑	Executive	3	8	8	8	6	5	4	8	8	8	7	3	3	2	4	0	1830	132	Dover
PARKS AND RECREATION DIRECTOR	00225	☑	Executive	4	7	9	8	7	5	5	7	7	7	7	2	4	1	5	0	1867	132	Dover
HUMAN RESOURCES DIRECTOR	00085	☑	Executive	0	9	9	7	7	5	4	8	8	7	8	5	3	4	6	0	1878	132	Dover
SENIOR CITY ADMINISTRATOR	00091	☐		3	8	8	8	8	5	4	8	8	8	7	4	3	2	3	0	1891	132	Dover
INFORMATION TECHNOLOGY DIRECT	00150	☑	Professional, Administrative, and Techn	0	9	7	8	9	6	6	7	9	9	8	2	9	2	6	0	2035	133	Dover
PLANNING AND COMMUNITY DEVELO	00450	☑	Executive	7	7	8	7	7	7	6	7	9	9	8	2	3	2	2	0	2121	134	Dover
PUBLIC UTILITIES MANAGER	00897	☐		7	7	7	8	8	5	4	8	8	8	8	4	6	2	7	0	2313	136	Dover
CHIEF OF POLICE	00635	☑	Protective	0	9	9	8	9	5	4	8	9	9	8	4	6	6	9	0	2313	136	Dover
PUBLIC SERVICES MANAGER	00796	☐		7	7	7	8	7	7	4	8	8	8	8	4	6	2	7	0	2349	136	Dover
CONTROLLER/TREASURER	00154	☐		0	10	10	10	9	6	8	9	10	9	9	3	3	2	3	0	2476	137	Dover
CITY MANAGER	00094	☑	Executive	0	10	10	10	9	7	8	9	10	9	9	3	7	2	9	0	2854	139	Dover

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REVIEW AND EVALUATION OF THE PFP EVALUATION SYSTEM

FOR

THE CITY OF DOVER



FEBRUARY 13, 2009

PART TWO OF TWO:
PAY FOR PERFORMANCE EVALUATION SYSTEM

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MANAGEMENT ADVISORY GROUP, INC.

HUMAN RESOURCES CONSULTING SERVICES

February 13, 2009

Members of City Council
c/o City Manager Tony DePrima
City of Dover
710 William Street
Dover, DE 19904

Dear Council,

Management Advisory Group, Inc. (MAG) is pleased to present this Phase II report for the Review and Evaluation of the *PFP Evaluation System* to the City of Dover (City), in reference to the City's RFP # R8006-JW-09/21/2007.

This initial report is labeled as Part Two of Two for the project. It focuses on the elements that were agreed to in revisions to the original work plan, including the review of the performance evaluation aspect of the project. Part One focused on the classification and compensation elements.

This report reflects input from the City Council, department heads, and employees during a series of meetings conducted on-site.

Please feel free to contact me if you have any questions, or require clarification on any aspect of this report (703) 590-7250 and by facsimile at (703) 590-0366. We appreciate the opportunity to be of service to the City.

Sincerely,

Donald C. Long

Donald C. Long, Ph.D.
Executive Vice President
Management Advisory Group, Inc.
4207 Dale Boulevard
Woodbridge, Virginia 22193
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THE CITY OF DOVER

REVIEW AND EVALUATION OF THE PFP EVALUATION SYSTEM

PHASE II

TABLE OF CONTENTS

Transmittal Letter

Table of Contents

Section 1.0 – Goals and Objectives of the Review ..... Page 1-1

Section 2.0 – Current Pay for Performance (PFP) System ..... Page 2-1

Section 3.0 – Summary of Employee Views on the PFP System..... Page 3-1

Section 4.0 – City Council Evaluations ..... Page 4-1

Section 5.0 – PFP Scoring and Calculations ..... Page 5-1

Section 6.0 – Recommendations on Related PFP Issues..... Page 6-1

Section 7.0 – Implementation Table of Recommendations..... Page 7-1

Appendix 1 – PFP Description, Instructions, and Forms..... Appendix 1

Appendix 2 – Employee Views on PFP Questions ..... Appendix 2

Appendix 3 – Council Appointed Positions Form ..... Appendix 3

Appendix 4 – PFP Calculation Worksheets ..... Appendix 4

SECTION 1.0

GOALS AND OBJECTIVES

This section identifies the goals and objectives for the review of the Pay for Performance System.

1.0 Goals and Objectives

Project Understanding

The City of Dover (City) has sought a review of its total compensation as it relates to the City's Pay *for Performance Evaluation System*. The proposed services have been conducted during two major time frames, including prior to October 2008 and after October 2008. The Phase I report was provided to the City Council September 29, 2008. This enclosed report focuses on Phase II issues related to performance evaluation.

Work Plan: Phase II

In this report, the following questions are relevant and reviewed:

- Are performance evaluations and advancement goals being met?
- Are the "Quality Control" systems working?
- Are "below market" employees advancing to "at market" at the expected rate?
- Has the system reduced or eliminated the number of employees above the maximum and prevented employees from advancing above the maximum?
- Is the appeal process working?
- Have there been a high number of appeals?
- Do appellants feel that they have been treated fairly?
- Are we properly training evaluators?
- Are we following the training guidelines?
- Do evaluators feel as though they are being properly trained?
- Is the system working to retain quality employees or are we losing them to competitors?
- Are the new recruits staying with the city?
- Are we getting results based performance due to rewarding better performance? Are employees more goal oriented under this system of evaluation? Are employees more motivated to perform better under this system?

SECTION 2.0

CURRENT PFP SYSTEM

This section describes the major elements of the current Pay for Performance System, and includes some key recommendations.

2.0 Current Pay for Performance System

Review of Major Elements of the Pay for Performance (PFP) System

The City has established four (4) major elements that constitute the current Pay for Performance System. They include:

- Performance Based Pay Policy for Non-Bargaining Employees (April 2005);
- Instructions for the Performance Review Cycle (supporting documentation);
- Pay for Performance Evaluation Form for Non-Council Appointed Positions;
- Pay for Performance Evaluation Form for Council Appointed Positions.

The actual descriptions of these elements for the Pay for Performance System are included in Appendix I. The form for Council appointed positions is included for reference in Appendix II.

The system devised and used by the City is quite comprehensive, documented, and detailed. It is a more detailed and involved system than most municipal employers utilize. In the public sector, there is a broad mix of systems and programs used. Agencies often go through cycles of use and non-use of performance evaluation. The application and implementation of a performance evaluation system is a function of the management and leadership of the governmental organization. If the practice is embraced by the leadership, it is put in place. If it is not viewed as a viable mechanism for evaluating, documenting, and determining compensation adjustments, the default is that all employees receive the same level of adjustments.

Performance evaluation is a complex undertaking, which is why some agencies take the easy road and do not bother with implementing a performance evaluation program. The City of Dover has chosen to meet the challenge directly, by not only implementing a comprehensive and well documented system, but also seeking an evaluation of its relevance, appropriateness, and implementation.

Performance Based Pay Policy for Non-Bargaining Employees (April 2005)

The Performance Based Pay Policy document provides the background, guidelines, definitions, procedures, and appeal process for the Pay for Performance System. It indicates that the purpose of the program is to provide equitable compensation based on performance for all non-bargaining positions when considered in relation to each other. The goal is to reward excellence in core competencies and to obtain positive results. This general purpose applies to the entire compensation system. Part III of the City's policy document focuses on Performance Evaluation and Advancement.

The tone of the evaluation program is established when it states that performance evaluations must be completed (annually) before any consideration can be given to an increase in compensation. Further, no supervisor may receive an adjustment until subordinate evaluations are completed. This is a critical rule that appears to have been upheld to ensure the integrity of the system.

The potential increases that are available to employees are a function of their score and their current compensation relative to the market rate or market point. The calculation is based on a percentage presented in the budget. This percentage is then multiplied by the incumbent's base salary. If an employee is below the market rate for his or her pay grade, the adjustment would typically be larger than an employee whose current compensation is above the market rate. This approach is based on the theory that the market rate is provided to a fully competent incumbent. The rate of compensation growth is accelerated in the early stages of incumbency to move to the market rate faster. The compensation growth is slowed down after the employee has entered the market range of pay, and is further slowed when the salary is above market. The potential adjustments under this approach are established in a Salary Calculation

Worksheet which are the result of the actual scoring and where the employee's salary is in relation to the market point.

The Salary Calculation Worksheet does not appear to be fully understood at all levels of the organization and is not fully embraced at all levels. It is somewhat complex, has changed from year to year, and based on budgetary decisions may not be fully integrated with the City's stated policy of a normal progression framework to the market point of the range. Its basis (use of market rate in combination with score) is not unique, but can be achieved through a simpler technique recommended in Section 5.0 of this report.

Part IV of the City's Performance Based Policy outlines a quality control mechanism that includes a review by the Human Resources Department to ensure that the goals and objectives of individual evaluation plans are consistent with the City's Strategic Organizational Plan, and that SMART goals are established. Human Resources is also charged with reviewing the evaluators for unusual patterns of scoring, or incomplete or unrelated comments. The policy indicates an expectation that scoring will fall into a somewhat "normalized" pattern. While normalized is not defined in the City's policy, this typically means a bell curve pattern, in which most scores will be in the mid range, while some people will score low and some will score at the higher levels. The Human Resources Department is to provide feedback to evaluators and department heads to justify inequities or patterns, and if necessary, correct the problem. Some discussion of this "quality control" approach will be made in Section 5.0 of this report, and recommendations made to ensure an appropriate organization wide quality control mechanism is in place.

Part VI of the City's Performance Based Pay Policy describes the appeal process. The appeal of an evaluation is directed up the chain of command, which is a standard

approach for an appeal. There appear to be very few appeals made, which is discussed more fully in Section 6.0.

Part IX of the City's Performance Based Pay Policy describes the requirement for training of evaluators in all aspects of the program. This is required two (2) times per year. In practice, in recent years, this type of training has been provided once each year, so the practice does not match the policy in this instance. Training on the elements of the system once per year is standard and sufficient for most agencies.

It is noted that not all evaluators are actually attending the "required" training. The policy should also be adjusted to put "teeth" in the training program. If evaluators do not attend the required training, they would not be able to receive any adjustment to their own salary level for which they may be eligible.

Council Members also have responsibility for evaluating five (5) positions that are "direct reports" to the Council. As a matter of fairness to the evaluated employees, Council Members should also attend the annual training program. If a Council Member does not have time to attend the training, he/she should consider recusing him or her self from the evaluation process.

Recommendation # 1: ***Change the policy on training in the PFP System to match the practice, by requiring training for supervisors once per year. If training is not attended, deny any salary increase for which the supervisor may be eligible.***

Instructions for the Performance Review Cycle (supporting documentation)

The instructions for the performance review cycle are comprehensive. The impact of not getting evaluations done in a timely manner is clearly placed on the Department Head. If not done in a timely manner, their own potential increase will be delayed by the same number of days the evaluation is late. The instructions (second paragraph of the instructions) indicate that "sufficient time" must be given to enable the Human Resources Director to complete a review of the scoring, but that time is not fully defined.

Recommendation #2: Establish a more precise time frame and accountability within the set of Instructions so as to clearly define the time allotted for each step in the performance review cycle.

Quarterly Reviews

Language is included in the Instructions about documenting work behaviors throughout the year. This is an excellent policy and should be monitored. Requiring a "quarterly review" is also a fine policy, and requires substantial attention to ensure their completion on a regular and routine basis. The set of instructions strongly encourages that quarterly reviews be completed. Under the current City policy, quarterly reviews do not have to be submitted to HR for review. The advantage of conducting quarterly reviews is to keep employees abreast of their performance and focused on their goals. There is no record of the quarterly reviews being accomplished and, in practice, some departments do quarterly reviews and some don't.

Recommendation #3: Written quarterly reviews should be done by Department Heads on a schedule outlined in the City's policy, and documented in the evaluation by entering into the PFP software.

Self Evaluations

A "self-evaluation" component is described in the Instructions, in which an employee is not required to complete one unless requested by the supervisor. The intent is to have a basis for the formal discussion of the evaluation at a later point. In practice, some department heads ask employees to complete self evaluations and some do not. This is an uneven practice within the departments. The policy should dictate one way or the other as to whether self-evaluations shall be done. While supervisors may focus on one set of behaviors, they may find that employees have identified achievements that have been overlooked.

Recommendation #4: All evaluated employees should conduct self evaluations, with the purpose of then comparing them at the formal performance evaluation meeting.

Pay for Performance Evaluation Form for Non-Council Appointed Positions

This evaluation form includes definitions of performance ratings, including Outstanding, Commendable, Good, Acceptable with Some Improvement Needed, and Unsatisfactory. For the most part, the definitions are appropriate and reflect standard definitions within a typical performance evaluation format. However, there is a disconnect in the labeling and definitions for the "Good" level and the "Acceptable with Some Improvement Needed" level.

The definition for "Good" is more consistent with the label of "Meets Expectations" as defined in most systems. It is the third level down in the relative ranking of performance, and in a five (5) rank level system, is typically assigned the label of "Meets Expectations". That is essentially what the definition in the form describes. The incumbent is to meet the expected standards of the job. The definition describes what the City should expect of an incumbent receiving compensation for work.

Recommendation #5: ***Change the current performance form label of "Good" to "Meets Expectations" on the evaluation form.***

For the level that is labeled "Acceptable with Some Improvement Needed", the label itself is deceiving. The definition describes performance that is clearly not acceptable within a work environment. Labeling the described performance as "Acceptable" creates an impression that "not consistently demonstrating the required knowledge, skills, abilities, and/or effort for the position" is indeed acceptable (when in fact, it is not, or should not be).

Recommendation #6: Change the current performance form label of "Acceptable with Some Improvements Needed" to "Improvement Needed".

MAG further offers an observation and recommendation in reference to the label assigned to level 5 of the evaluation system, that of "Outstanding". The PFP policy itself has indicated that the evaluation system is a relative ranking system. In other words, how well (or not) employees are performing relative to others in the organization is a key component. Under the current labeling system, it is feasible that all employees could obtain "Outstanding" scores. In a relative ranking system, that scenario is not feasible. In order to match the reality of scoring with the defined policy and policy intent, an adjustment to the label for the highest score is needed to re-emphasize the relative ranking intent of the policy and the program.

Recommendation #7: Change the current performance label of "Outstanding" to "Results Rarely Achieved by Others".

The evaluation form also includes both planned goals and unplanned assignments. This demonstrates the flexibility of the system as it recognizes that goals and objectives may change during the course of a performance cycle. The prioritization aspect of the format is commendable as well. A unique dimension to the establishment of goals and objectives is that of requiring goals to meet the SMART criteria (Specific, Measurable, Attainable, Realistically High, Target Date). The evaluator and the employee have some parameters guiding the development of goals and objectives.

The inclusion of a professional development plan for the coming year is also a desirable component of a performance evaluation program. It demonstrates that the evaluation is not only looking backward on previous performance, but is also forward looking as well.

SECTION 3.0

EMPLOYEE VIEWS ON THE PFP SYSTEM

This section summarizes the views expressed by supervisors and employees attending training sessions in October 2008 and December 2008.

3.0 Summary of Employee Views on the PFP System

Employee Meetings Conducted

Meetings were held with groups of employees and supervisors in both October and December 2008. In the October meetings, attendees were asked to identify strengths, weaknesses, and possible solutions to the Pay for Performance System. The extensive comments are summarized here, with duplicative comments removed.

Strengths of the PFP System Noted by Employees and Supervisors

- Online capability *(use year after year, saves time, better than paper);*
- The PFP system is standardized across departments;
- The system requires establishing goals;

- Separates achievers from underachievers – rewards achievers;
- There is potential for a larger increase;
- The system documents poor performers;

- Documents *actions/goals and work behaviors;*
- Keeps you focused *and provides c*onstant feedback;
- Defines expectations *and k*eeps employees on track;

- There is an incentive to excel in performance;
- Employee morale is positively affected, generally;
- There is better retention of skilled staff;

- Goals are clear and they are good in theory/principle;
- There is opportunity for employee development;
- Goal setting – goals are flexible;

- Enhances communication between supervisor and employee;
- The use of self evaluation is good;
- Increases productivity;

- Grading based upon performance rather than random views;
- Dialogue between supervisor and manager;
- There is a continuity for goals if done properly;

- The system benefits “under market” employees;
- Credit can be given for unplanned assignments;
- The system allows you to set goals for next year.

Weaknesses of the PFP System Noted by Employees and Supervisors

- There is a lack of understanding of the PFP system by Council;
- Scores can be subjective;
- Goals and objectives can be redundant and don't flow down in timely manner;

- A lot of approval levels can take months;
- No incentive once you get to "above market";
- "Below market" concept can sometimes reward poor performers

- Supervisors not always qualified to evaluate the employee;
- Weak training on standards/standardizing on grading;
- The required paperwork can be cumbersome and process time consuming;

- The scoring system is sometimes seen as unfair and not understandable;
- Calculation manipulation and influence from outside of the department;
- Distrust of HR – denial of high scores, lack of communication;

- Matrix should be consistent each year – no changing at budget;
- Can be abandoned without notice – Council can eliminate after goals are met;
- Substantial sacrifice does NOT equal pay for performance;

- Union employees getting better raises & step increases than PFP;
- Matrix is misleading;
- Brings down morale and incentive is minimal;

- No credit is given for experience that one brings to the job;
- Weighted scoring;
- Unfair to long-time employees, less of an increase;

- Core Competency is too wordy/repetitive;
- Performance goals take precedence over core competencies;
- It takes too long to complete each evaluation;

- Evaluations are all due at the same time;
- There is a tendency to trend toward the middle;
- Union employees get better raises/step increases than supervisors;

- Budget drives the compensation – not enough difference in actual pay between an "average" and an "outstanding";

- "Down-sizing" of actual performance ratings to meet budget constraints;
- Process takes too much time from evaluation to results;

Solutions for the PFP System Noted by Employees and Supervisors

- Goals should have more weight than objectives;
- Unplanned goals should have more weight than scheduled goals;
- Hold off goals during the probationary period;

- Final approval should be with Dept. Head – not HR;
- More support/understanding of the program by Council;
- Accountability, follow up on findings;

- Training should be a "on-going" process;
- Proper/consistent training for supervisors doing evaluations;

- Need less reliance on HR to monitor the system;
- Need more time to talk with supervisors about goals;
- Funding – have to fully fund the system;

- Stop hiring people at "below market";
- Eliminate decreased "increases" for above market;

- Simplify evaluations;
- Council needs to identify goals earlier to incorporate in evaluations;

- Define Council appointee goals in March;
- Define department head goals in April;
- Develop weight system for goals;

- Delete <u>below</u> & above market;
- Better define priorities/weight goals;
- Don't require explanations for 3's + 4's;

- Place more authority with Dept. Heads;
- Evaluate PFP software for user-friendliness;

- Simplify core competencies;
- Add flat cost-of-living increase and make PFP an additional %;

- Base evaluation dates on anniversary date;
- Supervisor raises should not be less then union (good evaluations);
- Allow more 5's;

- Develop a plan to get people to market;
- Limit goals.

While not all views are reflected in the series of recommendations, they have all been considered. For example, broad comments on the need for supervisory training on the PFP system are reflected in the recommendations, the role of HR has been further defined and clarified, and the system scoring is simplified. Some suggestions may be based on incomplete information or rumor (final scoring approval is with DH, not HR), or may not be feasible at this time (such as evaluations on anniversary dates, which is a major change). Employees may be assured that all suggestions were reviewed in the context of other needed system adjustments.

Employee Views Regarding Specific PFP Related Questions

In addition to the strengths, weaknesses and possible solutions identified by employees in October 2008, a series of meetings was conducted in December 2008 to focus on specific questions. All of the responses are listed in Appendix 2. They are summarized here for the reader.

1. **You have been a provided a copy of the PFP policy and instructions. Do you believe the evaluations are being completed in accordance with the Policy and Instructions? If not, what specific policies are not being met?**

   Of the 74 responses to whether the evaluations are being completed in accordance with the Policy and Instructions, 57 people answered "Yes", while six (6) people answered "No". Of the remaining respondents, seven (7) people indicated that they had not been evaluated yet as newer employees, while four (4) responses were non-committal.

2. **Does your supervisor collaborate with you on developing your goals for the coming year? Do those goals use the SMART criteria (Specific, Measurable, Attainable, Realistically High, Target Date)?**

   Of the 80 responses to this question, 65 people answered "Yes", while 12 people answered "No". Three (3) responses were unclear or non-committal. Some of the "No" responses were due to the view that the goals are either very clear or pre-determined, so no collaboration was needed.

3. **Do you feel that establishing goals is relevant to your job (if not, could you identify your job title)?**

   Of the 78 responses to this question, 64 people answered "Yes", while five (5) people answered "No". Nine (9) of the responses were non-committal or unclear.

4. **Is the "core competency" of the evaluation relevant to your job?**

   Of the 78 responses to whether the core competencies are relevant to the employee's job, 65 people answered "Yes", while two (2) people answered "No". Eleven respondents were unsure, non-committal, or indicated "somewhat".

5. **Do you feel your job is weighted appropriately between goals and competency?**

   Of the 72 responses to this question, 41 answered "Yes", while 19 people answered "No". Twelve respondents were unclear or uncertain.

6. Do you believe the scoring system is fair?

Of the 76 responses to this question, 38 people answered "Yes", while 22 people answered "No". Sixteen (16) respondents were either unclear, non-committal, or had not been evaluated yet and had no comment.

7. Is high performance rewarded?

Of the 71 responses to this question, only 13 people answered "Yes", while 43 people answered "No". Fifteen (15) people were not certain or were non-committal.

8. Are evaluations done consistently across departments?

Of the 74 responses, 14 people answered "Yes", while 14 people answered "No". Most respondents (46) did not know or could not answer the question.

9. Supervisors: do you feel as though you have enough knowledge of how to use the performance evaluation system?

Of the 53 responses to this question, 34 people answered "Yes", while only three (3) people answered "No". Sixteen (16) people answered n/a, and other non-supervisory people simply did not answer.

10. Does the system help retain high performing employees?

Of the 73 responses to this question, 15 people answered "Yes", while 39 people answered "No". Nineteen (19) people answered unsure or don't know.

11. Are employees generally more goal oriented under this system of evaluation? Why or why not?

Of the 77 responses to this question, 44 people answered "Yes, while 17 people answered "No". Sixteen (16) people were unsure or non committal.

12. Once the evaluation is complete, does the employee receive timely feedback on the results? Why or why not?

Of the 70 responses to this question, 41 people answered "Yes", while 15 people answered "No". Fourteen (14) people were unsure or non committal.

13. **Have you ever appealed an evaluation? If yes, did you feel it was handled adequately? Why or why not? (was it fair?)**

Of the 73 responses to this question, six (6) people indicated that they have appealed an evaluation, while 62 respondents indicated they had not ever made an appeal. Five (5) people indicated no response or unrelated information. Of the six (6) people who appealed, two (2) indicated a satisfactory response, while three (3) were not satisfied. One (1) appellant did not discuss the outcome.

14. What single action would you recommend to improve the system?

As one might imagine, with open ended responses from 75 employees, the answers are highly variable. The responses varied from "get rid of it" to "don't change anything". Some recommendations noted several times included:

- ensure Council commitment to the program (since it was suspended recently, this has been a matter of concern);
- make the evaluations more department specific;
- reduce the role of Human Resources to that of process monitoring rather than reviewing or changing scores (although no documented evidence was presented);
- shorten the format, particularly with the redundancies in the core competencies;
- require more meetings between supervisors and employees;
- make the matrix consistent and do not manipulate;
- let department heads decide increases;
- let supervisors decide increases;

The more frequent employee recommendations focused on making the PFP simpler, limiting the role of HR, shortening the format, and ensuring Council commitment and acceptance.

SECTION 4.0

CITY COUNCIL EVALUATIONS

This section focuses on the evaluation form and process used by City Council to evaluate five (5) Council appointed positions.

4.0 City Council Evaluations

Council Appointed Evaluations

There are five (5) positions within the City that report directly to the City Council. These include the City Manager, City Clerk, Planning Director, Finance Director, and Tax Assessor. For these positions, the City Council as a whole is responsible for providing performance evaluations.

Evaluation Process

In terms of process, these incumbents conduct self evaluations (using the prescribed form in Appendix 2). Then, the evaluations are given to Council Members for review and consideration. The Council will meet as a group, without the employee present, to discuss the performance issues and concerns. Following this step, the employee meets with the full Council to discuss the performance evaluation document and views of Council Members. The City Clerk creates a score sheet upon which each Council Member's scores are recorded for the goals and the core competencies. The City Clerk does the calculations, which includes dropping off the high score and the low score for each item evaluated. The Council Members review the form and scores and then the City Clerk enters the scores into the PFP electronic system. The evaluation is then printed out.

The City Manager provides input into the evaluations for the Planner and the Tax Assessor positions.

Format and Form

In terms of the form used, it is essentially the same format as that which is used for non-Council appointed positions. The major difference is in the sub-elements of the core competencies. The items within the core competencies are specific to the higher level nature of the positions and their work relationship to Council.

Planned Goals and Unplanned Assignments

This section of the forms for Council appointees appears to be well done and focused. The tight definition of the planned goals and/or unplanned assignments lends itself to a somewhat objective review and assessment.

Core Competency Elements

This section of the form is not well described and as a result is difficult, if not impossible to result in an objective evaluation of the incumbent. While MAG has selected (for the sake of brevity) to use a single review form as an example, (see Section 5.0) it should be noted that this area of the form was also voiced as a concern by other non-bargaining employees. The "elements" portion of the Core Competency section was described as "overlapping", "redundant" and "overly complex". These comments appear to be supported by MAG's review of this area of the evaluation form (See Section 5.0)

Performance Rating Definitions

The performance rating definitions used for Council appointed positions is the same as that which is used for non-Council appointed positions. The evaluation in Section 2.0 includes a review of the definitions, and MAG has the same recommendation for the Council appointed positions.

Observations

There is an inherent challenge for Council Members to evaluate the work performance of the management employees reporting directly to the whole Council. A primary concern is that Council Members are not typically in daily contact with the reporting employee to the same extent as a supervisor is with an employee. The interactions and therefore the observations are infrequent and often occur during periods of stress (public meetings or other times when significant issues are at stake). To compound the challenge, some Council Members, due to their time commitments and also the committees in which they are most active, may or may not have sufficient

opportunity to observe and evaluate the work performance of the employee. As an added point, if Council Members are not able to attend the training provided annually on the PFP system, they may not be familiar with the forms and nuances of the system to enable full and appropriate consideration of all facets of the work being completed. It was noted in Section 2.0 that Council Members should attend the annual training to ensure their full understanding of this (complex) system of evaluation.

While the process established for the evaluation of Council appointed positions has some good elements (requiring initial self evaluations, meeting first without the employee, using core competencies and a scoring system similar to other employees, dropping off the high and low scores), a slight adjustment in process may be helpful.

Committee Structure for Council Direct Reports

The City should consider establishing a three (3) or four (4) person committee structure for evaluations that would assign Council Members with the most familiarity with the work performance of the employee to that particular committee. For example, the Council Members who work most closely on financial affairs and budgetary matters would be assigned to a four (4) person committee to initially evaluate the performance of the Finance Director. The Council Members who work most closely on planning and community development issues and committees would take the lead on the evaluation of the Planning Director position. MAG further suggests that the Council President be assigned to each of these committees.

As an example, for the Planning Director position, the committee might include the following committee chairs:

- Parks, Recreation, and Community Enhancement
- Safety Advisory and Transportation
- Planning Commission Chair
- Council President

For the Tax Assessor position, the committee might include the following committee chairs:

- Legislative, Finance, and Administration
- Chair of the Tax Appeal Board
- Council President

For the Finance Director, the committee might include the following committee chairs:

- Legislative, Finance, and Administration
- Chair of the Pension Committee
- Utility Committee
- Council President

For the City Clerk, the committee might include the following committee chairs:

- Legislative, Finance, and Administration
- Parks, Recreation, and Community Enhancement
- Utility Committee
- Council President

For the City Manager, while it is ultimately the entire Council that is responsible for this evaluation, the full Council should rely upon the approach established in the contract for the City Manager. It indicates that the review would be completed by five (5) Council Members, including the Council President and the chairs of the standing committees. The five (5) person committee should therefore include:

- Legislative, Finance, and Administration
- Parks, Recreation, and Community Enhancement
- Safety Advisory and Transportation
- Utility Committee
- Council President

This committee would *conduct the initial meeting* with the City Manager to review the self evaluation and provide a recommendation to the full Council. This action could make the full evaluation meeting with Council a more productive and focused meeting.

This process adjustment would allow Council Members to discuss performance in greater detail and have a more meaningful set of interactions with the employee. The outcome of the initial evaluation would then be presented to the whole Council as a recommendation, with the whole Council then confirming the recommendation or making any adjustments deemed appropriate.

Recommendation #8: Create a committee structure to evaluate Council appointed positions that would make recommendations on compensation adjustments for the evaluated employee.

Recommendation #9: Apply the changes noted in Section 5.0 to the development of Core Competencies for the Council positions.

SECTION 5.0

PFP SCORING AND CALCULATIONS

This section reviews the current scoring system and the current method of calculating possible increases.

5.0 PFP Scores, Calculations and Forms

Policy for Performance Pay

The following is excerpted from the "Performance Based Pay Policy for Non-Bargaining Employees":

> I. Purpose
>
> "The City of Dover Performance Based Pay Policy is intended to provide equitable compensation based on performance for all exempt and non-exempt positions when considered in relation to each other and to general pay ranges for similar employment elsewhere. This policy rewards excellence in core competencies, as well as the ability to get results.
>
> "This will allow the City to maintain an effective, responsible and loyal work force, and allow us to recruit and retain high quality employees. The Policy establishes pay ranges and maintains an effective ongoing pay system for appropriate compensation recognizing the importance of results based performance."

The current Pay for Performance narrative recognizes that the pay structure is established on a twenty (20) year career plan base. Additionally, the movement for acceptable performance for employees who are "below market' is based on reaching the market point in seven (7) years. The policy is to have an employee who starts at the entry level and who receives a "GOOD" evaluation to move to the market level within seven (7) years.

Current Pay for Performance Scoring and Salary Adjustments

The current pay plan structure is 57% from the entry level of the range to the top of the range, with approximately 21% between the entry level and the market point and 30% between the market point and the maximum of the range (percentages compound to yield a range width of 57%). Given this spread, a "Good" evaluation, or as MAG recommends, "Meets Expectations", would be an annual adjustment of approximately

3%. If the policy to move employees to the maximum of the range was recognized in the performance management plan, a "Good' or "Meets Expectation" raise from the market to the maximum of the range would be an annual adjustment of approximately 2.3%.

In contrast, the City's calculation for "Good" for the 2008 – 2009 matrix (which is currently suspended) would be 4.25% (for below market) and 2.5% for above market. An employee whose salary is at market would receive 3.25%. The Row of "30-35" would represent "Good" or 'Meets Expectations" and should equate to 7 years to market and 20 years to maximum (or an additional 13 years of service).

MAG has reproduced the City's 2008-2009 Performance Score Table and has also added a "years to…" calculation based on the current pay structure and the percentages shown in the table. This calculation shows the "years to market" and "years to maximum" that would be required to reach either level in the pay plan, based on the percentages noted in the table.

PFP Score				ADJUSTMENTS					
From	To								
		Employee Above Max	YRS MAX	Employee Above Mkt	YRS Max	Employee at Mkt	YRS	Employee Below Mkt	YRS MKT
From	To								
0	19	0.00%	N/A	0.00%	N/A	0.00%	N/A	0.00%	N/A
20	29	0.00%	N/A	2.00%	15.0	2.50%	N/A	3.00%	7.0
30	***35***	***2.00%***	***N/A***	***2.50%***	**12.0**	***3.25%***	***N/A***	**4.25%**	***4.9***
36	41	2.75%	N/A	3.25%	9.2	4.00%	N/A	6.00%	3.5
42	50	3.50%	N/A	4.00%	7.5	4.75%	N/A	6.50%	3.2

The current approach and assigned percentages result in an uneven movement toward the market and maximum of the assigned pay range. In all cases, the row that equates to the score of 30 – 35 ("Good" or "Meets Expectations") is more aggressive than the City's presumptive policy.

Plan Simplification

The recent and current economy dictates a responsible and reasonable approach towards performance adjustments. Employees are seeking a more straightforward and understandable system of adjustments. The current approach is often viewed as being manipulated and so complex that it is difficult to explain and follow. There is certainly a mixed view of the concepts (and resulting adjustments) by employees who are either "below market" or "above market". While there is a defensible philosophy upon which the current system is structured and implemented, MAG recommends a methodology that employs some elements of that underlying philosophy, yet includes an easy to comprehend approach. There are several elements of the system, and they are presented one at a time below.

10 Years to Midpoint

The first construct or basis of the system is that of the number of years upon which the structure is based. MAG recommends that the system be based on a "normal progression" with 10 years to the arithmetic midpoint. This is similar to the current program except that it would mean eliminating the concepts of "below market" and "above market". Instead of using "below market", the recommended approach would advance an employee who "meets expectations" to the midpoint in 10 years.

Recommendation #10: Base the movement within the pay grade on the concept of a "normal progression" career plan for employees who "Meet Expectations" to reach midpoint in 10 years.

Use of Midpoint to Calculate Adjustments

Historically, following the completion of a performance evaluation, the City has provided percentage adjustments to the employee's current salary. The results of this practice, in combination with the application of the "below market" and "above market" concepts, have been a source of concern within the workforce as being inequitable.

To simplify the adjustments, and based on equity within the compensation plan structure, MAG recommends using the midpoint of the assigned pay grade as the basis of potential adjustments. A position title in a particular grade has an identified market range value. Any performance evaluation adjustments would be based on the arithmetic midpoint of the pay range within which the position title is assigned.

For example:

- Computer Operator and GIS Technician are both grade 113. Each has the same midpoint value ($36,989). If a Computer Operator produces a higher performance evaluation score than the GIS Technician, then the Computer Operator would receive a higher adjustment. If the performance evaluation score translates into a 4% adjustment for the Computer Operator, the dollar value of the increase would be $1,479.56. If the GIS Technician's performance evaluation translates into a 3% adjustment, the dollar value of the increase would be $1,109.67. If their scores are in the same range, they would both receive the same dollar value of adjustment.

This practice would have a somewhat similar effect of moving the person with a salary lower than the midpoint at a faster pace, but would also enable experienced incumbents to advance towards the maximum level of the pay range. This concept is simpler than the current approach. It would not matter whether the incumbent was at the lower end of the pay range or in the upper portion of the pay range. The increase is influenced more by performance than by relative position within the pay range.

Recommendation #11: Use the arithmetic midpoint of the position's assigned pay grade as the basis for calculating potential performance adjustments.

Calculating Performance Adjustments

Performance adjustments would be based on the midpoint of the assigned pay range of the position held by the employee. The potential annual performance adjustments on a percentage basis would have to be identified each year, as a function of several factors, including any structural adjustment made, actual performance score, and the available dollars.

The City has historically made structural adjustments to the entire compensation structure to recognize increased costs of living and to ensure the City's overall competitiveness within the general market. The City should continue its practice of using labor market indicators to make structural adjustments.

In order to provide performance evaluation adjustments based on the midpoint, the arithmetic midpoints would have to be calculated each year.

The percentage adjustments would range from zero (0) percent for employees scoring fewer than 20 points in their evaluation, which is current policy. The percentage of midpoint adjustments for the other four (4) categories of PFP scoring would have to be determined each year based on any structural adjustment made, actual performance score, and the available dollars. **For example, if the City makes a 3% structural adjustment to the pay structure, the following set of adjustments would occur:**

PFP Score	Rating	Adjustment as a percentage of midpoint
0 – 19	Unsatisfactory	0
20 – 29	Needs Improvement	2%
30 – 35	Meets Expectations	3%
36 – 41	Commendable	4%
42 - 50	Results Rarely Achieved by Others	5%

One can readily see that it will take an employee a longer period of time to reach higher salary levels if their performance evaluation scores are lower than the employee who regularly achieves higher annual evaluation scores. The likelihood is that employees will score at varying levels during their employment with the City. The

movement is based on performance. Consistent evaluations at the "Needs Improvement" level should not occur, as it would bring into question the viability of continued employment.

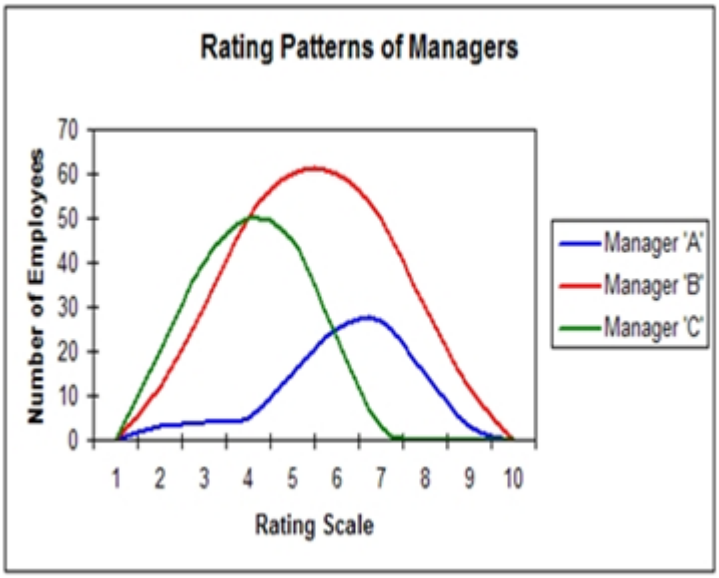
Recommendation #12: Establish a simple and straightforward program for potential adjustments of zero (0) through an annually determined percentage amount for all other categories of evaluation.

Normalizing Scores by Human Resources

The City has attempted to compensate for lenient or harsh raters by having the HR Department review the scores and make recommendations back to the Departments with respect to the perceived "rating tendency" of various supervisors. A statistical formula should be developed and employed that can convert the scores into rater profiles and allow for comparison of rater profiles. While using a statistical model will help to reduce the perception that the HR department is substituting its judgment for that of the supervisor, it will not be entirely without pitfalls. The reality is that the group being evaluated is already, in the nomenclature of statistics, "pre-selected". In other words, these incumbents have already been promoted from lower level positions or have been hired in at a higher level. As a result, one would not expect that their evaluation scores would reproduce a balanced bell curve.

The following chart provides an example of how rating patterns of various managers can be compared by graphing on a standard bell curve chart.

CHART OF COMPARATIVE RATING PATTERNS



It can be observed, from the figure above, that Manager 'A', compared to Manager 'B', has the tendency to rate most of his subordinates at 7 to 8 points on a Performance rating scale of 1 to 10. Manager 'C', on the other hand, is highly conservative and awards given to the best of his subordinates are in the range of 5 to 6 points. Thus, an average performer with Manager 'B' gets equated with the Best employee reporting to Manager 'C' and with a low average subordinate of Manager 'A'.

The City has attempted to adjust for rater tendency by making compensating recommendations. However, this process is not always perceived by employees, whose scores may have been adjusted, as being objective and equitable. Many organizations choose to ignore the problems created by rater tendency. The City of Dover is commended for recognizing and attempting to address this very valid concern.

Without any adjustment, those employees who are assigned to a harsh rater may leave the City and those assigned to a lenient rater may be the managers of tomorrow. Suppose there are 10 appraisers in the City, each with a high degree of variability in their performance appraisal scoring. The process of balancing this variability is called "normalization".

The Normalization Process

An overview of the process is comprised of the following steps:

- ✓ 'Statistical Mean' of organizational rating pattern of all the Managers (i.e., Appraisers) at the same level, across various departments, is computed. Let this Mean be 'M'.
- ✓ Statistical Mean for each of the Appraisers at the same level (i.e., for all the 10 Managers in the example given above) is computed. Each Manager should have done the Appraisal for 40 to 50 employees (may be over the last 5 years). Let this Mean be 'Mi ' (i = 1 to 10).
- ✓ A correction Factor (CF) for each of these Managers (Appraisers) is then computed = Mi / M. Its value, for example, will be 1.0 if the rating pattern of a Manager is the same as the statistical Mean for all the Managers.

- ✓ Performance Score of each individual employee is divided by CF for his/her Manager to compute its normalized value. This normalized score is utilized for all management decisions.

There are other factors that should be considered in a normalization process. Data can be compiled from previous year's evaluations to have enough data from each of the raters to insure statistical validity. While it is possible to manually manage a normalization process, MAG would suggest that the City consider automating this approach. This should address both the concerns that the Human Resources Department is "changing ratings" and also address the criticism that it takes a very long time for the Human Resources Department to complete the review process. Critical to the success of any normalization process is the timely completion of the evaluations. It is imperative that all evaluation scores are available for normalization comparison at the same time.

Recommendation #13: Enhance the reliability of the normalization process by adopting a statistically recognized process for comparing performance appraisal scores between and among raters. (The process briefly outlined above is not all inclusive. Automate the process of normalization of the performance scores either by contracting with MAG to develop the program or by assigning it to in-house IT staff.

Recommendation #14: Enhance the current policy of holding up any salary adjustment for a supervisor who has not completed his or her evaluation to holding up the entire City-wide processing of adjustments until all supervisors have completed and submitted their evaluations to the Human Resources Department. MAG would also recommend that within three days following the date for submission, that the Human Resources Department shall prepare and publish on the City's intranet a list of those supervisors/employees who have not submitted a completed evaluation. (This would not apply to Council appointees, but would apply to all employees in the department of a Council appointee.)

Planned Goals and Unplanned Assignments

The scoring is based on a five point Likert Scale and is easy to understand and to use. The "weighting" approach makes common sense and is also easy to use and understand.

Recommendation: No change

Core Competency Elements

Employee criticisms of the core competency elements included "overlapping", "redundant", "too wordy" and "repetitive". These criticisms appear to be valid. While it is very difficult to develop a performance appraisal system, it is relative easy to be critical. MAG's comments with respect to the Core Competency Elements are made with the greatest respect for the difficulty of developing the system and fully recognizing that conducting a critical review is easier than creating a system.

The Core Competency Elements include the following Standards:

- Accountability/Leadership/Work Management
- Communication and Customer Service
- Job Knowledge
- Planning, Organization, Problem Solving and Decision Making
- Relationships within the Organization

For Supervisors an Additional Standard:

- Supervisory Skills

In the sample reviewed, each Standard had from four (4) to 11 "elements", with the average being more than seven (7). In the sample reviewed, the elements were not always related to the standard and in some cases, there were multiple versions of the same element, just worded slightly differently.

When the same or very similar elements occur, if the employee is considered to be "outstanding" the first time the "element" appears, they would then appear to continue to be "outstanding". Conversely, if an employee was not scored high on the element the first time it appeared, when a slightly different version of the same element appeared again, it would overweight that negative rating.

Additionally, in the same sample reviewed by MAG, the elements listed for "Job Knowledge" were all examples of what should have been considered the accepted qualification for performance of the job. The elements listed were "required" knowledge for the job, but the employee was rated "Outstanding" on "Job Knowledge" with no particular examples of why the rating would have been so high. The "justification" for the "Outstanding" evaluation would have supported "Meets Expectations", but would not, for the level of the employee being reviewed, have been support for the highest level of evaluation.

Each of the Standards should be defined as to what they are attempting to measure and should be directly related to the job. Each Standard should have no more than three or four elements. The elements should be clear and distinct. The elements should be directly related to the defined standard and should be clear examples of the desired behaviors purporting to be measured. The following is an example of a Standard and related elements:

Sample Table Showing Standards and Elements

Teamwork
Works with others either in formal teams or ad hoc groups to accomplish tasks or provide services effectively and efficiently.
Cooperation *(Examples may Include)*: • Works well with other Agency groups and organizations for the success of the group or organization. • Works with others in developing and implementing solutions to problems. • Assists others to meet objectives. • Maintains effective working relationships with team members. • Actively participates in team efforts. **Leadership *(Examples may Include)*:** • Leads or follows, as necessary, within the team. • Takes initiative to arbitrate and resolve disagreements if they arise. **Commitment to Team Effort *(Examples may Include)*:** • Shares information willingly. • Shares credit, recognition, and visibility with others. • Supports and promotes team decisions and initiatives.

In the example provided, the Standard is "Teamwork". There are three Elements, "Cooperation", "Leadership" and "Commitment". The statements under each element are to provide examples. The examples are not meant to be all inclusive, but rather suggestive of acceptable behavior or outcomes.

Each of the Standards should be defined. The definition should be a simple one and easy to understand. Then, the elements should be edited to two or three, and examples provided that would suggest a successful measure or outcome for the element. If successful measures or outcomes cannot be identified, then the element may not be appropriate and should be removed or replaced.

The definitions of the standards should be appropriate to the level of the work being reviewed. While the standard, "Communication", might be appropriate for all employees being reviewed, the definition may differ and the elements for this standard would vary considerably based on the level of the incumbent in the organization.

The City has done an excellent job of developing a form that is simple to use and easy to understand. The changes that would improve the system are meant to be positive suggestions and not to be overwhelming. Most of the information needed to strengthen the content and format of the forms is readily available. The basic framework already exists. The re-work could be fairly quickly accomplished and then reviewed by the incumbent and supervisor for finalization.

Recommendation #15: Review the Core Competencies and Elements to add definitions for the Core Competencies and to streamline the elements statements.

SECTION 6.0

RECOMMENDATIONS ON RELATED PFP ISSUES

This section provides recommendations on key issues raised during the study process.

6.0 Recommendations on Related PFP Issues

6.1 Adherence to Policy

For the non-bargaining positions for which performance evaluations are to be completed, City staff has completed the evaluations as required. This may seem to be an obvious point, however, there are agencies with evaluation programs that simply do not follow through, or are so late in conducting evaluations so that they are rendered meaningless. Dover has been highly responsible in implementing the PFP evaluation programs and evaluations. One of the reasons is that the program has "teeth", in that supervisors are not able to receive a potential adjustment if they do not complete their evaluations in a timely manner. The pressure to perform evaluations, and in a timely way, has been institutionalized within the organization.

With respect to the implementation of the system, MAG finds:

- evaluations are being completed annually as policy requires;
- market salary ranges are being adopted every year;
- Council is informed as to market changes and salary calculations;
- supervisors are not receiving increases until subordinate reviews are completed;
- evaluations include goals and objectives (current and anticipated);
- adjustments are determined by performance scores;
- percentage adjustments have been consistent with stated policy, as employees move towards the market rate with higher increases than an employee above the market rate with the same performance score (Section 5.0 establishes a new method of calculating increases);
- Human Resources has taken actions for quality control by reviewing the consistency of SMART goals with the City's Strategic Plan and looking for unusual scoring patterns;
- Evaluator training has been provided once per year, which is viewed internally as sufficient (34 of 37 responses by supervisors indicated that they have enough knowledge of how to use the PFP system.

Recommendation #16: Continue to complete performance evaluations annually as dictated by current policy.

6.2 SMART Goals, Departmental Goals, and Quarterly Reviews

Generally, clear goals are being established meeting the SMART criteria. This is one of the more difficult aspects of developing a meaningful performance evaluation program. Some departments appear to be better able to accomplish this than others, either due to the nature of the work or the extent of effort applied to the task. Some work is more easily measurable and therefore able to be quantitatively described and evaluated. Because jobs change over time, establishing goals meeting the SMART criteria requires regular and routine monitoring. It also appears that the departments make an effort to incorporate the departmental goals and objectives into the goals and objectives of the individual employees. This is not an easy task and is easier done by some departments than others. Some jobs don't always have full control over their goals and objectives, and departmental goals change as well. Incorporating departmental goals into individual employee evaluations requires constant monitoring.

The set of instructions for the PFP policy requires that supervisors meet quarterly with the employee to discuss progress toward the goals and objectives established. In practice, this is not performed evenly throughout the City departments. It is a reasonable requirement that forces managers and supervisors to maintain currency in performance goals.

When employees were asked whether evaluations are done consistently across departments, of 74 responses, 14 people answered "Yes", while 14 people answered "No". Most respondents (46) did not know or could not answer the question.

Section 5.0 indicates that the core competencies need to be reviewed and edited for duplication and redundancies.

Recommendation #17: Require managers and supervisors to document the quarterly review of goals and objectives with their employees. If the quarterly reviews are not documented, the supervisor would be denied (not simply deferred) a possible increase at the time of their own evaluation.

6.3 Administration and Control

A system of performance evaluation requires monitoring to ensure that the base policy requirements are met, that all needed actions are occurring in a timely manner, and that employees have a perception of fairness regarding the outcomes. As required in the PFP Policy, Human Resources has taken actions for quality control by reviewing the consistency of SMART goals with the City's Strategic Plan and looking for unusual scoring patterns. Employees noted that the monitoring role has expanded into departmental areas of responsibility and affected scores.

As noted above, the Quarterly Review cycle must play a critical role in ensuring that the goals are appropriate for each position. Developing or re-writing the goals and then conducting Quarterly Reviews is primarily a departmental matter, and should not be left to the Human Resources Department to re-write goals or second guess their relevance. Human Resources should review the goals for consistency with the City's Strategic Plan, remind Department Heads to conduct the Quarterly Reviews, and also determine if unusual scoring patterns do indeed exist. MAG has recommended that the City utilize a recognized statistical process of comparing and normalizing scores to overcome rater tendency. This is constructive and meaningful feedback to the Departments and raters.

Recommendation #18: Make the accurate implementation of the PFP system a key element of the core competency for Supervision. If a supervisor does not implement the PFP system, Supervision should be downgraded substantially. This should be reflected in the Supervisory Core Competency.

Recommendation #19: Include monitoring goals for the Human Resources Director to ensure consistency with the City's Strategic Plan, reminding departments of the need for Quarterly Reviews, setting up annual training on the program, and identifying unusual scoring patterns to the City Manager, the Department Head and the rater. This should be reflected in the Supervisory Core Competency.

6.4 Appeal Process

Part VI of the City's PFP Policy describes a process under which employees may appeal their performance evaluation. Questions regarding the appeals process were asked of employees attending sessions in December 2008. Of the 72 responses, six (6) people indicated that they have appealed an evaluation, while 62 respondents indicated they had not ever made an appeal. Of the six (6) people who appealed, two (2) indicated a satisfactory response, while three (3) were not satisfied. One (1) appellant did not discuss the outcome. Five (5) people had no response.

One may conclude that the appeal process is available to all employees and very few have made an appeal over the last several years. This is a relatively low number of appeals for 80 plus people through four (4) years of experience. While three (3) of the six (6) appellants were not satisfied with the outcome of their appeal, there has been no indication that the appellants have not been treated fairly.

Recommendation #20: Continue the current process regarding appeals.

6.5 Retention

Two of the issues for consideration included whether new recruits are staying with the City and whether the system is working to retain quality employees. Excellent retention is a function of many factors, including the ability of incumbents to advance in pay. The City has made both range structure adjustments and performance adjustments over the last four (4) years. The structure adjustments have been competitive with other agencies. The performance adjustments move "under market" incumbents at a faster rate than "over market" incumbents. The workforce appears to be stabilized, although the implementation of a positive performance evaluation system may not be the primary reason for this stabilization.

In a related question, two-thirds of employees responding to a question as to whether the system helps retain high performing employees answered "No". Many people indicated that performance evaluation will not make a substantial difference in whether an incumbent stays or not. Rather, the internal motivation has greater impact on the interest and willingness of an incumbent to remain.

6.6 Employees Above the Maximum

One issue raised was whether the system reduced or eliminated the number of employees above the maximum and prevented employees from advancing above the maximum. In the database established during the classification and compensation review, only one (1) person was identified as being over the maximum. The incumbent received a demotion and the salary was not reduced below the maximum of the reassigned position. One may conclude that the systems (both classification/compensation and performance) have minimized the number of employees above the maximum and have prevented employees from advancing above the maximum.

The City's proposed 2008-2009 PFP matrix included a performance based adjustment of salary for employees whose salary exceeded the maximum of the range. Organizations are divided on providing increases to employees above the range maximum.

Recommendation #21: If the City adopts a policy of providing a performance based monetary recognition, the City should consider providing any amount above the maximum of the range in a one-time lump-sum payment that does not roll into the base salary.

6.7 Results, Goals, and Motivation

Several additional issues were raised in reference to the performance evaluation system, including whether the City is getting results based performance due to rewarding better performance; whether employees are more goal oriented under this system of evaluation; and, whether employees are more motivated to perform better under this system.

In response to a question as to whether employees are generally more goal oriented under this system of evaluation, of the 77 responses, 44 people answered "Yes", while 17 people answered "No". Two (2) people were unsure or non committal. Two-thirds of employees who answered the question do believe that they are more goal oriented under the system of evaluation.

Employees appear to conclude that establishing goals is relevant to their jobs. Of the 71 responses to a question on the matter, 64 people answered "Yes", while five (5) people answered "No". Nine (9) of the responses were non-committal or unclear.

As to whether employees are more motivated to perform under the PFP system, Department Heads noted that motivation is more internally generated, and that the potential increases, while sought after, are not the primary drivers of motivation. This is not the message from general employees. The fact that there is less reward potential to employees who are "above market" than employees who are "below market", was noted as a concern by some. The City's compensation philosophy of moving employees quickly who are "under market" is consistent with compensation strategies in the general market which reflects a steeper learning curve early in their career.

6.8 "Below Market" Advancements

An issue raised is whether "below market" employees are advancing to "at market" at the expected rate. Non-bargaining employees, using MAG's software system, all appear to be advancing through the ranges at an acceptable pace. Using a "7 years to market and 20 years to max" calculation, MAG did not identify any significant deviation that required immediate administrative redress. Any differences in rate of progression can be largely explained by reviewing differences in rewards earned under the pay for performance system.

6.9 Scoring System Differentiation

Another noted issue is whether the scoring system is working to differentiate better performance. The scoring system is differentiating between and among employees' salaries in the various pay ranges, and, given the general enthusiasm for the system, one may conclude that pay for performance must be working. While many employees offered comments and criticisms of the system designed to improve it, only two dissenting voices were heard that would scrap the whole system.

SECTION 7.0

IMPLEMENTATION TABLE OF RECOMMENDATIONS

This section includes a table that identifies each recommendation, responsible party, time frame, impact, and potential cost for each of the study's recommendations.

7.0 IMPLEMENTATION TABLE OF RECOMMENDATIONS

CITY OF DOVER, DELAWARE
REVIEW OF PAY FOR PERFORMANCE SYSTEM

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
1	Change the PFP policy to require training for supervisors once per year. If training is not attended, deny any salary increase for which the supervisor may be eligible.	City Manager and HR Director	Ongoing	No adverse impact, as recommendation reflects current practice.	Staff time saved.
2	Establish a more precise time frame within the set of Instructions so as to clearly define the time allotted for each step in the performance review cycle.	City Manager and HR Director	February 2009	Clear expectations and accountability.	None.
3	Written quarterly reviews should be done by Department Heads, and documented in the evaluation by entering into the PFP software.	Department Heads	Ongoing; Quarterly	Improved monitoring and annual evaluations.	Staff time to complete quarterly reviews.
4	All evaluated employees should conduct self evaluations, with the purpose of then comparing them at the formal performance evaluation meeting.	All employees under the evaluation system.	Annually, at evaluation time.	Improved annual evaluations and supervisory/employee interactions.	Staff time to complete self evaluations.

CITY OF DOVER, DELAWARE
REVIEW OF PAY FOR PERFORMANCE SYSTEM

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
5	Change the current performance form label of "Good" to "Meets Expectations" on the evaluation form.	City Manager and HR Director	February 2009	Accuracy in performance labeling.	None.
6	Change the current performance form label of "Acceptable with Some Improvements Needed" to "Improvement Needed" on the evaluation form.	City Manager and HR Director	February 2009	Accuracy in performance labeling.	None.
7	Change the current performance label of "Outstanding" to "Results Rarely Achieved by Others".	City Manager and HR Director	February 2009	Accuracy in performance labeling.	None.
8	Create a committee structure to evaluate Council appointed positions that would make recommendations on compensation adjustments for the evaluated employee.	City Council	March 2009	Improved annual evaluations for Council appointed positions.	None.

CITY OF DOVER, DELAWARE
REVIEW OF PAY FOR PERFORMANCE SYSTEM

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
9	Apply the changes noted in Section 5.0 to the development of Core Competencies for the Council positions.	City Manager	March 2009	Improved annual evaluations.	None.
10	Base the movement within the pay grade on the concept of a "normal progression" career plan for employees who "Meet Expectations" to reach midpoint in 10 years.	City Manager; Council Approval; Human Resources	April 2009 for July evaluations.	Less cost than current PFP matrix and consistency from year to year	Unknown.
11	Use the arithmetic midpoint of the position's assigned pay grade as the basis for calculating potential performance adjustments.	City Manager; Council Approval; Human Resources	April 2009 for July evaluations.	Equity and system simplification	Unknown.
12	Establish a simple and straightforward program for potential adjustments of zero (0) through an annually determined percentage amount, based on budget availability.	City Manager; Council Approval; Human Resources	April 2009 for July evaluations.	Equity and system simplification	Unknown.

CITY OF DOVER, DELAWARE
REVIEW OF PAY FOR PERFORMANCE SYSTEM

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
13	Automate the statistical normalization of rater comparisons.	City Manager; Council Approval; IT or MAG support	Can commence upon approval	Establish reliable process of comparing rater profiles; more equitable evaluation across raters/departments.	Unknown.
14	Hold up salary adjustments until all evaluations are complete; publish stragglers on the City's intranet.	City Manager	Can commence upon approval.	Essential to rater profiling process that all evaluations are available at the same time.	None.
15	Streamline and enhance Core Competency and Element statements.	Human Resources with assistance	Dependent on in-house or contractual assistance.	More valid and reliable Format and basis for assessment.	Unknown.
16	Continue to complete performance evaluations annually as dictated by current policy.	City Council; City Manager	Ongoing	Documentation and monitoring of performance.	Staff time and preparation of materials.

CITY OF DOVER, DELAWARE
REVIEW OF PAY FOR PERFORMANCE SYSTEM

Rec. #	Action Step	Responsibility	Estimated Completion	Impact	Projected Savings or (Costs)
17	Require quarterly review of all employees being evaluated.	City Council; City Manager	March 2009	Enhance communications and establish consistency across the system.	Additional time for supervisors not currently doing this.
18	Add responsible participation in the PFP as a Supervisory Core Competency.	Human Resources	March 2009	Further strengthen the system – greater accountability	None.
19	Add monitoring and reminder goals to the Core Competency of the HR Director.	City Manager; Human Resources Director	As soon as model is complete	Add accountability to the rater profiling and normalization process	Unknown
20	Continue the current process for appeals.	Human Resources	No change	No change	No change
21	Any pay out for performance over the maximum of the range is a lump-sum one-time payout that does not roll into the base salary.	City Manager; City Council	Adopt new policy	Do not compound base salary above the maximum of the range.	Long-term cost control

APPENDIX 1

PFP Description, Instructions, and Forms:

This appendix includes the current Performance Based Pay Policy dated April 19, 2005.

Also included are the instructions that supervisors are to follow during the performance review cycle, and a sample form used to evaluate Non-Council Appointed Positions.

City of Dover

Performance Based Pay Policy
For Non-Bargaining Employees

April 19, 2005

I. Purpose

The City of Dover Performance Based Pay Policy is intended to provide equitable compensation based on performance for all exempt and non-exempt positions when considered in relation to each other and to general pay ranges for similar employment elsewhere. This policy rewards excellence in core competencies, as well as the ability to get results.

This will allow the City to maintain an effective, responsible and loyal work force, and allow us to recruit and retain high quality employees. The Policy establishes pay ranges and maintains an effective ongoing pay system for appropriate compensation recognizing the importance of results-based performance.

II. Pay Plan Maintenance

New market-based salary ranges shall be adopted every year after consideration of a market survey that considers both external and internal movement in market salaries. The ranges shall establish an entry-level rate, market rate and a maximum rate. The City Manager will forward the results of the market survey and his recommendations to Council for consideration during the annual budget process. The increases in salary ranges shall not be considered as cost of living increases, but shall serve to keep ranges up to date so that employees' performance is properly evaluated within the context of where their salary lies within the market place.

III. Performance Evaluations and Advancement Guidelines

Performance evaluations must be completed annually, prior to any consideration for an increase in pay. No supervisor shall receive an increase in pay until subordinate evaluations are complete. The evaluation will include measurement of the results of predetermined goals and objectives, unplanned assignment results and core competencies. The evaluations shall give goals and objectives for the coming evaluation year.

The amount of the proposed pay increase will be determined by the overall Performance Score as applied to the Pay-for-Performance Worksheet in accordance with the table found on the worksheet. The Pay-for-Performance Worksheet shall be approved by City Council with the annual budget. Appendix A is the model Pay-for-Performance Worksheet; the areas where percentage increases will be placed have been left blank.

In general, the percentage increase for employees scoring between 21 and 30 evaluation points whose current salary is within the market range (within the 2nd third of their salary range) will receive an increase equivalent to market increases as determined by the annual market survey. In general, employees with lower scores will receive lower percentage increases, and those with higher scores will receive higher percentage increases. To advance employees to the market rate, employees who are compensated at levels below market will receive increases that are higher than those who are at and above the market with similar performance scores. In some cases with low scores or salaries above maximum, there may be no increases. While it is the intent of the City to keep salaries competitive within the market place, the City Council reserves the right to set percentage increases based on what it determines the City can afford regardless of changes in the market.

IV. Evaluation Quality Control Systems

To ensure quality control, the Human Resources Department will review the latest employee performance evaluations in August of each year to ensure that they have clear and concise goals and objectives with expected results that are aligned with the City's Strategic Organizational Plan. Goals are to be **S.M.A.R.T.** (**S**pecific, **M**easurable, **A**ttainable, **R**ealistically High, **T**arget Date). The comments supporting the results achieved must be specific to the goals and/or competencies and not just a repetition of the goal or objective. Achievement or lack thereof of results and progression in core competencies are to be outlined in these comments.

The Human Resources Department will also review the evaluators for unusual patterns such as consistently high/low patterns of scoring, as well as incomplete or unrelated comments to support the performance points associated with the goals and objectives. While there are no formal quotas, there is an expectation that scoring will naturally fall into a normalized pattern, particularly as evaluations are considered over time and in groups. Feedback will be given to evaluators and their department heads to give them the opportunity to justify the perceived inequities or patterns and if necessary correct the problem(s).

V. Procedures for New Job Titles/Grades and Re-grading and Retitling Existing Positions

To establish new job titles, grade new positions, or re-grade and re-title existing positions where job responsibilities have changed, the following procedure must be followed:

1. Department heads must submit a proposed job description along with a completed Position Analysis Factor (PAF) Guide to the Human Resources Department with an explanation outlining the reasons for the new title, re-grade or new position. The Human Resources Department will enter the Position Analysis into the Job Analysis Qualification (JAQ) software to determine the salary grade. The Human Resources Director shall compile all of the new positions, new titles and new grades and forward them to the City Manager for consideration within the annual budget.

2. To ensure that existing job titles and grades are kept current, as part of the budget process each Department Head/supervisor will give the employee a copy of their current job description and ask the employees to review the description for accuracy. The employees will return the job descriptions within one (1) week of receiving them from the Department Head/supervisor and discuss the changes (if any) with the Department Head/supervisor. The Human Resources Department will review the submitted information within one (1) week from receiving it from the Department Head for appropriateness and use the Position Analysis Factor Guide to reevaluate the position. When reclassification is initiated, all incumbents holding the same job title should complete a JAQ. A desk audit usually at the job site would then be conducted with the individual being considered for reclassification or with a representative number of people if the reclassification request affects a number of people with the same title. Key questions concerning the job should be answered to assist in determining the proper level within the overall pay and classification system. The analysis of all the information is then compared to the current position description for the various classifications' levels and weighted, using the same quantitative point-factor rating criteria used to establish the level of all positions in the City pay plan. The Human Resources Department will notify the Department Head and City Manager of the outcome of the review and recommendations. The employee shall be informed of the outcome by the Department Head. Proposed reclassifications will be included in the budget proposal of the City Manager.

3. Hiring, promoting and re-grading an employee to a new or open position will be done in accordance with established procedures outlined in the Employee Handbook.

4. Establishing the hiring salary or salary increase associated with a promotion or re-grading will be derived as follows:

    a. Employees will be placed within the approved salary range at the entry level. On occasion for highly skilled, technical, or managerial positions, it would be necessary to hire above the minimum rate in the range, but not above the market rate. In these cases, consideration will be given to the applicant/employee's education, equivalent experience, related experience and past performance. Recognizing that the current salary ranges are based on a 20-year period between the entry salary and maximum salary the individual may be placed within the salary range using the following guidelines: (1) The employee will be given credit for equivalent experience year for year; (2) Credit for related experience will be ½ year for year; (3) Year for year equivalent experience credit will be given for college experience beyond the minimum required where a related Master's or related Bachelor's Degree has been obtained. A recommendation to hire above the minimum rate in the range should be documented by the supervisor, reviewed and endorsed by the Human Resources Director and approved by the City Manager.

VI. Personnel Evaluation Appeal Process

Employees dissatisfied with evaluations are entitled to dispute the evaluation through the following appeal process.

1. Employees may request an appeal of the evaluation within seven (7) days of receiving the evaluation.

2. The appeal must be filed with the employee's immediate supervisor, in writing, stating the reason(s) for the dispute. The contents of the appeal request must include the specific categories being appealed, the rating sought, and the justification for the change. The immediate supervisor's decision will be rendered to the employee, in writing, within seven (7) days.

3. If an employee is dissatisfied with the immediate supervisor's decision, then the appeal will be forwarded within seven (7) days to the next level of supervision for that division along with a copy to the Human Resources Director.

4. If the employee is still dissatisfied with the decision, the process will continue through each level of supervision up to the City Manager or the Mayor and Council depending on the reporting relationship. City Manager and Council Appointee Department Heads shall have final decision on employees within their departments. Mayor and Council shall hear any appeals by the City Manager or Council Appointed Department Heads. Any appeal going as far as the City Manager, Council Appointed Department Heads, or Mayor and Council will be first submitted to the Human Resources Director.

VIII. Instructions for Using the Pay-for-Performance Evaluation

Detailed instructions are located on Public Docs in the Pay-for-Performance folder.

IX. Evaluator Training

All evaluators will receive detailed training in setting S.M.A.R.T. goals and objectives, preparing for and giving Pay-for-Performance evaluations, using the Pay-for-Performance Worksheet and completing the Position Analysis Factor Guide prior to implementation of this new system. Ongoing and refresher training will take place as needed but not less than two (2) times each fiscal year. Training will be mandatory and will include the following subjects: introduction of policy, purpose, guidelines, components of policy, evaluation, appeal process, S.M.A.R.T. goals and objectives, JAQ scoring system and plan administration.

Appendix A

P.F.P. Salary Calculation Worksheet

(Adopted by City Council _____)

Instructions: The total PFP adjustment is calculated by carrying forward the Overall Score from page 1 and finding the range in the two left-hand columns of the following matrix in which the score falls. The PFP adjustment is found in the right-hand column.

OVERALL SCORE		**ADJUSTMENT**			
FROM	**TO**	**Employee Below Market[(1)]**	**Employee At Market[(1)]**	**Employee Above Market[(1)]**	**Employee Above Maximum**
0	19				
20	29				
30	35				
36	41				
42	50				

[(1)]Below Market = first third of salary range; At Market = second third of salary range; Above Market = top third of salary range.

Instructions for the Performance Review Cycle

Please realize that annual reviews are due to the Human Resources Director by May 31. A supervisor shall arrange to meet with the employee to discuss the employee's evaluation no later than June 25 of each year.

Failure to provide a completed evaluation for an employee in a timely manner, no later then July 1, will cause the effective date of the Department Head's pay-for-performance pay increase, if one was granted, to be extended by the number of days the evaluation was not received if the failure to submit a completed evaluation harms the evaluated employee. For example, if pay-for-performance increases are effective July 1 and the Department Head submits the evaluation on July 5 (five days late), the Department Head's pay-for-performance increase would be granted, if he or she was entitled to one, on July 5. The employee's increase, if one was granted, would be retroactive to July 1. Sufficient time for review by the Human Resources Director shall be considered when determining a timely manner. For example, submission of the evaluation on June 30 may not provide ample time for the Director to review and return to the evaluator. This may cause harm to the evaluated employee.

Before conducting a performance evaluation, a supervisor must give an employee a reasonable time to demonstrate performance.

THROUGHOUT THE YEAR

Observe and document the employee's performance and give immediate feedback whenever possible. Documentation at this point can be somewhat informal, but try to keep a record of what the employee does, both good and bad. This record will be very helpful in completing the remarks/example section of the evaluation as well as ensuring the employee is not being evaluated on a short timeframe.

Ask the employee for input about their performance during the year. This is important because the performance review should be based on two-way communication, so that it is not merely a "report card." The employee's input can be any combination of the following:

- A draft performance appraisal prepared by the employee
- A list of accomplishments and significant events
- An informal discussion between the employee and supervisor

It is important to keep in mind that the supervisor should collaborate and seek advice from others in evaluating the employee throughout the year. Other supervisors, employees, customers, division and department heads may be able to provide important insights.

QUARTERLY REVIEW (generally October, December and March)

Meet informally with the employee to discuss progress toward the goals and objectives as outlined in Part 3 of the Pay-for-Performance Evaluation for the previous year. Update, add or remove goals as necessary since the last review. Unexpected and unplanned assignments may arise. As new goals are added, it is important to evaluate the employee's capacity to accomplish

already established goals. By keeping goals and objectives current, the necessity of documenting unplanned assignments in "Part 1" during the Annual Review will be minimized.

Indicate any additional comments by the supervisor or employee in the supervisor's log/journal.

PROBATIONARY REVIEW

All new employees shall receive a formal probationary review for no less than six months of active service and no more than seven months of active service. Goals are to be established for the new employee to complete during the probationary period. See next section, Annual Review, for additional information.

ANNUAL REVIEW

Employees hired between July 1 and November 30 of each year shall receive a probationary review for no less than six months of active service and no more than seven months of active service in addition to an annual review in May. On July 1, the employee would be eligible for a pay-for-performance increase.

Employees hired between December 1 and June 30 shall not receive an annual review in May; however, they would receive a probationary review upon completion of six months of active service and no more than seven months of active service. Employees would be eligible for a pay-for-performance increase at their one-year employment anniversary. These employees would then receive an annual review in May of the following year and be eligible for a pay-for-performance increase on July 1 of the following year.

The pay-for-performance evaluation instructions are available on Public Docs in the Pay for Performance folder while the evaluation is available on the City's intranet, http://intranet/projects/pfpfb/. For assistance, please contact the Human Resources Department. It is important to inform the employee that his or her yearly evaluation is due. The supervisor shall set a meeting date and time with the employee to review the evaluation. This will ensure that everyone has ample time to prepare for the evaluation.

It is important to keep in mind that the supervisor should collaborate and seek advice from others in developing the evaluation. Other supervisors, employees, customers, division and department heads may be able to provide important insights into the evaluation process.

SELF EVALUATION

A self-evaluation is not required by the employee unless requested by the supervisor. A self-evaluation is strongly encouraged since it is an opportunity for an employee to inform the evaluating supervisor of surrounding circumstances or extraordinary efforts that were involved in the completion of the goals. Evaluators will be specifically seeking the employee's synopsis of the results achieved on his or her planned and unplanned goals. The employee shall be given a copy of a blank evaluation by his or her evaluator so that he or she may prepare a self-evaluation prior to the formal discussion of the evaluation.

The employee may also wish to indicate goals they would like to achieve in the next review period. Goals should be related to the overall vision and mission of the City as well as the employee's department.

Professional development opportunities are not considered goals and should not be noted in the goal section of the evaluation. For example, complete an Excel class.

JOB DESCRIPTION

Obtain the current job description for the employee's position to be reviewed by the employee and supervisor during the annual budget process. In general this review will occur in December or January each year. The job description shall be reviewed by the employee and the supervisor individually. Reviewing the job description annually will ensure that the job description remains up to date with current job duties. All changes must be submitted to the Human Resources Director for consideration and final approval. If appropriate, the HR Director may recommend the position be re-graded.

COMPLETING THE PAY FOR PERFORMANCE EVALUATION FORM

Page One

The intranet system will automatically complete Page 1 of the evaluation. Please realize that each non-bargaining position has been assigned a weight for goals and objectives and one for core competencies. If you think that the weights need to be changed, please contact the Human Resources Director. If you need assistance, please contact the Human Resources Department.

PART 1: Planned Goal and Unplanned Assignment Results

This section is to include comment on the degree and qualities of the results achieved and note any extenuating circumstances affecting the results. It should also be noted how well an employee did in accomplishing the objectives and if they were completed in a timely manner. Assign performance points based upon the Performance Rating Definitions and the Key as noted in the Performance Rating tab of the Pay for Performance intranet system. The performance score shall be indicated in the Performance Rating box. Narrative information is very important in the review process; therefore, include remarks and whenever possible, specific examples. It is very important to consider the difficulty of the goals and objectives when scoring. Goals and objectives can have different degrees of difficulty. The completion of a relatively easy goal and objective should not be scored the same as completing a difficult goal and objective. An easily attainable goal that is completed should be rated "good," a more difficult goal should be rated "commendable," and achieving a very difficult goal should be "outstanding." A very difficult goal or objective that may be only partially completed may score the same as an easily attainable goal that is completed. It is very important that the difficulty of the goal and objective not be gauged on the employee's ability, but on its relative difficulty when compared to goals and objectives assigned to others.

After completing the Planned Goals and Objectives section, proceed to the Major Unplanned Assignments contained in Part 1. This section should be completed in the same manner as Planned Goals and Objectives. Major unplanned assignments are assignments which either were

not included on the previous year's evaluation or were added during the quarterly review and were not scheduled for completion throughout the fiscal year and required at least 40 hours to complete.

The performance score is determined by dividing the sum of the points by the number of Planned Goals and Unplanned Assignments. The result is then rounded to the nearest tenth. This figure will be automatically calculated once the evaluation is saved. Please refer to page one of the evaluation.

PART 2: Core Competency Elements

Each employee shall be evaluated on all the core competencies indicated in Part 2 with the exception of categories that pertain to employees who supervise. This category is indicated. The supervisor should review the Performance Rating Definitions on page 2 of the evaluation or contained in the Performance Rating tab of the Pay for Performance intranet system prior to completing this section.

Specific examples are to be provided in addition to remarks in the space provided. The examples provided for each competency on the evaluation form should be used as guidelines in developing the narrative in the remarks/example section rather than merely copied.

Upon the completion of evaluating all core competencies, save the evaluation. By saving the evaluation the score will automatically be calculated.

Once the weighted scores for planned goal and unplanned assignment results and core competencies have been calculated the employee's overall score will automatically be calculated by the intranet system. This is calculated by adding the two weighted scores together.

Overall Comments

A detailed narrative is be included in the Overall Comments section (located at the end of Part 2, Core Competencies) of the evaluation. This section should be used for the supervisor to express any comments or concerns that were not addressed previously in the evaluation.

PART 3: Major Responsibilities for Next Year

List goals and objectives for the coming year that are to be evaluated during the next evaluation. Goals are to be written in the S.M.A.R.T. (**S**pecific, **M**easurable, **A**ttainable, **R**ealistically high, and **T**arget date) format. These goals are to be discussed with the employee during the formal evaluation process and reviewed quarterly to determine the employee's progress toward reaching them. For information regarding S.M.A.R.T., please contact the Human Resources Department.

PART 4: Employee's Professional Development Plan

Establish a Development Plan listing actions that the employee can take to improve performance for the coming year. This may include suggestions for education and training, reading material, research, job shadowing, counseling and other self-improvement programs. The Development Plan should include specific actions that the employee can take to enhance performance. This

section of the evaluation affords the evaluator and the employee an opportunity to collaborate on how the employee's performance can be improved both as an individual and as a part of a team. This section should be taken very seriously and should be considered one of the most important parts of the evaluation.

Submission for Additional Approval

Upon completing the evaluation, please electronically "Forward" the evaluation. This function is within the Pay for Performance intranet system. This function indicates to the next approving supervisor/department head that the evaluation has been completed and is ready for their review. The intranet system allows the evaluation to be forwarded as well as "Returned". The proper chain of command must be followed in order for the evaluation to reach the Human Resources Director for final approval. Throughout the approval process, a supervisor may return the evaluation to the previous level. This process should be continued until the final approval is received from the Human Resources Director.

The evaluation is not to be presented to the employee until it has been approved by the Human Resources Director. If the evaluation is presented to the employee before the Human Resources Director approves it, the evaluator may be subject to presenting the evaluation again to the employee.

Review with the Employee

Once final approval is received from the Human Resources Director, the supervisor shall meet with the employee at the time and date originally scheduled at the beginning of the evaluation process. The supervisor may provide a copy of the evaluation up to two days prior to the meeting for the employee to preview. At this time, the employee may give the supervisor a preview of the self-evaluation. During the review, the individual's performance, strengths, and developmental needs are to be discussed. Explain the reasons for the review. For example, probationary, annual, special or for another reason. During the review, an open line of communication should be maintained. This is when the employee's self-evaluation should be compared with the supervisor's evaluation. The supervisor as well as the employee being evaluated should be open-minded toward comments made. After the formal review with the employee, the supervisor may need to modify the original evaluation to include information the employee presented during the review process.

Signatures

The employee and the supervisor must sign the evaluation once it has been reviewed together. The employee's signature does not necessarily indicate agreement with the evaluation. If the employee refuses to sign a performance evaluation, the supervisor must make a notation on the evaluation to indicate that the employee refused to sign the evaluation. The employee and supervisor may attach an addendum. The evaluation shall be presented to the Department Head for review and signature. The Department Head shall then forward the evaluation to the Human Resources Director.

Once the evaluation has been finalized, make a copy of the evaluation for the employee. Once the evaluation is submitted to Human Resources, the Human Resources Director will sign the evaluation. Human Resources will then forward to the department a copy of the signature page.

The employee shall be informed that the evaluation will be placed in the employee's personnel file maintained in the Human Resources Department. Evaluations become a permanent record in the employee's file.

APPENDIX 2

This appendix includes the documented (anonymous) views of employees and supervisors who attended workshops in October and December 2008.

The views are in response to a series of questions posed to employees who are evaluated under the PFP Evaluation System.

Consolidation of Views on the
Pay for Performance System
Employee Meetings Held on October 13, 2008

Strengths:

- Online *(use year after year, saves time, better than paper)*
- Standardized *(across depts. + non-rep/rep + elected)*
- Retention Tool *(state has none)*
- Separates Achievers from Underachievers – rewards achievers
- Documents poor performers
- Focuses on goal attainment
- Provides incentives – potentially
- Keeps you focused
- Motivation
- Sparks initiative
- Constant feedback and defines expectations
- Quantitative analysis *(For HR due to scoring)*
- Morale
- Increase productivity
- Goals are clear which is good in theory/principle
- Opportunity for employee development
- Grading + raise linked
- Enhances communication between supervisor + manager
- Self evaluation good
- Keeps employees on track
- Grading based upon performance
- Self-evaluation
- Continuity for goals <u>if</u> done properly
- Expectations are set out for you → Contingent upon doing PFP properly
- Employee retention (If fair market is done for classification)
- Benefits under-market employees
- S.M.A.R.T. – attainable goals – eliminates goals that are not attainable
- Credit for unplanned assignments
- Allows for non scoring (Penalized) for not achieving a goal due to outside circumstances
- Tied to pay raise
- Adjustable – Unplanned/Removed goals
- Standardizes evaluation + grading process
- Documents work activity
- Flexibility of adding goals throughout year

Weaknesses:

- Goals for sake of goals
- Lack of understanding by Council
- Need recourse for contesting score
- Some areas don't apply to person
- Goals + objectives can be redundant
- "Above market" employees don't benefit (topped out)
- A lot of approval levels can take months
- Supervisor qualifications to be able to evaluate the employee
- Paperwork cumbersome and time consuming
- Trend toward the middle
- Unfair scoring system
- Unobtainable scoring
- Goals don't flow down in timely manner
- Calculation manipulation
- W/Good employees – repetitive
- Below market can sometimes reward poor performers
- Matrix not consistent each year – changes at budget
- Evaluations – a lot less writing for good employees, more for poor ones
- Outside influences should be prohibited in evaluations
- Can be abandoned without notice
- Goals not realistic under daily work load
- Positive for new hires and negative for veterans
- Too many approval levels (supv → mgr → HR → emp)
- Distrust of HR – denial of high scores, lack of communication
- No clear means to contest scores
- Weak training on standards/standardizing on grading
- Council approved without understanding the system
- Only as strong as the supervisor that is doing them
- Not assigning goals during probation period
- Misunderstanding of system
- Union employees getting better raises & step increases than PFP
- No credit for experience
- Cannot count on it – Council can eliminate after goals are met
- Too subjective: HR has too much control and every supervisor is different
- Unfair to long-time employees, less of an increase.
- Core Competency is too wordy/repetitive
- Performance goals take precedence over core comp.
- Due all at same time
- Dept. Heads can delegate goals and not have to meet their own
- Budget drives the compensation – not enough difference in actual pay between an "average" + an "outstanding"
- "Down-sizing" of actual performance ratings to meet budget constraints

Solutions

- Goals should have more weight than objectives
- Change weighting scale
- Unplanned goals should have more weight than scheduled goals
- Hold off goals during probationary period
- Different scoring system
- Accountability, follow up on findings
  → Frequent feedback
  → Specific goals – developed by supervisor + subordinate
  → should be an "ongoing" process
- Reduce HR – cumbersome paperwork
- More time to talk with supervisors about goals
- Funding – have to fully fund the system
- No process for below average
- Proper/consistent training for supervisors doing evaluations
- Stop hiring people at "below market"
- Eliminate decreased "increases" for above market
- Council needs to identify goals earlier to incorporate in evaluations
- Set matrix + index outside + ahead of budget process
- Define council goals in March
- Define dept. head goals in April
- Develop weight system for goals
- Delete <u>below</u> & above market
- Better define priorities/weight goals
- Don't require explanations for 3's + 4's
- Place more authority with Dept. Heads
- Evaluate PFP software for user-friendliness
- Simplify core competencies
- Add flat cost-of-living increase + make PFP an additional %
- Council should commit
- Base evaluation dates on anniversary
- Supervisor raises should not be less than union (good evaluations)
- Simplify evaluations – multiple choice questions/answers then give examples. Yes/No – HR would have less to comment on
- Revamp electronic form. User friendly
- Periodically check goals of other departments that affect your department
- Re-evaluate system
- Retro Pay for last year's evaluations
- Re-evaluate Job Descriptions/Classifications
- Allow more 5's
- Develop a plan to get people to market

Employee Views on the PFP System
Training Sessions Conducted December 2008

1. **You have been a provided a copy of the PFP policy and instructions. Do you believe the evaluations are being completed in accordance with the Policy and Instructions? If not, what specific policies are not being met?**

   Of the 74 responses to whether the evaluations are being completed in accordance with the Policy and Instructions, 57 people answered "Yes", while six (6) people answered "No". Of the remaining respondents, seven (7) people indicated that they had not been evaluated yet as newer employees, while four (4) responses were non-committal.

2. **Does your supervisor collaborate with you on developing your goals for the coming year? Do those goals use the SMART criteria (Specific, Measurable, Attainable, Realistically High, Target Date)?**

   Of the 80 responses to this question, 65 people answered "Yes", while 12 people answered "No". Three (3) responses were unclear or non-committal. Some of the "No" responses were due to the view that the goals are either very clear or pre-determined, so no collaboration was needed.

3. **Do you feel that establishing goals is relevant to your job (if not, could you identify your job title)?**

   Of the 78 responses to this question, 64 people answered "Yes", while five (5) people answered "No". Nine (9) of the responses were non-committal or unclear.

4. **Is the "core competency" of the evaluation relevant to your job?**

   Of the 78 responses to whether the core competencies are relevant to the employee's job, 65 people answered "Yes", while two (2) people answered "No". Eleven respondents were unsure, non-committal, or indicated "somewhat".

5. **Do you feel your job is weighted appropriately between goals and competency?**

   Of the 72 responses to this question, 41 answered "Yes", while 19 people answered "No". Twelve respondents were unclear or uncertain.

6. **Do you believe the scoring system is fair?**

   Of the 76 responses to this question, 38 people answered "Yes", while 22 people answered "No". Sixteen (16) respondents were either unclear, non-committal, or had not been evaluated yet and had no comment.

7. Is high performance rewarded?

Of the 71 responses to this question, only 13 people answered “Yes”, while 43 people answered “No”. Fifteen (15) people were not certain or were non-committal.

8. Are evaluations done consistently across departments?

Of the 74 responses, 14 people answered “Yes”, while 14 people answered “No”. Most respondents (46) did not know or could not answer the question.

9. Supervisors: do you feel as though you have enough knowledge of how to use the performance evaluation system?

Of the 53 responses to this question, 34 people answered “Yes”, while only three (3) people answered “No”. Sixteen (16) people answered n/a, and other non-supervisory people simply did not answer.

10. Does the system help retain high performing employees?

Of the 73 responses to this question, 15 people answered “Yes”, while 39 people answered “No”. Nineteen (19) people answered unsure or don’t know.

11. Are employees generally more goal oriented under this system of evaluation? Why or why not?

Of the 77 responses to this question, 44 people answered “Yes, while 17 people answered “No”. Sixteen (16) people were unsure or non committal.

12. Once the evaluation is complete, does the employee receive timely feedback on the results? Why or why not?

Of the 70 responses to this question, 41 people answered “Yes”, while 15 people answered “No”. Fourteen (14) people were unsure or non committal.

13. **Have you ever appealed an evaluation? If yes, did you feel it was handled adequately? Why or why not? (was it fair?)**

Of the 73 responses to this question, six (6) people indicated that they have appealed an evaluation, while 62 respondents indicated they had not ever made an appeal. Five (5) people indicated no response or unrelated information. Of the six (6) people who appealed, two (2) indicated a satisfactory response, while three (3) were not satisfied. One (1) appellant did not discuss the outcome.

14. What single action would you recommend to improve the system?

As one might imagine, with open ended responses from 75 employees, the answers are highly variable. The responses varied from “get rid of it” to “don’t change anything”. Some recommendations noted several times included:

- ensure Council commitment to the program (since it was suspended recently, this has been a matter of concern);
- make the evaluations more department specific;
- reduce the role of Human Resources to that of process monitoring rather than reviewing or changing scores;
- shorten the format, particularly with the redundancies in the core competencies;
- require more meetings between supervisors and employees;
- make the matrix consistent and do not manipulate;
- let department heads decide increases;
- let supervisors decide increases;

The more frequent employee recommendations focused on making the PFP simpler, limiting the role of HR, shortening the format, and ensuring Council commitment and acceptance.

APPENDIX 3

This appendix includes a sample PFP Evaluation form for Council appointed positions.

Evaluation Date:

Type of Review:

CITY OF DOVER
PAY-FOR-PERFORMANCE EVALUATIONS
COUNCIL APPOINTED POSITIONS

Employee:

Department:

Evaluator 1:

Evaluator 2:

Evaluator 3:

Evaluator 4:

Evaluator 5:

Date Employed:

Evaluation Period Covered:

From:

To:

Date of Next Review:

Current Annual Salary:

Salary Ranges:

Below Market	At Market	Above Market	Above Maximum

SCORING TABLE

	Performance Score	X	Weight	=	Weighted Score
PART 1 - Planned Goal and Unplanned Assignment Results		X		=	
PART 2 - Core Competencies		X		=	
OVERALL SCORE (Part 1 + Part 2)					

PERFORMANCE RATING DEFINITIONS

Outstanding: Performance Points 5

This level of performance represents the achievement of significant and exceptional results. The employee consistently achieved additional, significant results beyond established targets and significantly exceeds position requirements. The employee actively and continuously exhibits initiative and innovation and serves as a model for others.

Commendable: Performance Points 4

Demonstrates above-average knowledge, skills, abilities and effort. Performance goes beyond the position requirements and exceeds expected results. Performance measurably exceeds expectations. Employee exhibits initiative and resourcefulness in going beyond expectations of job performance in accomplishing goals and objectives.

Good: Performance Points 3

The employee is effective, with good, solid performance as demonstrated by achieving a majority of results and demonstrating most competencies successfully. Job performance is accomplished in an efficient and competent manner. This performance is fully satisfactory and meets acceptable or expected standards for the job. Work efficiency and effectiveness support the overall productivity of the work unit. Employee accomplishes assigned tasks with expected direction and assistance.

Acceptable With Some Improvement Needed: Performance Points 2

The employee has met the basic expectations however has not performed the assigned duties in a fully or consistently competent manner thus requiring additional support of others. Inefficiency and/or ineffectiveness affects the productivity of the work unit. Does not consistently demonstrate the required knowledge, skills, abilities and/or effort for this position. Higher level of performance may be possible through increased effort, training and guidance. Performance at this level will be subject to continued careful assessment.

Unsatisfactory: Performance Points 1

Minimum standards for the job are not met; job duties are performed at a marginal level or not performed, or must be performed by others. There is minimal contribution to work unit productivity. Employee is unwilling or unable to improve. A need for further improvement is clearly recognized, identified and must occur immediately. Employee requires constant and close supervision. Continued performance at this level, absent any potential or evidence of immediate improvement will lead to progressive discipline up to and including termination.

PART 1: Planned Goals and Unplanned Assignments

GOAL/OBJECTIVE: Write clear, concise statements relative to the principal goals/objectives for the position. Establish the relative importance (priority) of each goal/objective. These planned goals and objectives are listed on the most recent evaluation completed for the employee.

RESULT ACHIEVED: Comment on the degree and quality of the results achieved and note and extenuating circumstances affecting the results. When performance is "Outstanding," "Needs Improvement" or "Unsatisfactory," specific reasons/examples must be included or attached.

PRIORITY: List the major planned goals and unplanned assignments in order of priority, with number one being the highest priority.

1	PLANNED GOAL/OBJECTIVE	PRIORITY:
	RESULT ACHIEVED	**Performance Rating (points):**
2	PLANNED GOAL/OBJECTIVE	PRIORITY:
	RESULT ACHIEVED	**Performance Rating (points):**
3	PLANNED GOAL/OBJECTIVE	PRIORITY:
	RESULT ACHIEVED	**Performance Rating (points):**
4	PLANNED GOAL/OBJECTIVE	PRIORITY:
	RESULT ACHIEVED	**Performance Rating (points):**
5	PLANNED GOAL/OBJECTIVE	PRIORITY:
	RESULT ACHIEVED	**Performance Rating (points):**

ADD UPDATED INFORMATION REGARDING MAJOR UNPLANNED ASSIGNMENTS AS APPROPRIATE THAT OCCURRED DURING THE REVIEW PERIOD THAT WAS NOT CITED ABOVE.

ADDITIONAL TASKS ASSIGNED AND RESULT ACHIEVED

TITLE RESULT ACHIEVED	**Performance Rating (points):**
TITLE RESULT ACHIEVED	**Performance Rating (points):**
TITLE RESULT ACHIEVED	**Performance Rating (points):**
TITLE RESULT ACHIEVED	**Performance Rating (points):**
TITLE RESULT ACHIEVED	**Performance Rating (points):**

PART 2: Core Competency Elements

Performance Rating (points):

Accountability/Leadership/Work Management

- Responds to Mayor and Council requests in a timely manner.
- Adjusts schedule to meet with Council to listen to and address their concerns.
- Handles Constituent complaints referred by Mayor and City Council in an effective and timely manner.
- Accepts criticism and feedback from Council.
- Completes work assignments from City Council within established deadlines and guidelines.
- Accepts responsibility for actions and results.
- Accepts responsibility for work assignments and ensures desired results are achieved within established deadlines and guidelines.
- Reports to work regularly and is on time for work and meetings in accordance with department/personnel policy; schedules appointments at appropriate times.
- Works effectively under pressure conditions, such as heavy workloads or deadline situations, with productivity remaining consistent.
- Observes safety rules, reports, and corrects conditions and/or practices in work environment that are or may become unsafe.
- Inspires and motivates others in addition to leading by example.

Remarks/Example

Performance Rating (points):

Communication and Customer Service

- Updates Mayor and Council on City actions as appropriate and in a manner that is clearly and easily understood.
- Ensures that appropriate staff and Council are provided with all relevant information.
- Demonstrates effective written reports & CAFs to City Council; clearly conveys ideas and information in a written format using proper grammar and punctuation when preparing written reports that are comprehensive, well-organized, clearly written & timely.
- Attends civic and community meetings, as appropriate, to represent the City to hear concerns of its citizens.
- Demonstrates effective oral communication skills and conveys ideas and information in a clear and concise manner.
- Demonstrates effective presentation skills at meetings.
- Responds promptly and effectively to citizen questions, concerns, and complaints treating each citizens/customers with courtesy and respect under all circumstances.
- Always maintains a highly professional demeanor.
- With an open-mind communicates with all staff and customers comments and suggestions.

Remarks/Example

Performance Rating (points):

Job Knowledge

- Has knowledge of and complies with applicable City policies, procedures, regulations and Council initiatives.
- Ability to research and recommend new initiatives requested by City Council.
- Takes initiative to receive on the job and training and attend appropriate conferences to further development and job knowledge.
- Possesses, demonstrates and applies the knowledge of relevant laws, rules, regulations and state of the art equipment, when available, within the profession and uses appropriate resources to make knowledgeable decisions.
- Understands job responsibilities and demonstrates competency.
- When made available to the employee, employee participates in training programs, takes advantage of other continuing education opportunities, and/or reads professional publications to keep current on techniques or methodologies appropriate to the job.
- Continuously analyzes current department operations, identifies areas where improvement may be made to better serve the public, reduces City expenses, increases revenue efficiency and implements these improvements where appropriate.

Remarks/Example

Performance Rating (points):

Planning, Organization, Problem Solving and Decision Making

- Includes appropriate people in decision-making process and keeps Council apprised when appropriate.
- Sets priorities and meets deadlines for work activities and Council initiatives.
- Presents Annual Budget to Council in the agreed upon time frame and format along with Finance Director.
- Allows for flexibility in work activities to meet changing needs for unusual situations and anticipates variations in work flow and plans accordingly for unexpected situations.
- Ability to devise effective solutions to problems or identify effective measures and procedures for accomplishing objectives.
- Demonstrates effective decision making skills.

Remarks/Example

Performance Rating (points):

Relationships within the Organization

- Works cooperatively with Council and other Council appointees.
- Works cooperatively with fellow employees and other departments in order to accomplish work effectively and efficiently as well as in accomplishing the City's goals and mission.
- Contributes to good working relationships with fellow employees; involves fellow workers in formulating department objectives and planning work activities as appropriate.
- Supports the City's goal of valuing diversity within the workforce.

Remarks/Example

Performance Rating (points):

Supervisory Skills
(*Not applicable to employees who do not supervise*)

- Understands and explains the City's Strategic Organizational Plan to employees and Council.
- Communicates and explains performance standards, organizational goals and objectives to subordinates.
- Provides and evaluates training for personnel to ensure effective and consistent job performance and to instruct personnel in new methods or techniques to be utilized. Provides and evaluates sufficient orientation or training of new personnel.
- Documents ongoing employee performance, especially in critical areas.
- Properly manages personnel and resources within Budget guidelines.
- Is familiar with established personnel policies, procedures and labor agreements, operates in a consistent manner with these and seeks advice of the Human Resources Department and outside Counsel when appropriate.
- Delegates responsibilities to co-workers as appropriate and establishes a follow-up plan.
- Actively supports the City's cultural diversity programs and policies.

Remarks/Example

OVERALL COMMENTS: A detailed narrative should be included to express any comments or concerns that were not addressed previously in the evaluation.

PART 3: Major Responsibilities for Next Year

List goals/objectives for the coming year to be rated during the next evaluation.
Goals are to be S.M.A.R.T.
(**S**pecific, **M**easurable, **A**ttainable, **R**ealistically High, **T**arget Date)

GOAL/OBJECTIVE	PRIORITY:
GOAL/OBJECTIVE	PRIORITY:
GOAL/OBJECTIVE	PRIORITY:
GOAL/OBJECTIVE	PRIORITY:
GOAL/OBJECTIVE	PRIORITY:

PART 4: Employee's Professional Development Plan

Establish a development plan listing goals and objectives with the employee for the coming year. The development plan includes specific actions that the employee can take to enhance performance. The objectives are results the employee will be expected to achieve and are the basis for the next formal performance evaluation. This development plan must accompany the performance evaluation in the employee's personnel file.

SIGNATURES

The employee and the evaluator are to sign in the space below after they have reviewed the evaluation. The employee's signature does not necessarily indicate agreement with the evaluation. Any written comments made by the employee must be attached.

Employee: I have had this evaluation explained to me.

- ☐ I agree with this evaluation.
- ☐ I do not agree with this evaluation.
- ☐ I wish to appeal this evaluation.
- ☐ I have attached an addendum to this evaluation.

Additional Comments:

Signature of Employee _____ Date _____

Evaluator: I have explained this evaluation to the employee and attest that the information contained herein represents my best judgment of the employee's performance.

- ☐ I have attached an addendum to this evaluation.

Signature of Evaluator _____ Date _____

Department Head
Signature _____ Date _____

Human Resources Director
Signature _____ Date _____

APPENDIX 4

This appendix includes the PFP Calculation Worksheets used over the past several years. It is provided for historical purposes.

Memorandum

Office of the City Manager
P.O. Box 475
Dover, DE 19903-0475
Phone: (302) 736-7005
FAX: (302) 736-7002
E-mail: tdeprima@dover.de.us

To: Mayor and City Council

From: Anthony J. DePrima, AICP
City Manager

Date: May 3, 2004

Subject: Pay-for-Performance Salary Approval for Fiscal Year 2005

With the Council's approval of the City's first pay for performance plan in Fiscal Year 2004, we submit the following:

Market Analysis Memorandum with attachments
Pay-for-Performance Salary Calculation Worksheet
Revised City of Dover Pay Plans (Grades and Ranges)

This is the first market analysis since the City consulted with the Public Administrative Service in 2002. The market analysis was prepared by our Human Resources Director, Frank Szyjka. We plan to perform this analysis on an annual basis. The market analysis recommends an average increase of 3.5 percent for non-bargaining employees based on market movement. Also recommended is an additional 1.0 percent increase to compensate for the difference between this year's average non-bargaining increase of 2.0 percent for "meeting expectations" verses the FOP settlement of 3.0 percent and the 2.5 percent for the IBEW. According to the market analysis, we have developed the Pay-for-Performance Salary Calculation Worksheet for your approval.

The Pay-for-Performance Salary Calculation Worksheet is a matrix which compensates non-bargaining employees based on (1) their evaluated job performance and (2) where their compensation falls in City of Dover pay plan ranges. We have budgeted $174,191 to cover the increases. This budget number is based on estimated scores that we received from department heads.

Lastly, the market analysis recommends City of Dover Labor Grades increase by 3.2 percent. We have attached the City of Dover Pay Plans, both current and proposed, for your review. This does not represent an additional increase over the P.F.P. increases.

We are eager to move forward with a compensation program that integrates the City's Strategic Plan, employees' goals and objectives, and performance. We believe this rewards employees for achieving their goals and objectives and compensates them properly for their performance.

Memorandum

TO: Tony DePrima

FROM: Frank E. Szyjka

DATE: April 28, 2004

SUBJECT: Market Analysis with Recommendation for projected increases and LG movement FY 2004/05

I recommend that the City of Dover Labor Grades increase by 3.2 percent. This recommendation is based on review of various surveys and Government reports.

I also recommend that the salary increase for the City of Dover non-bargaining positions should be 3.5 percent based on these same reports and discussions with area municipalities. Unless the City elects to retroactively give non-bargaining employees an additional 1.0 percent increase based on the difference between this year's average non-bargaining increase of 2.0 percent verses the proposed FOP settlement of 3.0 percent, you will need to consider adding this 1.0 percent to next year's recommended increase for a total of 4.5 percent.

Sources used include the ICMA 2004 Survey and Annual Report on Local Government Executive Salaries and Fringe Benefits which increased the range from 2.7 percent to a high of 3.9 percent with the majority of ranges increasing over 3.4 percent. Specific ICMA reports used include both Northeast Regional Information and the South Region Information by population group (cities ranging from 25,000 – 49,999). In addition, the Bureau of National Affairs Daily Labor Report, which compiles up-to-date information on 2004 bargaining settlements and State and Local Government data, outlined the average increase of 3.4 percent which also supports the recommendation. As an added source of information, I completed a phone survey of local municipalities to find out what their salary increase plans are for the upcoming year. The results indicated increases in midpoint of 2.5 percent to 4.0 percent with at least two of the surveyed employers adding COLA to the planned increases.

I have attached the Bureau of National Affairs report and the information gathered from area municipalities. The ICMA reports are a total of 260 pages. If you need a copy of this information, please advise.

CONFIDENTIAL

NON-BARGAINING
MARKET SURVEY

Municipality	Percentage Increase/Adjustment	Explanation
Kent County	4.0 percent (2.0 percent COLA plus 2.0 percent Step)	Employees receive both a Step increase and COLA yearly.
City of Newark	3.5 percent	Employees receive the same as the bargaining unit (will be 4.0 percent in 2005)
City of Wilmington	0.0 percent (possible $500 bonus)	Non-Bargaining - no increase since 7/00 - no contracts
Ocean City, MD	3.0 percent Midpoint Adjustment	Performance-based system employees at Minimum 4.0 percent plus Employees at Maximum 2.0 percent plus
City of Bowie, MD	2.5 percent - 6.5 percent	2.5 percent COLA established by contract negotiation for three years plus up to 4.0 percent Step
Duke Power	Anticipate 2.0 percent every six months	Same as bargaining unit

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SECTION: ECONOMIC NEWS

TITLE: Collective Bargaining: BNA DATA SHOW AVERAGE WAGE INCREASE OF 3.4 PERCENT IN FIRST YEAR OF NEW CONTRACTS

TEXT:

Data compiled by BNA from 2004 bargaining settlements through March 15 showed that the average first-year wage increase was 3.4 percent, the same increase reported in the comparable period of 2003. The median first-year wage increase from the settlements was 3.1 percent, the same as that reported in the comparable period of 2003, and the weighted average increase was 1.8 percent, compared with 2.4 percent a year earlier.

When construction and state and local government contracts were excluded, the average increase was 3.6 percent, compared with 3.3 percent in 2003; the median was 3.1 percent, compared with 3 percent; and the weighted average was 1.5 percent, compared with 1.8 percent in 2003.

The manufacturing average increase was 2.6 percent, compared with 1.8 percent in 2003, and the median was 2.5 percent, compared with 2.4 percent. Nonmanufacturing (excluding construction) contracts provided an average increase was 4 percent, compared with 3.9 percent a year earlier, and the median was 3.4 percent, compared with 3.5 percent.

Construction contracts showed an average increase of 3.4 percent, the same as that reported in 2003, and a median of 3.2 percent, compared with 4.1 percent a year earlier. State and local government agreements provided an average increase of 3.2 percent, compared with 3.5 percent in 2003, and a median of 3 percent, compared with 3.5 percent.

Factoring lump-sum payments into calculations, the all-settlements average first-year wage increase to date in 2004 was 3.8 percent, compared with 3.4 percent in the comparable period of 2003. The median was 3.3 percent, compared with 3.1 percent in 2003, and the weighted average increase was 2.4 percent, the same increase reported last year. The all-settlements (excluding construction and state and local government) average increase was 4.1percent, compared with 3.4 percent in 2003; the median was 3.4 percent, compared with 3 percent; and the weighted average was 2.4 percent, compared with 1.8 percent in 2003.

Manufacturing settlements with lump sums posted an average increase of 3.6 percent, compared with 2 percent in 2003, and a median of 3.2 percent, compared with 2.4 percent. Nonmanufacturing (excluding construction) contracts provided an average increase of 4.3 percent, compared with 3.9 percent, and a median of 3.5 percent, the same increase reported in 2003. The state and local government average increase was 3.2 percent, compared with 3.5

percent in 2003, and the median was 3 percent, compared with 3.5 percent.

Summaries of recent settlements and contracts with deferred increases that took effect recently follow the tables below.

FIRST-YEAR WAGE INCREASES

Lump Sums Not Factored

	Year-to-date 2004			Year-to-date 2003		
	Wgt. Avg.	Average	Median	Wgt. Avg.	Average	Median
All settlements.....	1.8%	3.4%	3.1%	2.4%	3.4%	3.1%
All settlements, excluding construction & state and local government.....	1.5%	3.6%	3.1%	1.8%	3.3%	3.0%
Manufacturing.....	1.9%	2.6%	2.5%	4.6%	1.8%	2.4%
Nonmanufacturing, excluding construction.....	1.5%	4.0%	3.4%	1.4%	3.9%	3.5%
Construction.....	2.9%	3.4%	3.2%	3.4%	3.4%	4.1%
State and local government.....	2.3%	3.2%	3.0%	3.2%	3.5%	3.5%

Lump Sums Factored

	Year-to-date 2004			Year-to-date 2003		
	Wgt. Avg.	Average	Median	Wgt. Avg.	Average	Median
All settlements.....	2.4%	3.8%	3.3%	2.4%	3.4%	3.1%
All settlements, excluding construction & state and local government.....	2.4%	4.1%	3.4%	1.8%	3.4%	3.0%
Manufacturing.....	4.2%	3.6%	3.2%	4.6%	2.0%	2.4%
Nonmanufacturing, excluding construction.....	2.0%	4.3%	3.5%	1.4%	3.9%	3.5%
Construction.....	2.9%	3.4%	3.2%	3.4%	3.4%	4.1%
State and local government.....	2.3%	3.2%	3.0%	3.2%	3.5%	3.5%

Note: The statistical summary above is subject to revision as more information becomes available. The summary does not include automatic increases effective after 12 months (designated as deferred increases), cost-of-living adjustments, or Canadian settlements. Portions of construction wage increases may be diverted to benefits.

P.F.P. SALARY CALCULATION WORKSHEET

(Adopted by City Council on June 28, 2004)

OVERALL SCORE			ADJUSTMENT			
	FROM	TO	Employee Below Market	Employee at Market	Employee Above Market	Employee Above Maximum
Unsatisfactory	10	15	0	0	0	0
Needs Improvement	16	25	0	0	0	0
Good	26	35	4.75%	4.50%	4.25%	4.00%
Commendable	36	45	5.00%	4.75%	4.50%	4.00%
Outstanding	46	50	5.50%	5.00%	4.75%	4.00%

CITY OF DOVER
PAY PLANS

GRADE	CURRENT			PROPOSED		
	MINIMUM	MARKET	MAXIMUM	MINIMUM	MARKET	MAXIMUM
101	$14,065	$16,878	$22,110	$14,515	$17,418	$22,818
102	$14,768	$17,722	$23,216	$15,241	$18,289	$23,959
103	$15,507	$18,608	$24,377	$16,003	$19,203	$25,157
104	$16,282	$19,539	$25,596	$16,803	$20,164	$26,415
105	$17,096	$20,516	$26,875	$17,643	$21,173	$27,735
106	$17,951	$21,541	$28,219	$18,525	$22,230	$29,122
107	$18,849	$22,618	$29,630	$19,452	$23,342	$30,578
108	$19,791	$23,749	$31,112	$20,424	$24,509	$32,108
109	$20,781	$24,937	$32,667	$21,446	$25,735	$33,712
110	$21,820	$26,184	$34,301	$22,518	$27,022	$35,399
111	$22,911	$27,493	$36,016	$23,644	$28,373	$37,169
112	$24,056	$28,867	$37,816	$24,826	$29,791	$39,026
113	$25,259	$30,311	$39,707	$26,067	$31,281	$40,978
114	$26,522	$31,826	$41,692	$27,371	$32,844	$43,026
115	$27,848	$33,418	$43,777	$28,739	$34,487	$45,178
116	$29,240	$35,089	$45,966	$30,176	$36,212	$47,437
117	$30,702	$36,843	$48,264	$31,684	$38,022	$49,808
118	$32,238	$38,685	$50,677	$33,270	$39,923	$52,299
119	$33,849	$40,619	$53,211	$34,932	$41,919	$54,914
120	$35,542	$42,650	$55,872	$36,679	$44,015	$57,660
121	$37,319	$44,783	$58,665	$38,513	$46,216	$60,542
122	$39,185	$47,022	$61,599	$40,439	$48,527	$63,570
123	$41,144	$49,373	$64,679	$42,461	$50,953	$66,749
124	$43,201	$51,842	$67,913	$44,583	$53,501	$70,086
125	$45,361	$54,434	$71,308	$46,813	$56,176	$73,590
126	$47,630	$57,155	$74,874	$49,154	$58,984	$77,270
127	$50,011	$60,013	$78,617	$51,611	$61,933	$81,133
128	$52,512	$63,014	$82,548	$54,192	$65,030	$85,190
129	$55,137	$66,165	$86,676	$56,901	$68,282	$89,450
130	$57,894	$69,473	$91,009	$59,747	$71,696	$93,921
131	$60,789	$72,946	$95,560	$62,734	$75,280	$98,618
132	$63,828	$76,594	$100,338	$65,870	$79,045	$103,549
133	$67,020	$80,424	$105,355	$69,165	$82,998	$108,726
134	$70,371	$84,445	$110,623	$72,623	$87,147	$114,163
135	$73,889	$88,667	$116,154	$76,253	$91,504	$119,871
136	$77,584	$93,100	$121,961	$80,067	$96,079	$125,864
137	$81,463	$97,755	$128,059	$84,070	$100,883	$132,157

Memorandum

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To: Mayor and City Council

From: Anthony J. DePrima, AICP
City Manager

Date: April 18, 2005

Subject: Pay-for-Performance Salary Approval for Fiscal Year 2006

This is the second market analysis since the City consulted with the Public Administrative Service in 2002. The market analysis was prepared by our Human Resources Director, Frank Szyjka. We plan to perform this analysis on an annual basis. The following are submitted:

Market Analysis Memorandum with attachments
Pay-for-Performance Salary Calculation Worksheet
Revised City of Dover Pay Plans (Grades and Ranges)

The market analysis recommends an increase of 3.5 percent for non-bargaining employees based on market movement. According to the market analysis, we have developed the Pay-for-Performance Salary Calculation Worksheet for your approval. For employees who are below market, an additional 3.0 percent increase is recommended to bring the employees within the market ranges.

The Pay-for-Performance Salary Calculation Worksheet is a matrix which compensates non-bargaining employees based on (1) their evaluated job performance and (2) where their compensation falls in City of Dover pay plan ranges. We have budgeted $179,057 to cover the increases. This budget number is based on estimated scores that we received from department heads.

We are eager to move forward with a compensation program that integrates the City's Strategic Plan, employees' goals and objectives, and performance. We believe this rewards employees for achieving their goals and objectives and compensates them properly for their performance.

Memorandum

To: Tony DePrima

From: Frank E. Szyjka

Date: February 24, 2005

Re: Recommendation for projected increases and LG movement FY 2005-06

I recommend that the salary market increase for the City of Dover non-bargaining positions and corresponding salary range increase should be 3.5% based on various nationwide and local surveys and Government reports assuming good performance. It is also recommended that non-bargaining employees below market performing at acceptable levels be granted an added differential of 3.0% to achieve the PFP goal of paying non-bargaining employees at market within a maximum seven year period of time assuming good performance. There are four (4) employees in this category.

Sources used include the ICMA 2004 Survey and Annual Report on Local Government Executive Salaries and Fringe Benefits which highlighted that the highest increase in average salary from 2003–2004 is for Chief Librarian at 12.9%. The second highest was for Public Works Directors at 10.1%. The range was from 2.7% to a high of over 12.0% with the majority of ranges increasing over 3.4%. Specific ICMA reports used include both Northeast Regional information and the South Regional information by population group (cities ranging from 25,000 – 49,999). In addition, the American Public Power Association (APPA) and the Bureau of National Affairs Daily Labor Report, which compiles up-to-date information on 2004 Bargaining settlements and State and Local Government data, outlined the average increase of 3.5% which also supports the recommendation. As an added source of information, I completed a phone survey of local municipalities to find out what their salary increase plans are for the upcoming year, and the results indicated increases in midpoint of 2.5% to 4% and, as mentioned last year, at least two of the surveyed employers adding COLA to the planned increases. Additional surveys used that support the recommendation include a Delaware Governmental Compensation Survey for Local Governments conducted by the University of Delaware and a City of Salisbury and Wicomico County Compensation Survey.

I have attached the local market survey results from area municipalities. The Bureau of National Affairs report, ICMA, APPA, Delaware Government, and Salisbury surveys are available upon request.

NON-BARGAINING
MARKET SURVEY
FEBRUARY 20, 2005

Municipality	Percentage Increase/Adjustment	Explanation
Kent County	4.0 percent (2.0 percent COLA plus 2.0 percent Step)	Employees receive both a Step increase and COLA yearly.
City of Newark	3.5 percent	Employees receive the same as the bargaining unit (will be 4.0 percent in 2005)
City of Wilmington	2.0 percent	Employees receive the same as the bargaining unit – 2.0 percent each year retroactive to 2000 through 2007.
Ocean City, MD	3.0 percent Midpoint Adjustment	Performance-based system employees at Minimum 4.0 percent plus Employees at Maximum 2.0 percent plus
City of Bowie, MD	2.5 percent - 6.5 percent	2.5 percent COLA established by contract negotiations for three years plus up to 4.0 percent Step
Duke Power	Anticipates 2.0 percent every six months	Same as bargaining unit plus additional discretionary

P.F.P. SALARY CALCULATION WORKSHEET

(Adopted by City Council on June 27, 2005.)

OVERALL SCORE			ADJUSTMENT			
	From	**To**	**Employee Below Market**	**Employee At Market**	**Employee Above Market**	**Employee Above Maximum**
Unsatisfactory	10	15	0	0	0	0
Needs Improvement	16	25	0	0	0	0
Good	26	35	6.50%	3.50%	3.00%	2.50%
Commendable	36	45	7.00%	4.00%	3.50%	3.00%
Outstanding	46	50	7.50%	4.50%	4.00%	3.50%

Note: Currently there are 25 non-bargaining employees below market, 32 in the market range, and 20 in the above market range. Only one non-bargaining employee is above maximum.

CITY OF DOVER
PAY PLANS

There is an increase of 3.5 percent from CURRENT to PROPOSED.

GRADE	CURRENT			PROPOSED		
	Below Market	At Market	Above Market	Below Market	At Market	Above Market
101	$14,515	$17,418	$22,818	$15,023	$18,028	$23,616
102	$15,241	$18,289	$23,959	$15,774	$18,929	$24,797
103	$16,003	$19,203	$25,157	$16,563	$19,876	$26,038
104	$16,803	$20,164	$26,415	$17,391	$20,870	$27,340
105	$17,643	$21,173	$27,735	$18,261	$21,914	$28,706
106	$18,525	$22,230	$29,122	$19,174	$23,008	$30,141
107	$19,452	$23,342	$30,578	$20,133	$24,159	$31,648
108	$20,424	$24,509	$32,108	$21,139	$25,367	$33,231
109	$21,446	$25,735	$33,712	$22,197	$26,636	$34,892
110	$22,518	$27,022	$35,399	$23,306	$27,968	$36,638
111	$23,644	$28,373	$37,169	$24,472	$29,366	$38,469
112	$24,826	$29,791	$39,026	$25,695	$30,833	$40,392
113	$26,067	$31,281	$40,978	$26,980	$32,376	$42,412
114	$27,371	$32,844	$43,026	$28,329	$33,994	$44,532
115	$28,739	$34,487	$45,178	$29,745	$35,694	$46,759
116	$30,176	$36,212	$47,437	$31,232	$37,479	$49,097
117	$31,684	$38,022	$49,808	$32,793	$39,353	$51,552
118	$33,270	$39,923	$52,299	$34,434	$41,320	$54,129
119	$34,932	$41,919	$54,914	$36,155	$43,386	$56,836
120	$36,679	$44,015	$57,660	$37,963	$45,555	$59,678
121	$38,513	$46,216	$60,542	$39,861	$47,834	$62,661
122	$40,439	$48,527	$63,570	$41,854	$50,225	$65,795
123	$42,461	$50,953	$66,749	$43,947	$52,736	$69,085
124	$44,583	$53,501	$70,086	$46,144	$55,373	$72,539
125	$46,813	$56,176	$73,590	$48,451	$58,142	$76,166
126	$49,154	$58,984	$77,270	$50,875	$61,048	$79,974
127	$51,611	$61,933	$81,133	$53,418	$64,101	$83,972
128	$54,192	$65,030	$85,190	$56,089	$67,307	$88,171
129	$56,901	$68,282	$89,450	$58,893	$70,672	$92,580
130	$59,747	$71,696	$93,921	$61,838	$74,206	$97,209
131	$62,734	$75,280	$98,618	$64,930	$77,915	$102,070
132	$65,870	$79,045	$103,549	$68,176	$81,812	$107,173
133	$69,165	$82,998	$108,726	$71,585	$85,902	$112,532
134	$72,623	$87,147	$114,163	$75,165	$90,197	$118,159
135	$76,253	$91,504	$119,871	$78,922	$94,707	$124,066
136	$80,067	$96,079	$125,864	$82,869	$99,442	$130,269
137	$84,070	$100,883	$132,157	$87,012	$104,414	$136,782

NON-BARGAINING SALARY, PROMOTIONS, AND STAFF ADDITION RECOMMENDATIONS

1. Market Increase Recommendations

The recommendation is that the Non-Bargaining salary pay grades be increased 3.0 percent based on movement in the labor market. This would also mean that an employee whose salary is within the market range and whose performance is good would received a 3.0 percent increase in salary. In making these recommendations, I considered the following survey of increases planned in the market:

City of Newark	3.0%
Kent County	3.0% COLA plus 2.0% step
City of Wilmington	2.0%
State of Delaware	1.0% or $500 (Governor's Budgets – Legislators indicate more is likely)
New Castle County	3.1%
Ocean City, MD	3.0% (plus additional five percent based on market study)
BNA Labor Report	3.2% - (first year settled increases YTD)
BNA Labor Report	2.9% - (first year settled local and state government YTD)

Table I on the following page shows the revised pay grades based on a 3.0 percent increase.

Table I

City of Dover Pay Plans

There is an increase of 3.0 percent from CURRENT to PROPOSED

Grade	CURRENT			PROPOSED		
	Below Market	At Market	Above Market	Below Market	At Market	Above Market
101	15,023	17,888	20,754	15,474	18,425	21,376
102	15,774	18,783	21,792	16,247	19,346	22,445
103	16,563	19,722	22,881	17,060	20,314	23,568
104	17,391	20,708	24,025	17,913	21,330	24,746
105	18,261	21,743	25,226	18,808	22,396	25,983
106	19,174	22,831	26,487	19,749	23,516	27,282
107	20,133	23,972	27,812	20,737	24,692	28,646
108	21,139	25,171	29,203	21,773	25,926	30,079
109	22,197	26,429	30,662	22,862	27,222	31,582
110	23,306	27,751	32,196	24,006	28,584	33,162
111	24,472	29,139	33,806	25,206	30,013	34,820
112	25,695	30,595	35,495	26,466	31,513	36,560
113	26,980	32,125	37,270	27,789	33,088	38,388
114	28,329	33,731	39,133	29,179	34,743	40,307
115	29,745	35,417	41,090	30,637	36,480	42,322
116	31,232	37,188	43,144	32,169	38,304	44,438
117	32,793	39,047	45,301	33,777	40,219	46,660
118	34,434	41,000	47,566	35,467	42,230	48,993
119	36,155	43,049	49,944	37,239	44,341	51,442
120	37,963	45,202	52,442	39,102	46,558	54,015
121	39,861	47,462	55,063	41,057	48,886	56,715
122	41,854	49,836	57,817	43,110	51,331	59,551
123	43,947	52,327	60,708	45,265	53,897	62,529
124	46,144	54,943	63,743	47,528	56,592	65,655
125	48,451	57,690	66,929	49,905	59,421	68,937
126	50,875	60,576	70,276	52,401	62,393	72,385
127	53,418	63,604	73,790	55,020	65,512	76,003
128	56,089	66,784	77,479	57,772	68,788	79,803
129	58,893	70,123	81,353	60,660	72,227	83,794
130	61,838	73,629	85,420	63,693	75,838	87,983
131	64,930	77,311	89,692	66,878	79,630	92,382
132	68,176	81,176	94,176	70,221	83,611	97,001
133	71,585	85,235	98,885	73,733	87,792	101,851
134	75,165	89,497	103,829	77,420	92,182	106,944
135	78,922	93,971	109,020	81,290	96,790	112,291
136	82,869	98,670	114,471	85,355	101,630	117,905
137	87,012	103,603	120,194	89,623	106,711	123,800

2. Pay-For-Performance

Below Market Increases

Our Pay-For-Performance policy includes an additional increase for employees whose salary is below market range. The policy is to have an employee who starts at the entry level and who receives a GOOD evaluation move to market level in within seven years. This works out to a 2.7 percent additional increase above the market increase which is 3.0 percent as proposed above. There are 23 employees currently below market. This year for illustration, a table (Table II) showing the Department Heads, Managers, and Supervisors is being provided which shows current salary, market status, market range, and the salary increases proposed assuming a score in the "good performance range."

Table II

Management Salary Increases Proposed for Fiscal Year 2007

Title	Salary	Market Status	Market Range		Percent Increase*
City Manager	100,099	Below	103,603	120,193	5.7%
Chief of Police	95,110	Market	89,497	103,828	3.0%
Public Services Manager **	93,268	Market	89,497	103,828	0.0%
Utility Services Manager **	93,268	Market	89,497	103,828	0.0%
Finance Director/Treasurer	88,154	Market	77,311	89,691	3.0%
Police Major	86,072	Above	70,123	81,352	2.5%
Information Technology Director	82,174	Market	81,176	94,175	3.0%
Senior City Administrator	80,454	Market	73,629	85,419	3.0%
Central Services Director	76,537	Below	81,176	94,175	5.7%
Inspections Director/Planner **	73,000	Below	77,311	89,691	0.0%
Line Crew Superintendent	72,244	Above	57,690	66,928	2.5%
Parks and Recreation Director	68,089	Market	66,784	77,478	3.0%
Human Resources Director	66,510	Below	73,629	85,419	5.7%
Assistant Finance Director	63,900	Market	63,604	73,789	3.0%
Assistant City Engineer	62,100	Below	63,604	73,789	5.7%
Superintendent of Grounds	61,261	Above	49,836	57,816	2.5%
Engineering Services and System Ops Supervisor	61,224	Market	57,690	66,928	3.0%
Assistant City Engineer	59,046	Below	63,604	73,789	5.7%
Library Director	56,881	Market	54,943	63,742	3.0%
Public Works Operation Manager	56,152	Below	60,576	70,275	5.7%
Police Resources Manager	55,346	Below	57,690	66,928	5.7%
City Assessor **	55,000	Market	52,327	60,707	0.0%
City Clerk	54,532	Market	52,327	60,707	3.0%
Customer Services Manager	49,901	Below	52,327	60,707	5.7%
Purchaser ***	49,574	Market	45,202	52,441	3.0%
Community Development Manager	44,624	Below	45,202	52,441	5.7%

* Assuming a GOOD performance evaluation; actual increase may vary +/- two percent based on actual performance evaluation score.

** New hires or promotions that do not qualify for increases at this time

*** Reclassification also recommended for this position. See the Promotion/Reclassification table.

Performance Scores

The Pay-For-Performance policy uses a 0-50 weighted scoring system. This year's performance spread (shown in Table II) uses a 0.75 percent pay increase differential between performance grades except for employees who are paid above the maximum of their grade where a 0.50 percent is used. This year the score ranges have been changed to encourage a more normal bell curve where more employees' scores are disbursed into both the higher range and the lower range and less concentrated in the two middle ranges.

Table III

Performance Scores

PFP SCORE			ADJUSTMENT			
	From	**To**	**Employee Above Maximum**	**Employee Above Market**	**Employee At Market**	**Employee Below Market**
Unsatisfactory	0	19	0	0	0	0
Acceptable but Some Improvement Needed	20	29	0	1.50%	2.25%	3.00%
Good	30	35	1.50%	2.25%	3.00%	5.70%
Commendable	36	41	3.00%	3.00%	3.75%	6.45%
Outstanding	42	50	3.50%	3.75%	4.50%	7.20%

Note: Currently there are 23 non-bargaining employees below market, 41 at market, and 16 in above market. Only two non-bargaining employees are above maximum.

3. Proposed Promotions and Grade Recommendations

This year the City of Dover contracted with LaFlamme & Associates, Inc. who conducted a survey of area local government ranges to determine if our salary ranges and job titles are properly aligned. Also used to assist in this effort was data from similar studies done by Kent County, 2005 ICMA, 2005 Survey of Executive Salaries, 2005 Delaware Compensation Survey of Local and State Governments, and a few other sources. Based on these comparisons, no recommendations were made to move any job titles either up or down pay grades.

During the budget process, two requests to promote employees were received. The two promotions were supported and are included in the budget. One was to promote the Purchaser to Purchasing and Material Manager which is the work actually performed. The other promotion was to promote a Clerk Typist II to an Administrative Assistant, again based on actual job performance.

Also during the budget process, four requests to re-evaluate and reclassify positions were received. Out of these four, only one was supported by the Human Resource Department's analysis and that is to reclassify the Records Management Coordinator from a Labor Grade 108 to a Grade 110.

4. New Positions Recommendations

Department	Position	Justification	Amount Budgeted
Police	Police Officer	This completes the Quality of Life Task Force.	$51,723
Customer Services	Account Clerk I	Because of rapid growth and additional responsibilities, there is not sufficient staff. Customers find themselves waiting in longer lines. We are also finding errors in metering, billing, and customer payments. These errors are becoming customer issues as well as revenue issues. We cannot maintain the quality of our services to customers without additional staff.	$48,575
Customer Services	Account Clerk III	There is currently no backup for the Billing Clerk except the Customer Services Manager. There is no routine monitoring of our large customer accounts. We have experienced billing issues because mistakes are not detected for long periods of time. These errors are becoming customer issues as well as revenue issues. We currently do not have backup in our Collections area. We do not have a dedicated person to monitor the collections of taxes. Because of rapid growth and additional responsibilities, we cannot pull staff from other areas as we have in the past.	$61,083
Human Resources	HR Clerk	The Human Resources Department will be assuming all risk management, vehicle/equipment insurance, and registration of all vehicle and equipment purchases for the City of Dover from the City Clerk's Office by June 2007. The Human Resources Department currently has a part-time employee. This position would be eliminated.	$27,402
Public Utilities/ Electric T & D	Meter Tech I	There is increased workload from the meter reading change-out program and with anticipation of increased workload due to several large new developments including the privatization of the Dover Air Force Base housing and Eden Hill Farms.	$48,048
Tax Assessor	Administrative Assistant	There is currently no one to handle day-to-day management of the office so that existing staff can work in the field. Until this position is filled, the office will not be able to provide an acceptable level of customer service.	$58,213

PAY-FOR-PERFORMANCE

THE FOLLOWING SUBSECTIONS ARE INCLUDED:

NON-BARGAINING SALARY, PROMOTIONS, AND STAFF ADDITION RECOMMENDATIONS

MANAGEMENT SALARY INCREASES

NON-BARGAINING SALARY, PROMOTIONS, AND STAFF ADDITION RECOMMENDATIONS

1. Market Increase Recommendations

The recommendation is that the Non-Bargaining salary pay grades be increased 3.5 percent based on movement in the labor market. This would also mean that an employee whose salary is within the market range and whose performance is good would receive a 3.5 percent increase in salary. In making these recommendations, I considered the following survey of increases planned in the market:

Institute for Public Administration (IPA) 2006 Compensation Survey - Conducted by the University of Delaware. This survey covers eight State Governments and thirteen local Governments in the Mid-Atlantic region. The survey highlights that the mean local government increase was 3.7 percent and the State Government increase was 3.3 percent.

The Bureau of Labor Statistics (BLS) - Calculates the wages and salary component of the Employment Cost Index (ECI) increased 3.7 percent nationally which is the same as the increase outlined by the IPA for Local governments.

The ICMA 2006 Survey and Annual Report - Annual report on Local Government Executive Salaries and Fringe Benefits with the majority of ranges increasing over 3.4 percent.

The BNA Labor Report - Average wage increase reported in 2006 was 3.3 percent.
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The FOP Bargaining Unit - Increase for Fiscal Year 2007 is 3.5 percent.

Table 1 on the following page shows the revised pay grades based on a 3.5 percent increase.

Table I

City of Dover Pay Plans

There is an increase of 3.5 percent from CURRENT to PROPOSED

	CURRENT			PROPOSED		
Grade	**Below Market**	**At Market**	**Above Market**	**Below Market**	**At Market**	**Above Market**
101	15,474	18,425	21,376	16,016	19,070	22,124
102	16,247	19,346	22,445	16,816	20,023	23,231
103	17,060	20,314	23,568	17,657	21,025	24,393
104	17,913	21,330	24,746	18,540	22,077	25,612
105	18,808	22,396	25,983	19,466	23,180	26,892
106	19,749	23,516	27,282	20,440	24,339	28,237
107	20,737	24,692	28,646	21,463	25,556	29,649
108	21,773	25,926	30,079	22,535	26,833	31,132
109	22,862	27,222	31,582	23,662	28,175	32,687
110	24,006	28,584	33,162	24,846	29,584	34,323
111	25,206	30,013	34,820	26,088	31,063	36,039
112	26,466	31,513	36,560	27,392	32,616	37,840
113	27,789	33,088	38,388	28,762	34,246	39,732
114	29,179	34,743	40,307	30,200	35,959	41,718
115	30,637	36,480	42,322	31,709	37,757	43,803
116	32,169	38,304	44,438	33,295	39,645	45,993
117	33,777	40,219	46,660	34,959	41,627	48,293
118	35,467	42,230	48,993	36,708	43,708	50,708
119	37,239	44,341	51,442	38,542	45,893	53,242
120	39,102	46,558	54,015	40,471	48,188	55,906
121	41,057	48,886	56,715	42,494	50,597	58,700
122	43,110	51,331	59,551	44,619	53,128	61,635
123	45,265	53,897	62,529	46,849	55,783	64,718
124	47,528	56,592	65,655	49,191	58,573	67,953
125	49,905	59,421	68,937	51,652	61,501	71,350
126	52,401	62,393	72,385	54,235	64,577	74,918
127	55,020	65,512	76,003	56,946	67,805	78,663
128	57,772	68,788	79,803	59,794	71,196	82,596
129	60,660	72,227	83,794	62,783	74,755	86,727
130	63,693	75,838	87,983	65,922	78,492	91,062
131	66,878	79,630	92,382	69,219	82,417	95,615
132	70,221	83,611	97,001	72,679	86,537	100,396
133	73,733	87,792	101,851	76,314	90,865	105,416
134	77,420	92,182	106,944	80,130	95,408	110,687
135	81,290	96,790	112,291	84,135	100,178	116,221
136	85,355	101,630	117,905	88,342	105,187	122,032
137	89,623	106,711	123,800	92,760	110,446	128,133

2. Pay-For-Performance

Below Market Increases

Our Pay-For-Performance policy includes an additional increase for employees whose salary is below market range. The policy is to have an employee who starts at the entry level and who receives a GOOD evaluation move to market level within seven years. This works out to a 2.7 percent additional increase above the market increase which is 3.5 percent as proposed above. There are 28 employees currently below market. This year for illustration, a table (Table II) showing the Department Heads, Managers, and Supervisors is being provided which shows current salary, market status, market range, and the salary increases proposed assuming a score in the "good performance range."

TABLE II

Management Salary Increases
Proposed for Fiscal Year 2008

Title	Salary	Market Status	Market Range		
City Manager	106,555	Below	106,711	123,798	6.20%
Chief of Police	99,390	Market	92,183	106,944	3.50%
Public Services Manager	93,268	Market	92,183	106,944	3.50%
Public Utilities Manager	100,000	Market	92,183	106944	3.50%
Finance Director/Treasurer	91,460	Market	79,631	92,382	3.50%
Police Major	88,654	Above	72,227	83,792	2.75%
Information Technology Director	85,256	Market	83,611	96,999	3.50%
Senior City Administrator	83,471	Market	75,838	87,981	3.50%
Central Services Director	81,300	Below	83,611	96,999	6.20%
Inspections Director/Planner	77,709	Below	79,631	92,382	6.20%
Line Crew Superintendent	74,411	Above	59,422	68,937	2.75%
Parks and Recreation Director	70,643	Market	68,788	79,802	3.50%
Human Resources Director	70,301	Below	75,838	87,981	6.20%
Assistant Finance Director	open		67,572	80,121	
Water/Wastewater Manager	74,865	Below	75,838	87,981	6.20%
Superintendent of Grounds	63,511	Above	51,331	59,550	2.75%
Engineering Services and System Ops Supervisor	69,872	Above	59,422	68,937	2.75%
Library Director	open		56,592	65,654	
Public Works Operation Manager	59,353	Below	62,393	72,383	6.20%
Police Resources Manager	58,916	Below	59,422	68,937	6.20%
City Assessor	55,000	Market	53,897	62,527	3.50%
City Clerk	54,532	Market	53,897	62,527	3.50%
Customer Services Manager	53,494	Below	53,897	62,527	6.20%
Contract and Procurement Manager	56,029	Market	53,897	62,527	3.50%
Financial Reporting and Accounting Manager	58,600	Below	59,422	68,937	6.20%
Meter Crew Leader	57,927	Above	44,342	51,442	2.75%
Construction Manager	58,794	Market	51,331	59,550	3.50%
Construction Manager	59,509	Market	51,331	59,550	3.50%
Chief Building Inspector	51,368	Market	48,886	56,713	3.50%
Relay Crew Leader	open		44,342	51,442	
Water Production Supervisor	51,916	Market	46,559	54,014	3.50%

* Assuming a GOOD performance evaluation; actual increase may vary +/- two percent based on actual performance evaluation score.
** New hires or promotions that do not qualify for increases at this time
*** Reclassification also recommended for this position. See the Promotion/Reclassification table.

Performance Scores

The Pay-For-Performance policy uses a 0-50 weighted scoring system. This year's performance spread (shown in Table II) uses a 0.75 percent pay increase differential between performance grades except for employees who are paid above the maximum of their grade where a 0.50 percent is used. The score ranges encourage a more normal bell curve where more employees' scores are disbursed into both the higher range and the lower range and less concentrated in the two middle ranges.

Performance Scores

PFP Score		ADJUSTMENT		
From	**To**	**Employee Above Market**	**Employee At Market**	**Employee Below Market**
0	19	0	0	0
20	29	2.00%	2.50%	3.00%
30	35	2.50%	3.25%	4.25%
36	41	3.25%	4.00%	6.00%
42	50	4.00%	4.75%	6.50%

Note: Currently there are 28 non-bargaining employees below market, 40 at market, and 15 in above market. Only two non-bargaining employees are above maximum.

3. Proposed Promotions and Grade Recommendations

During the budget process, four requests to promote employees were received. Each of these involves creating a new title to better reflect their actual or proposed responsibilities and appropriate adjustment in salary. The Planning division is reclassifying the Senior Planner to Principal Planner ($12,175). The Information Technologies Department is promoting a LAN Analyst to Senior LAN Analyst ($7,047). The Central Services Division is reclassifying the Secretary II to an Administrative Assistant position ($22,2,070). The Electric Department is requesting than an Administrative Assistant be promoted to a new position of Department Budget and Staff Supervisor ($640). These positions are promoted based on actual duties being performed and to improve operating efficiencies.

4. New Positions Recommendations

Department	Position	Justification	Amount Budgeted
Tax Assessor	Residential Assessment Technician	This position will provide staffing to support reassessment and re-evaluation efforts in the Tax Office.	$42,830
Tax Assessor	Commercial Assessment Technician	This position will provide staffing to support reassessment and re-evaluation efforts in the Tax Office.	$61,564
Planning and Inspections	Inspector	Property Maintenance Inspector to increase the number of inspectors on the community enhancement team. Position will be funded with proposed increases in related inspection fees and will not be filled until the new fees are approved.	$45,341
Recreation	Center Coordinator	This position is requested to staff the John W. Pitts Recreation Center. This position will be responsible for the operation of the building and the staff for this facility. The Coordinator will supervise two part-time service center clerks and two part-time building supervisors that will be needed to operate the center.	$33,035
Information Technologies	LAN Technician	This position is requested to support the additional work load and to improve service. In the last six months IT has taken on the responsibility of the City's new telephone system. Also the number of PCs in the City has increased 40% from 153 (2001) to 218 (2007). This position will assist with support at the Police Department.	$48,756
Facilities Management	Custodian	This position is requested to staff the John W. Pitts Recreation Center. It will also be used throughout the City buildings as needed.	$24,579
Public Utilities Water/Wastewater Engineering & Inspections	Civil Engineer I	This engineer will provide much needed support to deal with water quality concerns, inflow/infiltration problems and other issues associated with aging infrastructure.	$79,396
Public Utilities Water/Wastewater Engineering & Inspections	GIS Technician	This position will allow the Water and Wastewater utilities to move forward with its GIS program to improve data collection and management methods, as well as, enhance mapping efforts and system tracking. Currently the program is on hold because it was supported by Engineers who are no longer able to support the function due to more critical duties.	$39,818
Public Utilities Water/ Wastewater Construction	Inspector	This position is requested to meet current work load. Increased construction volume has pushed the waiting time for requests from 24 hours to 72 hours.	$50,593
Public Utilities Water/ Wastewater Divisions	Water Service Worker	Currently there is only one service worker to accomplish all service work orders; including installing radio read meters and conducting hydrant flow testing. The department is falling behind in radio read replacement and hydrant testing due to the Brown Water Project. The addition of a second permanent full-time person will assist in the bringing these programs up to date.	$41,714
Public Utilities Water/ Wastewater Water Treatment	Operator	This position is requested to ensure the effective implementation of unidirectional flushing of the City's water system as a part of the Brown Water Project. This flushing is critical to resolving the City's water quality issues.	$43,104
Public Services Administration	Emergency Preparedness Staff	Necessary to manage the City's emergency preparedness functions and to maintain compliance with State and Federal Guidelines, so eligibility for grant revenues is maintained.	$67,089
Police Department	Sex Crimes Unit	This new unit will take over all sex offender management responsibilities and allow the Community Policing Unit to attend to community concerns and various programs. In addition, the SCU will become intimately familiar with all of the sex offenders that reside, work or study in the City. In the past few years the number of sex offender notifications has increased dramatically. This increase is due to more stringent laws and the Dover Police Department taking on a more active role in sex offender management. The department verifies sex offenders addresses annually for Tier I offenders, semi-annually for Tier II offenders and quarterly for Tier III (most severe) sex offenders.	$35,000

NON-BARGAINING SALARY, PROMOTIONS, AND STAFF ADDITION RECOMMENDATIONS

1. Market Increase Recommendations for Non-Bargaining Employees

The recommendation is that the Non-Bargaining salary pay grades be increased 3.25 percent based on movement in the labor market. This would mean that an employee whose salary is within the market range and whose performance is good would receive a 3.25 percent increase in salary. In making this recommendation, the following surveys of increases planned in the market were considered:

The Bureau of Labor Statistics (BLS) - Calculates the wages and salary component of the Employment Cost Index (ECI) increased 3.5% nationally.

The ICMA 2007 Survey and Annual Report - Annual report on Local Government Executive Salaries and Fringe Benefits with the majority of ranges increasing 1.77 percent. This is based upon the salaries for selected positions in the Mid-Atlantic and South-Atlantic regions.

The BNA Labor Report - Average wage increase reported in 2007 was 3.3 percent.

The FOP Bargaining Unit - Increase for FY 2009 is 4 percent.

The IUE-CWA Bargaining Unit – Increase for FY 2009 is 3.5 percent.

The IBEW Bargaining Unit – Increase for FY 2009 is 3.5 percent.

Table 1 on the following page shows the revised pay grades based on a 3.25 percent increase.

Table I

City of Dover Pay Plans

There is an increase of 3.25 percent from CURRENT to PROPOSED

	CURRENT			PROPOSED		
Grade	**Below Market**	**At Market**	**Above Market**	**Below Market**	**At Market**	**Above Market**
101	16,016	19,070	22,124	16,537	19,690	22,843
102	16,816	20,023	23,231	17,363	20,674	23,986
103	17,657	21,025	24,393	18,231	21,708	25,186
104	18,540	22,077	25,612	19,143	22,795	26,444
105	19,466	23,180	26,892	20,099	23,933	27,766
106	20,440	24,339	28,237	21,104	25,130	29,155
107	21,463	25,556	29,649	22,161	26,387	30,613
108	22,535	26,833	31,132	23,267	27,705	32,144
109	23,662	28,175	32,687	24,431	29,091	33,749
110	24,846	29,584	34,323	25,653	30,545	35,438
111	26,088	31,063	36,039	26,936	32,073	37,210
112	27,392	32,616	37,840	28,282	33,676	39,070
113	28,762	34,246	39,732	29,697	35,359	41,023
114	30,200	35,959	41,718	31,182	37,128	43,074
115	31,709	37,757	43,803	32,740	38,984	45,227
116	33,295	39,645	45,993	34,377	40,933	47,488
117	34,959	41,627	48,293	36,095	42,980	49,863
118	36,708	43,708	50,708	37,901	45,129	52,356
119	38,542	45,893	53,242	39,795	47,385	54,972
120	40,471	48,188	55,906	41,786	49,754	57,723
121	42,494	50,597	58,700	43,875	52,241	60,608
122	44,619	53,128	61,635	46,069	54,855	63,638
123	46,849	55,783	64,718	48,372	57,596	66,821
124	49,191	58,573	67,953	50,790	60,477	70,161
125	51,652	61,501	71,350	53,331	63,500	73,669
126	54,235	64,577	74,918	55,998	66,676	77,353
127	56,949	67,805	78,663	58,800	70,009	81,220
128	59,794	71,196	82,596	61,737	73,510	85,280
129	62,783	74,755	86,727	64,823	77,185	89,546
130	65,922	78,492	91,062	68,064	81,043	94,022
131	69,219	82,417	95,615	71,469	85,096	98,722
132	72,679	86,537	100,396	75,041	89,349	103,659
133	76,314	90,865	105,416	78,794	93,818	108,842
134	80,130	95,408	110,687	82,734	98,509	114,284
135	84,135	100,178	116,221	86,869	103,434	119,998
136	88,342	105,187	122,032	91,213	108,606	125,998

2. **Pay-For-Performance**

Below Market Increases

Our Pay-For-Performance policy includes an additional increase for employees whose salary is below market range. The policy is to have an employee who starts at the entry level and who receives a GOOD evaluation move to market level in within seven years. This works out to a 2.7 percent additional increase above the market increase which is 3.25 percent as proposed above. There are 26 employees currently below market. This year for illustration, a table (Table II) showing the Department Heads, Managers, and Supervisors is being provided which shows current salary, market status, market range, and the salary increases proposed assuming a score in the "good performance range."

TABLE II

Management Salary Increases Proposed for Fiscal Year 2009

Title	Salary	Market Status	Market Range FY 08 Rates		*Percent Increase
Meter Crew Leader	59,810	Above	45,783	53,114	2.50%
Substation Relay Foreman	55,000	Above	45,783	53,114	2.50%
***Water Production Supervisor	53,992	Market	48,072	55,769	3.25%
Water/Wastewater Manager	49,672	Market	48,072	55,769	3.25%
Chief Building Inspector	open	-	50,475	58,556	-
Superintendent of Grounds	65,535	Above	52,999	61,485	2.50%
Construction Manager	62,336	Above	52,999	61,485	2.50%
City Assessor	open	-	55,649	64,559	-
City Clerk	59,693	Market	55,649	64,559	3.25%
Customer Services Manager	56,703	Market	55,649	64,559	3.25%
Contract and Procurement Manager	58,690	Market	55,649	64,559	3.25%
Library Director	open	-	58,431	67,788	-
Line Crew Superintendent	76,829	Above	61,353	71,177	2.50%
Engineering Services and System Ops Supervisor	72,143	Above	61,353	71,177	2.50%
Police Resources Manager	62,451	Market	61,353	71,177	3.25%
Financial Reporting and Accounting Manager	62,116	Market	61,353	71,177	3.25%
Public Works Operation Manager	61,875	Below	64,421	74,735	5.95%
Assistant Finance Director	71,000	Market	69,768	82,725	3.25%
Parks and Recreation Director	72,939	Market	71,024	82,396	3.25%
Police Major	92,200	Above	74,574	86,515	2.50%
Senior City Administrator	86,809	Market	78,303	90,840	3.25%
**Human Resources Director	73,861	Below	78,303	90,840	5.95%
**Controller/Treasurer	113,229	Above	82,219	95,384	2.50%
Inspections Director/Planner	82,371	Market	82,219	95,384	3.25%
Information Technology Director	88,666	Market	86,328	100,151	3.25%
Central Services Director	86,103	Below	86,328	100,151	5.95%
Chief of Police	104,111	Market	95,179	110,420	3.25%
Public Services Manager	100,635	Market	95,179	110,420	3.25%
Public Utilities Manager	104,000	Market	95,179	110,420	3.25%
City Manager	112,948	Market	110,179	127,821	3.25%

* Assuming a GOOD performance evaluation; actual increase may vary +/- two percent based on actual performance evaluation score.

** New hires or promotions that do not qualify for increases at this time/In accordance with the PFP policy these staff are given increases at their first annual review after hire or promotion.

*** Reclassification also recommended for this position. See the Promotion/Reclassification table.

Performance Scores

The Pay-For-Performance policy uses a 0-50 weighted scoring system. This year's performance spread (shown in Table III) uses a 0.75 percent pay increase differential between performance grades except for employees who are paid above the maximum of their grade and employees paid above market. The score ranges encourage a more normal bell curve where more employees' scores are disbursed into both the higher range and the lower range and less concentrated in the two middle ranges.

Table III
Performance Scores

PFP SCORE		ADJUSTMENT			
From	To	Employee Above Maximum	Employee Above Market	Employee At Market	Employee Below Market
0	19	0	0	0	0
20	29	0	2.00%	2.50%	3.00%
30	35	2.00%	2.50%	3.25%	4.25%
36	41	2.75%	3.25%	4.00%	6.00%
42	50	3.50%	4.00%	4.75%	6.50%

Note: Currently there are 26 non-bargaining employees below market, 40 at market, and 17 in above market. Only one non-bargaining employees is above maximum.

3. New Positions Recommendations

During the budget process, the City Manager received twelve (12) requests for new positions. While originally supporting six (6), due to budget constraints none were approved for inclusion in the budget. There are three new positions for the newly formed Economic Development Division; however these positions were outside of the departmental request process. One of those three positions currently exists in the Main Street budget and will be transferred to the City. The new positions are summarized in the table below.

Department	Position	Justification	Amount Budgeted
Economic Development	Main Street Manager	Coordination of City's economic development efforts. Existing position from existing Main Street budget.	$71,642
Economic Development	Marketing Professional	Coordination of City's economic development efforts	$83,853
Economic Development	Administrative Assistant	Coordination of City's economic development efforts	$61,853

4. Reclassification/Upgrades Proposed for Non-Bargaining

Eight requests for reclassifications/re-gradings and promotions of non-bargaining positions were reviewed. Seven were included in the budget. Some involved creating a new position title, some involved creating a career ladder and some involved increasing the labor grade of a current position as a result of increased responsibilities.

The Library division of Parks and Recreation is recommending that the Office Assistant II be reclassified to Administrative Assistant.

The budget includes two reclassifications for the Public Services Group and a creation of a career ladder for Planners. The recommendations for reclassifications are GIS Coordinator to GIS Manager and Weed and Seed Coordinator to Community Prevention Manager. The creation of a career ladder among the planning staff is desired. This ladder is being developed for acknowledgement of obtainment of professional certifications. The ladder is being suggested for recruitment and retention, and is similar to the State of Delaware's career ladder for Planners.

The Public Utilities department is recommending the Water Production Supervisor be re-graded however retain the same job title.

The changes are summarized in the following table.

Department	Position	Justification	Amount Budgeted
Library	Secretary II to Administrative Assistant	Performing Administrative Assistant duties	$2,605
Public Services Admin	GIS Coordinator to GIS Manager	Additional responsibilities as the function expands and grows	$3,068
Public Services Planning	Weed & Seed Coordinator to Community Prevention Manager	Reclassified to fit actual duties being performed.	$744
Public Services Planning	Planner I	Creates a progressive career path for Planners	N/A
Public Services Planning	Senior Planner	Creates a progressive career path for Planners	N/A
Public Services Planning	Planner to Planner II	Creates a progressive career path for Planners	$2,303
Public Utilities Water Treatment	Water Production Supervisor Re-grading	Reclassified to fit actual duties being performed	$3,338

5. Reclassification Re-grading of Bargaining Positions

These positions were reviewed with the IUE Union and department heads outside of negotiations. The union, as well as, the City reviewed the positions for consideration. These changes are supported by management.

The changes are summarized in the table below.

Department	Position	Justification	Amount Budgeted
Police	Communications Operators	Re-grading 11 from a grade 17 to 18	$30,261
Police	Animal Control Officer	Re-grade one from a grade 11 to 12	$1,909
Central Services	Mechanic I to Mechanic II	Re-grade one from grade 15 to 19	$10,468
Central Services	Courier to Central Mailroom Clerk	Re-grade one from grade 12 to 13	$1,747
Central Services	Storekeeper I	Re-grade two from grade 12 to 13	$3,454
Central Services	Storekeeper II	Re-grade one from grade 14 to 15	$2,198

ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee **AGENDA ITEM NO.:**
DEPARTMENT OF ORIGIN: Assessor's Office **DATE SUBMITTED**: 04/13/2009
PREPARED BY: Cheryl Russell, Assessor
SUBJECT: Proposed Ordinance Amendments – Chapter 102 – Taxation
REFERENCE: IAAO Audit
RELATED PROJECT: IAAO Audit
APPROVALS: Legislative, Finance, and Administration Committee and City Council
EXHIBITS: Proposed Ordinance Amendments and Recommendations by the IAAO
EXPENDITURE REQUIRED: **N/A** **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: Effective upon adoption by Council
RECOMMENDED ACTION: Staff recommends approval of the proposed ordinance amendments to Chapter 102 - Taxation.

BACKGROUND AND ANALYSIS

In June 2008, the International Association of Assessing Officers (IAAO) performed an audit of the City of Dover Assessor's Office. Staff has prepared proposed amendments to the City of Dover Code that will implement the recommendations of the IAAO, the Tax Appeals Committee, and the City Assessor.

Section 102-5 (Income and expense reports)

This amendment to the Ordinance is a new section to allow the Assessor to require that owners of rental properties complete and file annual reports of income and expenses on forms developed by the Assessor's Office. This information is invaluable in developing the value for these income producing properties. The Income Approach to Valuation is the most common methodology to value these types of property. The penalty for not returning the Income and Expense form will be "denial of appeal" if they are not satisfied with their value. Deadline for returning the Form is also established in this ordinance.

Section 102-77 (Duties of city assessor)

This amendment to the Ordinance is updating the language used for affixing the stamp to the deeds when they are brought into the Assessor's Office. Also, a clarification for a period of time for audits of the Transfer Tax.

Section 102-185 (Appeals)

This amendment to the Ordinance is a new section to explain due dates that were established for the Appeals Committee and approved by Council on November 13, 2007. This ordinance also explains that the right to appeal is lost if they miss any designated appeal date and that appeals and refunds will not be heard for prior years. This has already been common practice in the Assessor's Office.

CHAPTER 102 - TAXATION IN FULL CONTEXT

ARTICLE I - IN GENERAL

Sec. 102-1. Annual valuation and assessment.

Section 47 of the Charter provides that an annual impartial valuation and assessment of all real property within the city shall be conducted every third year. The annual valuation and assessment is to be done by the city assessor. The council may also direct that in lieu of the reassessment and valuation by the city assessor, such reassessment and valuation may be done by a certified independent outside appraiser chosen by the council. Pursuant to section 47 of the Charter, commencing with the year 2010 and every ninth year thereafter, the annual reassessment shall be conducted by a certified independent outside appraiser chosen by the council. In all other years and in accordance with section 47 of the Charter, the annual valuation and assessment shall be conducted by the city assessor.

(Code 1981, § 19.5-1; Ord. of 1-22-2001)

Sec. 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 of $50.00 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 of $100.00 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)

Sec. 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 assessor shall function under the administration of the city manager.

(Ord. of 7-24-2006(2))

Sec. 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.

Draft

(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 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 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 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

Section 102-5. Income and expense reports.

The Assessor shall require that all income producing property, within the city limits of Dover, complete and file annual reports of Income and Expenses on forms developed by the Assessor. Failure to provide the Assessor with an Income and Expense Report will result in denial of any appeal for their subject property. Income and Expense reports will be due within thirty (30) days of receipt of request by the Assessor.

Recommendation by the IAAO in June 2008 - Assessment Change #10

ARTICLE III - REALTY TRANSFER TAX

Sec. 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:

Draft

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;

Draft

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," 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.

Draft

(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 1 1/2 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 situated in the area from Mary Street to Loockerman Street and Governors Avenue to West Street. This homebuyer's exemption for the seller is to be effective from the date of adoption [August 8, 2005] to August 1, 2010. 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 finance director within 30 days after the date such amounts become due and payable under the agreement.

(d) Transfers through conveyance of interest.

DRAFT

(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, 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))

Sec. 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, 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.

Draft

(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)

Sec. 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 1 1/2 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.

Draft

(d) *Expenditure of funds*. The rate of tax imposed by this article, and other provisions or language to the contrary notwithstanding, shall be 1 1/2 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)

Sec. 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 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)

Draft

Sec. 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)

Sec. 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, 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)

Sec. 102-77. Duties of city assessor.

In addition to the other duties of the city assessor:

(1) *Stamps*. The city assessor 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 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 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.

Draft

b. The denomination and sale of stamps.

c. Any other matter or thing pertaining to the administration and enforcement of this article.

(4) Audit. The city assessor 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 (10) days of the "stamping" of the deed.

b. Notification to Attorney/Title Company shall be made within five (5) business days of the findings from the review and audit process.

Recommendation of IAAO in June 2008 - Assessment Change #11 and 12

(Code 1981, § 19.5-24; Ord. of 6-27-1988)

Sec. 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;

Draft

(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)

Sec. 102-79. Violations; penalties.

Any person guilty of conduct prohibited in section 102-78 shall, upon conviction, be punished by imposition of a fine of not more than $100.00. 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)

Secs. 102-80--102-110. Reserved.

IAAO in June 2008 - Assessment Change #11 and 12

ARTICLE VI - EXEMPTIONS; TAX APPEALS COMMITTEE

Sec. 102-185. Appeals.

(1) Appeal Date Deadlines (unless otherwise stated on official documentation):

Appeal Filing Deadline (Annual Appeals)	***Apr***	***30***
Appeal Filing Deadline (October 3/4 Supplemental Bills)	***Oct***	***30***
Appeal Filing Deadline (January 1/2 Supplemental Bills)	***Jan***	***30***
Appeal Filing Deadline (April 1/4 Supplemental Bills)	***Apr***	***30***

If a USPAP Summary Appraisal Report is deemed required, an additional thirty (30) day extension, from the original deadline date, will be granted, in accordance with the City of Dover Assessment Appeal Policy #3.

Recommendation of the Appeals Committee and Approved by Council November 13, 2007

(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.

Recommendation of City Assessor

Draft

FIRST READING

CITY OF DOVER PROPOSED ORDINANCE #2009-05

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

That Chapter 102 – Taxation, Article I - In General, be amended by adding a new Section 5 - Income and expense reports, to read as follows:

Section 102-5. Income and expense reports.

The Assessor shall require that all income producing property, within the city limits of Dover, complete and file annual reports of Income and Expenses on forms developed by the Assessor. Failure to provide the Assessor with an Income and Expense Report will result in denial of any appeal for their subject property. Income and Expense reports will be due within thirty (30) days of receipt of request by the Assessor.

BE IT FURTHER ORDAINED

That Chapter 102 – Taxation, Article III - Realty Transfer Tax, Section 102-77 - Duties of city assessor, be amended by inserting the text indicated in bold, blue, italics, as follows:

Section 102-77. Duties of city assessor.

In addition to the other duties of the city assessor:

(1) Stamps. The city assessor 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 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 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.

c. Any other matter or thing pertaining to the administration and enforcement of this article.

Draft

(4) Audit. The city assessor 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 (10) days of the "stamping" of the deed.

b. Notification to Attorney/Title Company shall be made within five (5) business days of the findings from the review and audit process.

BE IT FURTHER ORDAINED

That Chapter 102 - Taxation, Article VI - Exemptions; Tax Appeals Committee, be amended by adding a new Section 102-185 - Appeals to read as follows:

Sec. 102-185. Appeals.

(1) Appeal Date Deadlines (unless otherwise stated on official documentation):

Appeal Filing Deadline (Annual Appeals)	Apr	30
Appeal Filing Deadline (October 3/4 Supplemental Bills)	Oct	30
Appeal Filing Deadline (January 1/2 Supplemental Bills)	Jan	30
Appeal Filing Deadline (April 1/4 Supplemental Bills)	Apr	30

If a USPAP Summary Appraisal Report is deemed required, an additional thirty (30) day extension, from the original deadline date, will be granted, in accordance with the City of Dover Assessment Appeal Policy #3.

(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.

ADOPTED: *

SYNOPSIS

The proposed ordinance would include the recommendations of the IAAO by requiring that owners of rental properties complete and file annual reports of income and expenses; establish filing deadlines for appeals; provide language that an individuals right to appeal is lost if they miss any designated appeal date and that appeals or refunds will not be heard for prior years.

(SPONSORS: HOGAN, *, *)

Actions History

April 13, 2009 - Introduced at Legislative, Finance, and Administration Committee

Draft

EVALUATION OF THE PRACTICES AND PROCEDURESOF THE ASSESSOR'S OFFICE AND APPEAL PROCESS - JUNE 2008

RECOMMENDATIONS ONLY

Assessment Change #

- ***Recommendation – Changes to the City Charter and City Code***
  There are a number of recommendations that should be implemented to bring the assessment process in line with current industry standards.

- **Annual Assessment Date:** Institute and clarify the annual assessment date in the City Code. Currently the assessor uses January 1st of each year as the assessment date. This is probably the most common assessment date in the United States and a date that works very well for the Dover tax system. 1

- **Valuation of Property as of the Assessment Date:** Clarify that all property is valued as of its ownership and current market value as of the January 1st assessment date. Currently property under construction cannot be placed on the tax rolls until a Certificate of Occupancy is issued.[1] This is not common practice in the assessment profession in other states. The general practice is that all property is assessed as of its status on the assessment date. For example, if a building is under construction as of January and is 50% complete on that date, then the assessor values the property as its 50% complete status and places this partial value on the annual assessment roll. Then the Certificate of Occupancy is issued, the assessor then reassesses the building and adds the additional increased assessment as a supplemental assessment on the next quarterly supplemental assessment date. Property receiving a change in zoning or specific use would also be adjusted based upon the assessment date. 2

- **Proration of New Assessment:** In the assessment process outlined above, the additional increased assessment for the Supplemental Assessment is prorated from the date of the Certificate of Occupancy to the next January 1st annual assessment date. For example, if a building is 50% complete on January 1st and is valued at $100,000 for its incomplete building status and the Certificate of Occupancy is issued on following July 1st; the assessor adds the additional $100,000 to the value of the building for the Supplement Roll. The amount to be added to the July Supplemental Roll would be a prorated assessment in the amount of $50,000. ($100,000 X 6/12 = $50,000 or $100,000 X 0.5 = $50,000). The proration of this additional assessment can be done either on a monthly basis (January = 1.00 factor, February = 0.917, March = 0.833 etc.) or daily basis (January 10 = 346/356 or 0.972). Both monthly and daily proration's are the basis of adding new construction to the assessment roll and are commonly used throughout the United States. 3

- **Addition of Property to Supplemental Roll when Used or Occupied:** Clarify the time period that property can be added to the Supplemental Roll either by the date the Certificate of Occupancy is issued by the Building Inspection Department or in those cases when a Certificate of Occupancy is not issued but the new construction is being used or occupied for its intended purpose. This additional language of "*being used or occupied for its intended purpose*" will allow the assessor to add completed new construction to the supplemental roll whether or not a Certificate of Occupancy is issued. This case may occur for minor residential construction. 4

- **No Supplemental Addition if Increase is less the $25,000:** The City should also codify the current assessment practice of not adding to the supplemental role any new construction of less than $25,000 in assessed value. This will eliminate the generation and collection of small tax bills that may in fact cost the City more dollars to process than is actually collected. The new construction of less than $25,000 will be realized on the next annual assessment roll. 5

- **Date of Assessment Roll Filing:** The City should add to the City Code the date by which the Assessor is required to finalize and make the annual assessment role available for public inspection. Current practice is that the Assessment Register for the annual assessment roll is completed and available for public review on April 1st of each year. This is a reasonable amount of time for the Assessor to complete the roll after the January 1st assessment date and it is recommended that is current practice be codified.

- **Date of Notification of Assessment Increase:** The City should add to the City Code the date or a period of time after the filing of the assessment roll by which the Assessor's Office must mail notifications of assessment changes to the property owner. It is generally an industry standard that the assessor must notify the property owner of changes in their assessment in a set period of time. This ensures that all taxpayers receive a notice of assessment change and have sufficient time to file for an appeal if they chose to appeal their new assessment.

- **Elimination of Freehold Requirement:** Eliminate the requirement set forth in Section 47 of the City Charter that, "Assessor must be a freeholder within the corporate limits of the city." The requirement that the Assessor must be a freehold is an archaic requirement. No other City Official is required to be a freeholder. Also, the City Charter does not define the term "freeholder". Interestingly, when we inquired about the definition of the term we received different answers from different City Officials. A common definition is "One who possesses a freehold." A freehold is ..."An estate in land held in fee simple, in fee tail, or for term of life."[2] There are two schools of thought on this issue of an assessor being a resident of the jurisdiction. Those in favor of a residence requirement believe that the Assessor should be a taxpaying property owner of the jurisdiction that employs them. On the other hand, those not in favor of a residency requirement believe that the requirement restricts the potential pool of applicants for the position, and places the Assessor in the position assessing their own property and the property of their neighbors. If the City Council wishes to continue the requirement that the Assessor be a resident of the City then, at a minimum, the Charter should be changed. Replace the term "freeholder" with "a resident".

- **Elimination of Certified Independent outside Appraiser for Reassessment:** The City Code Section 102-1 should be changed to eliminate the requirement that the three year "...reassessment and valuation may be done by a certified independent outside appraiser chosen by the Council." Under current Delaware State statutes a certified appraiser must be an individual certified by the State Council on Real Estate Appraisers and hold such certification in accordance with Federal regulations set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the act of August 9, 1989 (FIRREA). This certification is required for fee appraisers performing real estate appraisals for federally related transactions. Although Certified Real Estate Appraisers have demonstrated education and competency in appraisal and qualified as regulated professionals, this requirement is a very high standard for mass appraisal for assessment purposes. Jurisdictions similar to the City of Dover, utilize companies that specialize in mass appraisal for assessments. The City currently has contract with one such company. Although some of its employees may hold state certification it is very restrictive and expensive to require that all the properties be assessed using certified appraisers. Also, a different model of performing reassessments is discussed in the section "Adequacy of Staffing" below.

- **Income and Expense Reports:** The City Code should be amended to allow the Assessor to require that owners of rental properties complete and file annual reports of income and expenses on forms developed by the Assessor's Office. Income and expense information is invaluable in developing the valuation of income producing properties, both as to the individual properties income and expenses and to the general information related to similar properties to develop typical income and expenses for comparable properties. Income producing properties are bought and sold on the real estate market on the basis of their ability to generate net income for their owners and the possible of future appreciation in value. The Income Approach to Valuation is the most common used methodology, by both assessors and fee appraisers, to value these types of property. Critical to this approach to valuation is accurate income and

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expense information concerning the property being valued. Also critical to this approach is information concerning other comparable properties or typical property's operating income and expenses. Although there are national services that publish this type of information, the information is at best regional information that needs to be verified and adjusted to the local City of Dover real estate market to ensure accurate individual valuations for the taxpayers of Dover.

- **Update Tax Stamps Affixing for the Transfer Tax:** City Charter in Article III, Section 102-74 and subsequent sections refer to the affixing of adhesive documentary stamps to the document as evidence of payment of the transfer tax. Section 102-77 requires the Assessor ....."shall make provisions for the sale of such stamps in such places as may be deemed necessary." This is outdated language. The Charter should be updated to reflect the current practice of marking the document with an indication that the transfer tax has been paid and the amount paid. 11

- **Auditing of Transfer Tax:** The City Code should be amended to state that the Assessor may review the payment and the "value" stated for purposes of this tax. The review or audit process should also state a period of time for the audit after the filing of the documents with the Assessor, such as ten (10) business days. 12

- **Update language in the Code to identify or clarify:** "true value in money" as "full market value". Delaware State Code § 8306. Standard of assessment; requires all property subject to assessment shall be assessed at its true value in money. The clarification of true value in money, as the full market value of the property as of the valuation date, (January 1st of each year) will go further in creating transparency in the assessment process. 13

- ***Recommendations – Adequacy of Staffing***

  The City may wish to consider that the three year reassessment be completed by a combination of in-house valuations for one to three family residential properties and outside contractors for the apartments, commercial and industrial properties and valuation modeling. This model of conducting a revaluation is often a transitional model between using outside services completely for reassessment and complete in-house reassessment. If the City staffs the Assessor's Office with an additional Residential Assessment Technician, changes the position of part-clerk to a full time clerk, fills the current vacancy in either the Assessor's position or Assistant Assessor position (see Appendix A - 4) it is possible for the City to perform the reassessment with the more limited assistance of an outside contractor.

- ***Recommendation – Management Style***

  - Annually the Assessor should continue to adopt and communicate a set of specific goals delineating the expectations for the Assessor's Office for the coming year. This should include a level of assessment, what equity measures will be used and what the expected equity level is, the number of parcels to be physically inspected, the expected number of permits to be worked, deeds to be processed, land splits, etc. and a quality measure of acceptable error rates. **Formatted:** Bullets and Numbering

  - Annually, the Assessor should adopt and communicate an annual assessment calendar. The calendar should include all important legislative and city dates, IT deadlines for data entry closings, important processing dates and periodic benchmark dates reflecting the levels of tasks that must be done to achieve the goals. **Formatted:** Bullets and Numbering

  - Institute a Quality Review Program to determine data quality and error rates, as well as uniformity of practices within the office. **Formatted:** Bullets and Numbering

  - After setting the annual goals the Assessor should meet with pertinent staff to develop a strategic plan to achieve the goals. **Formatted:** Bullets and Numbering

- A search feature for recent sales of properties, at minimum for residential properties, should be added. This query function could consist of a "drop-down" list of neighborhoods or sub-sections of the city allowing the user to select a subdivision to view recent sales that have occurred within that subdivision. The Assessor's Office Annual Report should be directly available on the Web site.
- It would be helpful to the public for the Assessor's office to provide copies of the applications for such initiatives as tax relief for Senior and Disabled Citizens, the program for the Tax Abatement for Agricultural in the Assessor's Section of the web site. Also during the time for filing tax relief applications for seniors and disabled citizens a highlighted link should be on the home page of the City's site for public awareness of this program to assist the eligible taxpayers of the City.

- The information for appealing one's assessment to the Board of Tax Review should be located in the Assessor's Section of the web site. Although these documents are available on the web site if the visitor searches the site to find them, it is not intuitive to a taxpayer where to find these documents on the site. Information concerning the appeal process should listed both in the both the Assessor's section of the site and in a Board of Tax Review section of the web site. Also, currently the Board of Tax Review's Appeal forms and Policy Statements are on the web, it would be more meaningfully and user-friendly if these policy statement were incorporated into one document that the taxpayer can see and print rather than searching the site and hoping that they found all the information that is needed for submitting an appeal.

- The Web site needs to be updated regularly to ensure that the public has access to the most accurate information.

➢ ***Recommendations – Appraisal Methodology***

Retrain and rededicate their efforts to become a mass appraisal office, maximizing the use of ias World's capabilities in valuing, analyzing, and reporting.

➢ ***Recommendations – Appraisal Data***

All the data fields in the CAMA system be defined in the new appraisal manual and the appraisers conduct an analysis of the valuation model to determine if they are collecting the appropriate data for the factors that affect value in the City of Dover.

➢ ***Recommendations: - Appeals and Board of Tax Review***

- It is recommended that the City of Dover develop a similar impartial Board to review formal complaints from taxpayers. The Board can be elected by the voters of the City or appointed by the City Council. The terms of appointment should be for a period of at least four years, in order for members to gain experience in this area of valuation and should have terms that expire in staggering years, so that there is always some experienced members on the Board.

14

- If such an independent Board is created it should be named Board of Assessment Appeals or Board of Assessment Review. The word "tax" should not be the name of the Board as it is not a "tax" review board but a board that reviews the valuation or assessment of properties. This name change may remove the misconception that the Board can reduce the tax burden on a property owner.

- The City Code should include a section on property tax exemptions for governmental property. Certainly property owned by high levels of government should be exempt by right as these governmental bodies will not pay local property taxes and the current process of the Assessor appealing on behalf of these governments before the City Council does not seem to be a good use of time. The following property owners should be exempt by right and do not have to apply for the exemption:
    - Property owned by the United States
    - Property Owned by the State of Delaware
    - Property owned by the County
    - Property owned by the City

15

- The City Code should include a section on property tax exemptions for religious, educational, and other not-for-profit organizations. The typical standard for these exemptions is that the property must be owned by the organization and be used for the intended purpose that serves a public benefit. Another characteristic standard for these property tax exemptions is that the organization hold an exemption from federal taxes in compliance with Section 500 (c) (3) of the Internal Revenue Code of 1954 as amended and/or a State tax exemption as issued by the State's Department of Revenue. The Code should set forth a process for applying for the exemption and periodic review of property that received the exemption to ensure that they are still in compliance.

- The City Code should be amended to include a section on the exemption process. The exemption can be processed and granted by the Assessor or by the recommended Appeals Board. Either of these two alternates is common in the United States. Often there is a requirement that the exemption application is reviewed by the City's legal counsel to ensure that the organization and property comply with the legal requirements set forth for the exemption.

  It is also recommended that a review of the existing exempt properties be performed to determine the current status of those property owners receiving exemptions and to confirm their continued 501(c) (3) tax exempt status. A review period of once every five or six years should be codified in the City Code to ensure that the properties receiving an exemption continue to quality for the exemption from the City's property tax.

- The Assessor's Office and Board of Tax Review must apply their rules and procedures for the appeal process consistently and fairly to all taxpayers. Public trust and acceptance of a tax system is based on the tax being applied "fairly and equitably" to all taxpayers.

- The requirement, that is stated in the Board's Tax Policy #3 "*Procedure For Commercial/Industrial/Income Producing Properties*", that these appeals must include a "self-contained written appraisal report" is too high a standard at this level of appeal. The general practice of documentation for an appeal is that this highest standard of a USPAP compliant appraisal is not required until the third level of the appeal process – the appeal to the state court.

  The general and more typical standard, at the second level of appeal before a formal board of review, is a **recommendation** that a summary appraisal is submitted to the local appeal board. A summary appraisal is required to meet all the USPAP standards but is not fully written in a report. An appeal should not be dismissed solely on the lack of submitting a USPAP appraisal. The taxpayer should be able to submit the documentation and evidence that they believe is relevant to their case and it is the function of the Board to make its decision based on the quantity, quality and credibility of the evidence submitted by the taxpayer. In many cases the issue(s) of the appeal and valuation of the property do not require an appraisal but may be issues of law or facts. Also, for many complex commercial properties even the time period for the owner to contract an appraiser that is qualified to appraise the type of property under appeal is greater than thirty days and the time to produce a USPAP compliant appraisal can be many months.

16

EXCERPT OF NOVEMBER 13, 2007 COUNCIL MINUTES

The Regular Council Meeting was held on November 13, 2007 at 7:30 p.m. with Council President Williams presiding. Council members present were Mr. McGlumphy, Mr. Slavin, Mr. McGiffin, and Mr. Salters. Mrs. Russell, Mr. Hogan, and Mr. Ruane were absent.

SUPPLEMENTARY PROPERTY ASSESSMENTS - TIME FOR APPEAL/APPRAISAL SUBMISSION

During their Regular Meeting of October 22, 2007, City Council adopted a recommendation of the Tax Appeals Committee to extend the time allowed for tax appeals and the submission of appraisals. The recommendation was to extend the time to allow for an appeal from 14 days to 30 days and an additional 60 days for a commercial/industrial property to submit an appraisal as part of the appeal process in cases requiring such appraisals. The Tax Appeals Committee's intent was to have these extended times to apply to tax billings resulting from the quarterly supplemental property reassessments, including the quarter that ended September 30, 2007; however, this was not made explicit in the motion that was approved. By making this explicit, Council will assure due process for any appeal of supplemental tax billings for the period ending September 30, 2007.

Staff recommended that the Tax Assessor be instructed to allow 30 days for a tax appeal of supplemental tax billings for the quarter ending September 30, 2007 and an additional 60 days for commercial/industrial property owners to provide an appraisal in those cases where such an appraisal is required.

Mr. Salters moved for approval of staff's recommendation, seconded by Mr. McGlumphy and carried by a unanimous roll call vote (Mrs. Russell, Mr. Hogan, and Mr. Ruane absent).

EXCERPT OF OCTOBER 22, 2007 COUNCIL MINUTES

The Regular Council Meeting was held on October 22, 2007 at 7:34 p.m. with Council President Williams presiding. Council members present were Mrs. Russell, Mr. McGlumphy, Mr. Slavin, Mr. McGiffin, Mr. Hogan, Mr. Salters, and Mr. Ruane.

TAX APPEALS COMMITTEE REPORT - OCTOBER 15, 2007

The Tax Appeals Committee met on October 15, 2007 with Chairman Ruane presiding.

Appeal Process

Members requested a better understanding of the Appeal Process and Procedures to aid in the upcoming/ongoing appeals, and requested that more focus be given to the Commercial/Industrial Properties. Members were provided Tax Policy #3, adopted by City Council on November 13, 2006, and the State of Illinois Administrative Code. Mr. Capuano explained that he has used the Administrative Code in the past, and although it was good for the size and scope of the State of Illinois, he did not feel it would work as well for the City of Dover. Mr. Capuano stated that the residential properties are generally not an issue during the appeal process, due to the nature of the complaints. They are usually due to a factual error and can usually be corrected or negotiated between the Assessor's Office and the property owner.

Responding to Mr. Ruane, Mr. Capuano explained the appeal process timeline, as follows:

> ***Annual Appeal:***
> *May 01 of each year, the Assessor's Office displays the final values for the new assessment/tax year. Property owners are given fourteen (14) days to appeal their value. This date is given to them at the time assessment registers are displayed.*
>
> ***Supplemental Appeals:***
> *On October 01, January 01, and April 01 of each year, the Assessor's Office sends out Supplemental Bills to the property owners for new construction, permits, annexations, etc. At the time a supplemental bill is sent out, the property owner is given a "new" value. They are, in letter form, given fourteen (14) days from the date of the letter to appeal their value, if they so desire.*
>
> *The fourteen (14) day appeal deadline is not in writing, but has been a precedent with the Assessor's Office on the annual appeals for at least the past fifteen (15) years.*

Mr. Capuano stated that any changes in the appeal process may affect the tax collection process. Members discussed alternatives for handling appeals.

The committee recommended for the Tax Appeal Process to be backed up to March 31st for initial annual change of assessment notices; the appellant has thirty (30) days (April 30th) to appeal any differences from the prior tax year; if the appellant requires an appraisal, an additional sixty (60) days for a commercial/industrial property will be given; and that this additional sixty (60) days will also be applied to Supplemental Billing for Commercial/Industrial properties, if the appellant requires an appraisal.

By consent agenda, Mr. McGlumphy moved for approval of the committee's recommendation, seconded by Mrs. Russell and carried by a unanimous roll call vote.

ACTION FORM

PROCEEDING: Legislative, Finance, and Administration Committee
DEPARTMENT OF ORIGIN: City Manager's Office **DATE SUBMITTED**: 04/27/2009
PREPARED BY: Terry Tieman, Senior City Administrator
SUBJECT: Proposed Ordinance Amendments – New Appendix F – Fee Schedule
REFERENCE: City of Dover Charter and Code
RELATED PROJECT: None
APPROVALS: Council; Planning Commission
EXHIBITS: Proposed Appendix F – Fee Schedule
EXPENDITURE REQUIRED: **N/A** **AMOUNT BUDGETED**: N/A **FUNDING SOURCE (Dept./Page in CIP & Budget)**: N/A
TIMETABLE: 1st Reading May 11, 2009; Planning Commission Review/Public Hearing June 15, 2009; Public Hearing and Final Reading June 22, 2009
RECOMMENDED ACTION: Staff recommends approval of Proposed Ordinance No. 2009-09 creating Appendix F – Fee Schedule

BACKGROUND AND ANALYSIS

For ease of reference and revision, staff has a prepared Proposed Appendix F – Fee Schedule which consolidates all City fees and charges into one appendix of the City of Dover Code. A comprehensive schedule would make changing, adding, or deleting a fee(s) more efficient by only requiring a change to the fee schedule. Currently, if several fees are changed these changes require changing the code in several different places.

Staff recommends approval of the proposed ordinance creating Appendix F – Fee Schedule.

Appendix F. Fee Schedule

Code Section	Description	Fees, Rates, Charges (in dollars)
Subpart A - CHARTER, ARTICLE II - MAYOR AND COUNCIL		
Section 18	Ordinances authorized; maximum penalty for violation	$1,000.00
Subpart B - CHARTER AND RELATED LAWS		
Section 2 paragraph (c)	Licenses Fines	$100.00
CODE OF ORDINANCES		
Chapter 10 - Alcoholic Beverages		
Sec. 10-1 paragraph (c)	Consumption or possession, Underage persons	$100.00
Chapter 18 - Animals		
Sec. 18-17	Violations; fines *Section 18-7;* for each violation	Not less than $10.00 Or more than $100.00
	Sections 18-3,18-4, 18-5, 18-8 and/or 18-13; for each violation	Not less than $25.00 Or more than $100.00
	Section 18-6; for each violation	Not less than $50.00 Or more than $100.00
	Sections 18-9 and/or 18-12, for each violation	$100.00
Chapter 22 - Buildings and Building Regulations, Article III - Building Code		
Section 22-61	Adopted	
Sec. 113.4	Violation penalties	
	Not less than	$100.00
	Or more than	$10,000.00
Sec. 114.3	Unlawful continuance	
	First offense	$100.00
	Second offense	$250.00
	Third offense	$500.00
	Fourth offense, no less than	$1,000.00
	and no more than	$10,000.00
Sec. 22-65 paragraph (a)	Permit fees Building permits	$25.00 for first $1,000.00 of costs; $8.00 for each additional $1,000.00 of costs or multiples thereof up to $10,000,000.00 of costs
paragraph (a)	Fence permits	$25.00 for first $1,000.00 of costs; $8.00 for each additional $1,000.00 of costs or multiple thereof
paragraph (a)	Sign permits	$0.50 per square foot of sign area; minimum fee for each permit $15.00
paragraph (a)	Swimming pool permits	$25.00 for first $1000.00 of costs and $8.00 for each additional $1,000.00 of costs
paragraph (a)	Demolition permits, any building	$50.00; $0 if

		condemned by the City
paragraph (a)	Moving permits, each building	$250.00
paragraph (a)	Construction plan reviews, per set	$20.00
paragraph (b)	Reinspections Second reinspection Third reinspection Any subsequent reinspection	$0.00 $25.00 $50.00 $100.00
Chapter 22 - Buildings and Building Regulations, Article V - Mechanical Code		
Sec. 22-145	Heating, air conditioning and heat pump permit fees	
paragraph (a)	Heating permit	$30.00 first 10,000 BTUs, $5.00 each additional 10,000 BTUs or multiples thereof.
paragraph (a)	Air conditioning permit	$30.00 per ton, first 5 tons. $5.00 per ton over 5 tons or multiples thereof.
paragraph (a)	Heat pump permit	$15.00 first 10,000 BTU's $2.50 each additional 10,000 BTUs or multiples thereof. Additional $15.00, first 5 tons and $2.50 per ton over 5 tons or multiples thereof.
Chapter 22 - Buildings and Building Regulations, Article VI - Plumbing Code		
Sec. 22- 185	Permit fees	
	Fixtures	$25.00 first 5 fixtures & $2.00 for each additional
	Garbage disposal and hot water heaters	$25.00 minimum fee
	Gas, water and sewer inspection underground	$20.00 for first 150 feet and $0.50 for each additional 10 feet or multiples thereof.
Chapter 22 - Buildings and Building Regulations, Article VIII - Leases		
Sec. 22-251	Unlawful leases	
paragraph (g)	Violations; penalties	
	- First offense	$50.00
	- Each subsequent offense	$100.00
Chapter 22 - Buildings and Building Regulations, Article IX - Lodging Houses, Division 2 - Permit		
Sec. 22-301	Generally	
paragraph (b)	Expiration fee Dormitory fee	$50.00 for the first ten rooms and $5.00 for each additional room. $50.00 for the first ten rooms, and $2.50 for each room thereafter.
paragraph (d)	Reimbursement fee	$100.00

Chapter 22 - Buildings and Building Regulations. Article X. Rental Dwellings, Division 2 - Permit		
Sec. 22-351	Generally	
paragraph (a)	Single family dwellings	$90.00 for each single-family detached dwelling. $70.00 for each single-family attached dwelling.
paragraph (b)	Multiple family dwellings	$90.00 for multiple dwellings consisting of three or less dwelling units, $90.00 for the first three dwelling units of a multiple dwelling with four or more dwelling units, $30.00 for each additional dwelling unit in excess of three. $30.00 for condominium units and accessory apartments located within structures principally used for owner occupancy.
paragraph (d)	Reinstatement fee	$100.00
Chapter 22 Buildings and Building Regulations. Article XI. Dangerous Buildings.		
Sec. 22-386	Violations; penalties for disregarding notices or orders	
paragraph (a)	Violation by owners; minimum, for each offense	$100.00
paragraph (b)	Violations by occupant or lessee; minimum, for each offense	$100.00
paragraph (c)	Removal of notice; not exceeding, for each offense	$100.00
Chapter 22 Buildings and Building Regulations. Article XII. Vacant Buildings		
Sec. 22-403	Registration and Registration Fees	
paragraph (a)(2)biii	Registration fee	
	Buildings vacant one year or less;	$250.00
	Buildings vacant for more than one year but less than two years	$500.00
	Buildings vacant for more than two years but less than five years; Buildings vacant for five years or longer.	$1,000.00 $2,000.00
Chapter 26 Businesses. Article II. Licenses		
Sec. 26-35	License required; fees	
paragraph (d)(1)	Businesses licensed.	
	Advertising agency	$92.00
	Amusement Operator	$152.00
	Architect	$242.00
	Attorney-at-law	$303.00
	Auctioneer	$152.00
	Automobile race operator	$363.00
	Bank, or loan and trust company	$303.00
	Barber	$61.00
	- each additional chair over two	$4.00
	Beautician	$61.00
	- each additional chair over two	$4.00
	Bowling alley operator	$182.00
	Broadcasting station	$303.00
	Broker	$152.00
	Car Wash	$182.00

Sec. 26-35	License required; fees – continued	
	Certified Public Accountant	$242.00
	Cesspool cleaner	$121.00
	Chiropractor	$303.00
	Clinical Social Worker	$93.00
	Coin-operated amusement machine owner - per machine	$3.00
	Coin-operating vending machine owner - per machine	$3.00
	Coin-operated electronic video machine - per machine	$121.00
	Commercial sign business	$121.00
	Computer related services	$121.00
	Consultant	$49.00
	Day care operator:	
	Home based provider with six or fewer children	$0.00
	Center or home provider with greater than six children	$49.00
	Dental lab	$182.00
	Dentist	$303.00
	Distributor	$61.00
	Dray person or mover	$121.00
	Eating establishment and/or eating establishment operator	$121.00
	Employment agency	$121.00
	Entertainer:	
	One – three entertainers per group	$49.00
	Four – nine entertainers per group	$92.00
	Ten or more	$121.00
	Entertainment agent	$182.00
	Finance or small loan agency	$242.00
	Funeral director	$242.00
	Gas, light, power, cable TV and telephone company	$908.00
	General repairman	$61.00
	Health spa or health club	$182.00
	Hotel:	
	Per room	$9.00
	Per suite	$12.00
	Income tax consultant	$182.00
	Incorporator	$121.00
	Insurance adjustor office	$121.00
	Itinerant merchant, per event	$40.00
	Janitorial and cleaning service:	
	One – three employees	$49.00
	Four – nine employees	$92.00
	Ten or more employees	$121.00
	Landscape service company:	
	One – three employees	$49.00
	Four – nine employees	$92.00
	Ten or more employees	$121.00

Sec. 26-35	License required; fees – continued	
	Laundry service operator:	
	Primary facility	$121.00
	Additional drop-off locations	$49.00
	Linen supplier	$121.00
	Manicurist	$31.00
	Manufacturer's agent or representative	$121.00
	Mercantile agency or collection agency	$121.00
	Mobile home park, per space	$7.00
	Motel, per room	$7.00
	Motion picture theater	$182.00
	Motor vehicle serviceman	$92.00
	Nursing, rest or convalescent home	$182.00
	Open market operator:	
	First 20 spaces, per rented space	$22.00
	21st – 50th space, per rented space	$11.00
	Each space over 50, per rented space	$6.00
	Outdoor tables, per table	$6.00
	Optometrist	$303.00
	Outdoor music festival promoter	$1,210.00
	Parking lot or garage operator	$61.00
	Pawnbroker	$182.00
	Pest control services	$92.00
	Pharmacist	$182.00
	Photographer	$121.00
	Physical therapist	$182.00
	Physician and/or surgeon	$303.00
	Plant nursery and florist	$92.00
	Podiatrist	$303.00
	Pool table operator, per table	$61.00
	Maximum fee	$183.00
	Printer	$121.00
	Private investigator agency	$182.00
	Professional counselor	$61.00
	Professional engineer	$242.00
	Professional land surveyor	$242.00
	Psychologist	$303.00
	Public accountant	$182.00
	Public stenographer	$37.00
	Publisher	$303.00
	Real estate broker, appraiser and manager	$152.00
	Real estate manager:	
	One – three units managed	$49.00
	Four – ten units managed	$121.00
	Ten+ units managed	$121.00
	Real estate salesperson or associated broker	$49.00
	Rental service	$121.00
	Sales representative	$49.00

Sec. 26-35	**License required; fees – continued**	
	School and educational service (non-vocational)	$61.00
	School and educational service (vocational)	$121.00
	Scientific laboratory	$242.00
	Scrap and waste material service	$121.00
	Secondhand dealer of precious metals	$121.00
	Security service	$182.00
	Self-service laundry or dry cleaner	$121.00
	Shoe repairman	$49.00
	Sound truck, per hour	$31.00
	Tailor and garment service	$49.00
	Taxicab or bus operator:	
	First vehicle	$25.00
	Each additional vehicle	$25.00
	Taxidermist	$121.00
	Telephone answering service	$121.00
	Television repairman	$92.00
	Tourist home, per room	$7.00
	Trailer park, per space	$7.00
	Travel Agency	$121.00
	Veterinarian	$303.00
	Warehouseman	$242.00
	Wholesale news agency	$61.00
	All other businesses not listed:	
	One – three employees	$49.00
	Four – nine employees	$92.00
	Ten – 50 employees	$121.00
	51 – 100 employees	$303.00
paragraph (d)(2)	Manufactures/contractors rate: $0.00046 of aggregate gross receipts; minimum fee	$121.00
paragraph (d)(3)	Merchants/bottlers rate: $0.00046 of aggregate gross purchases for resale; minimum fee	$61.00
Chapter 26 - Businesses. Article III. Going-Out-Of-Business Sales; Fire Sales		
Sec. 26-137	Fees	$25.00; renewal fee $25.00
Chapter 30 – Code of Conduct and Ethics Commission, Article II. Code of Conduct		
Sec. 30-33	Prohibitions relating to conflicts of interest	
paragraph (g) (1)	Criminal Sanctions, penalties	
	- Not to exceed	$1,000.00
Chapter 42 – Environment		
Sec. 40-2	Noise	
paragraph (d)	Violations; penalties	
	- Not less than	$50.00
	- Nor more than	$100.00
Chapter 46 – Fire Prevention and Protection. Article I. In General		
Sec. 46-3	Impairment of Fire Protection Equipment	
paragraph (d)	Fines	
	- First offense	$50.00
	- Second and subsequent offenses	$100.00

Chapter 46 – Fire Prevention and Protection. Article III. Fire Codes		
Sec. 46-126	Fire Prevention Permit	
paragraph (b)	Fee	$12.00 for each $1,000.00 of costs or multiple thereof of the fire protection system; provided that a minimum fee for each permit shall be $50.00.
paragraph (c)	Reinspection	
	- First reinspection	No charge
	- Second reinspection	$25.00
	- Third reinspection	$50.00
	- Any subsequent reinspections	$100.00
Sec. 46-127	Smoke detection devices	
paragraph (g)	Violations; penalties	
	- Not more than; per violation	$100.00
Chapter 46 - Fire Prevention and Protection. Article IV. Public Occupancies		
Sec. 46-164	Fees	
	Churches	$25.00
	Civic auditoriums	$25.00
	Clubhouses	$50.00
	Commercial auditoriums	$25.00 – first 200 seats and $2.50 for each additional 50 seats
	Day care facilities	25.00
	Hospitals, nursing homes or rest homes	$5.00 – first 10 rooms and $1.25 for each additional room
	Mercantile (10,000 square feet or greater)	$25.00
	Outdoor public events including but not limited to firework displays, carnivals and outdoor music concerts	$25.00
	Public office buildings	$25.00
	Schools	$25.00
	Theaters, first 200 seats	$25.00
	each additional 50 seats	$2.50
Sec. 46-168	Reinspection Fee	
paragraph (a)	Amount	$25.00
Chapter 50 – Floods. Article II. Flood Damage Prevention		
Sec. 50-50	Violation and non-compliance; penalties	
	Not less than	$25.00
	Nor more than	$100.00
Chapter 54 – Health and Sanitation. Article I. In General		
Sec. 54-4	Smoking Regulations	
paragraph (d)(2)	Violations; penalties; appeals	
	Penalties	
	Not to exceed	$25.00

Chapter 54 – Health and Sanitation. Article II. Food and Food Handlers, Division 2 - Certificate		
Sec. 54-52	Fee	
paragraph (a)	Type of Establishment	
	- Mobile food units	$50.00
	- Push carts	$25.00
	- For profit temporary eating places	$25.00
	- Membership clubs	$50.00
	- Institutions	$100.00
paragraph (b)	- Breakfast service	$15.00
	- Lunch service	$18.00
	- Dinner service	$18.00
	- Salad bar service	$15.00
	- Hot and cold buffet, including salad bar service	$40.00
	- Drive through service	$75.00
	- Delivery service	$20.00
	- Catering service	$15.00
	- Takeout service	$20.00
	- Seating service:	
	100 – 150	$50.00
	151 – 200	$75.00
	201 or more	$100.00
Chapter 62 – Law Enforcement. Article I. In General		
Sec 62-2	False Alarms to Police	
paragraph (c)(1)	Violations; penalties	
	Number of false alarms; amount of fee per false alarm	
	3 – 5 false alarms	$25.00
	5 – 9 false alarms	$50.00
	10 – 15 false alarms	$100.00
	15 or more false alarms	$150.00
Chapter 66 – Manufactured Homes and Trailers.		
Sec. 66-2	License	
paragraph (a)	Required fee	$45.00
Chapter 70 – Offenses and Miscellaneous Provisions.		
Sec. 70-1	Combative fighting	
paragraph (d)	Violations penalties	
paragraph (1)	Fines; an amount not to exceed	$100.00
Chapter 74 – Parks and Recreation Article I. In General		
Sec. 74-51	Same – Fine	
	Not to exceed	$100.00
	Not less than	$10.00

Chapter 86 – Secondhand Goods, Article II. Precious Metals, Division 2. License		
Sec. 86-63	License Fee	$25.00
Sec. 86-64	Bond Required	$1,000.00
Chapter 90 – Solid Waste		
Sec. 90-17	Violations; penalties	
	Per violation, not in excess of	$100.00
	Nor less than	$5.00
Chapter 98 – Streets, Sidewalks and other Public Places, Article V. Excavations, Division 2. Permits		
Sec. 98-193	Bonds	
	Per opening, up to the sum of	$5,000.00
Chapter 98 – Streets, Sidewalks and other Public Places, Article VI. Parades, Division 2. Permits		
Sec. 98-243	Fee	
	To be paid at the time of filing	$10.00
Chapter 102 – Taxation, Article I. In General		
Sec. 102-2	Delinquent property tax collection	
paragraph (a)	Action to collect delinquent property taxes filed in a court of appropriate jurisdiction, fee added to amount due	$50.00
paragraph (b)	Action proceeds and a writ of venditioni exponas monition or similar execution process is filed, an additional fee added to amount due	$100.00
Chapter 102 – Taxation, Article III. Reality Transfer Tax		
Sec. 102-79	Violations; penalties	
	Not more than	$100.00
Chapter 106 – Traffic and Vehicles, Article I. In General		
Sec. 106-14	Off road motor vehicle regulations	
paragraph (d)	Penalties	
	- Minimum	$25.00
	- Maximum	$100.00
Sec. 106-15	Failure to stop for a red traffic signal; traffic light signal violation monitoring program; penalties.	
paragraph (b)	Traffic light signal violation monitoring program	
paragraph (3)	Civil or administrative assessment	$75.00
	- if not paid within 14 days, additional assessment shall be added to original assessment	$10.00
	- if not paid within 45 days, original assessment shall be increased	$20.00
	- if not paid within 90 days, original assessment shall be increased	$30.00
	- Court costs or similar administrative fees; not to exceed	$30.00
Sec. 106-16	Violations	
paragraph (a)(1)	Moving offense, minimum fine	$10.00
paragraph (a)(2)	Non-moving offense; minimum fine	$15.00
paragraph (a)(3)	Parking violation; for each offense	$20.00
	- If fine is paid within 72 hours from the date of	$15.00

	the offense is recorded in time, the fine shall be	
Chapter 106 – Traffic and Vehicles, Article II. Bicycles		
Sec. 106-55	Penalties for violation	
	Fine not to exceed;	$100.00
	Not less than.	$10.00
Chapter 106 - Traffic and Vehicles. Article III. Stopping, Standing and Parking, Division II. Metered Parking		
Sec. 106.164	Violations; penalties	
paragraph (a)	For each offense, within 24 hours from time summons of violation is issued, per violation	$1.00
	After 24 hours, per violation. If payment is made voluntarily prior to the time and date set	$2.00
paragraph (b)	Fourth violation, within any 30-day period. Within one hour of the time that summons giving notice of violation was issued, per violation	$1.00
	After expiration of one hour from issuance of summon, for each violation	$2.00
paragraph (c)	Fifth violation, etc. More than four violations within 30-day period, for each violation	$5.00
Chapter 114 – Vegetation. Article II. Weeds		
Sec. 114-33	Failure to maintain proper height; abatement by city; costs and lien.	
paragraph (a)	- Per hour for such work that must be done to render the property compliance with Sec. 114-32	$50.00
Sec. 114-34	Fines	
paragraph (a)	Generally	
	- Fine of not less than	$25.00
	- nor more than	$100.00
paragraph (c)(1)	Minimums	
	- First offense	$25.00
	- Second offense	$50.00
	- Third and subsequent offenses	$100.00
Chapter 118 – Vehicles for Hire, Article II. Taxicabs, Division 2. Operators Permit		
Sec. 118-54	Fee	$5.00

Appendix F. Fee Schedule

Appendixes A & B

Code Section	Description	Fees, Rates, Charges (in dollars)
Appendix A. Subdivisions, Article IV. Subdivision – Procedures		
Section A	Pre application	
paragraph 2	Filing Fee	$200.00
Section B	Preliminary Layout	
paragraph 2	Filing Fee	$325.00
Section C	Plat	
paragraph 3.	Plat Plan Review Fee	$150.00, plus $65.00 per acre for the 1st ten acres; $40.00 per acre for the next 10 acres and $25.00 per acre for each acre thereafter
	- Minor lot line adjustments	$100.00
	- Minor subdivisions	$100.00
Appendix B. Zoning, Article 3. District Regulations		
Section 24	Planned Neighborhood Design Option (PND)	
paragraph 24.2	Review Process Fee	100.00
paragraph 24.8	Conditional Use Plan Approval	
paragraph 24.81	Conditional Use Fee	$200.00, plus $10.00 per acre
paragraph 24.9	Site Development Preliminary Subdivision Plan Review	
paragraph 24.91	Fee	$325.00, plus $20.00 per acre
paragraph 24.10	Final Subdivision Plat Approval	
paragraph 24.101	Preliminary Plan Approval Fee	
Section 28	Traditional Neighborhood Design Zone (TND)	
paragraph 28.4	Procedure	
paragraph 28.41	Application for rezoning and general overall master plan review	
paragraph 28.411	Minimum Rezoning Amendment Fee	$325.00
paragraph 28.42	Application for implementation plan review	
paragraph 28.422	Plan Review Fee	$325.00 plus $10.00 per acre
paragraph 28.43	Following implementation approval -	
paragraph 28.434	Site Development Plan or Subdivision Plat Fee	$250.00

Appendix F. Fee Schedule

Appendix B. - Continued

Appendix B. Zoning, Article 5. Supplementary Regulations		
Section 4	Supplementary Sign Regulations	
paragraph 4.8	Unified campuses and complexes	
paragraph D	Submission requirements	
paragraph 4	Application Fee	$200.00
Appendix B. Zoning, Article 8. Enforcement and Penalties		
Section 2	Certificates of Occupancy	
paragraph 2.4	All properties zoned single-family residential	$400.00
	All other property in other zoning classifications, other than single-family residential	$40.00 for the first 20,000 square feet of building area, plus the sum of $10.00 for each additional 10,000 square feet of building area in excess of the first 20,000 square feet or multiple thereof
Appendix B. Zoning, Article 9. Board of Adjustments		
Section 3	Procedure	
paragraph 3.5	Variance requests for residential uses	$200.00
	Variance requests for nonresidential uses	$300.00
	Appeals from an order, requirement, decision or determination made by an administrative official, board or agency of the city	$200.00
Appendix B. Zoning, Article 10. Planning Commission		
Section 1	Approval of Conditional Uses	
paragraph 1.5	Application procedure	
paragraph 1.52	Conditional Use Permit Fee	$325.00, plus $15.00 per acre of the area or multiple thereof involved in the conditional use application
Section 2	Site development plan approval	
paragraph 2.4	Procedure	
Paragraph 2.45	Fees	
	- Site Development Plan Approval Fee	$325.00
	- Administrative Site Plans Applications	$125.00

CITY OF DOVER ORDINANCE #2009-09

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

That Chapter 10 - Alcoholic Beverages, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 10-1 Consumption or possession,

(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:

Alcoholic liquor means as defined per title 4 of the laws of the state (4 Del. C. § 101 et seq.).

Public place means any place to which the general public has access and a right to resort for business, entertainment, or other lawful purposes, but does not necessarily mean a place devoted solely to the use of the public. It shall also include the front or immediate area of any store, shop, restaurant, tavern, or other place of business and also public grounds, areas, or parks.

(b) Public places. Except when permitted by federal, state, county or municipal law, it is unlawful for any person to consume, or possess with the intent to consume, any alcoholic liquor in or upon any street, alley, highway, public way, public building or public place within the city.

(c) Underage persons**.** Whoever, being under the age of 21 years, has alcoholic liquor in his possession at any time, or consumes or is found to have consumed alcoholic liquor, shall be fined ~~$100.0000~~ as provided for in Appendix F. This subsection shall not apply to the possession or consumption of alcoholic liquor in connection with any religious service or by members of the same family, provided at least one of the members is of age, within the private home of any of the said members. Fines not paid within 14 days of the

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day the fine was issued, including the day the fine was issued, shall be automatically doubled in amount. (Code 1981, § 14-6.1; Ord. of 6-11-1984; Ord. of 10-25-1999; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 18- Animals, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 18-17. Violations; fines.

(a) Any person convicted of a violation of this chapter shall pay a mandatory and nonsuspendable fine of at least the minimum fine for each offense as ~~follows:~~ as provided for in Appendix F.

~~(1) Any person convicted of violating the provisions of section 18-7 shall be sentenced to pay a fine not less than $10.00, or more than $100.00 for each violation.~~

~~(2) Any person convicted of violating the provisions of sections 18-3, 18-4, 18-5, 18-8, and/or 18-13 shall be sentenced to pay a fine of not less than $25.00, or more than $100.00 for each violation.~~

~~(3) Any person convicted of violating the provisions of section 18-6 shall be sentenced to pay a fine not less than $50.00, or more than $100.00 for each violation.~~

~~(4) Any person convicted of violating the provisions of sections 18-9, and/or 18-12 shall be sentenced to pay a fine of $100.00 for each violation.~~

(b) 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, § 4-14; Ord. of 8-28-1995; Ord. of 9-22-2003)

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BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article III - Building Code, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-61. Adopted.

(a) *International Building Code adopted.* Certain documents, three copies of which are on file in the licensing and permitting office of the city being marked and designated as "The International Building Code, 2003 Edition" as published by the International Code Council be and is hereby adopted as the Building Code of the City of Dover in the State of Delaware; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said International Building Code, are hereby referred to, adopted and made a part hereof as if fully set out in this section, with the additions, insertions, deletions and changes as follows:

Section101.1. Title Insert "City of Dover, DE" in place of "[NAME OF JURISDICTION]" *Section 105.2.* Work exempt from permit. Delete section in its entirety.

SECTION 106 CONSTRUCTION DOCUMENTS

Section 106.1. Insert: "for new construction, alterations, repairs, expansion, additions or modifications of buildings or structures, which involve the practice of architecture or engineering, as defined by the professional registration laws of the State of Delaware shall be prepared by a registered design professional consistent with the professional registration laws of the State of Delaware. Construction documents shall include the name, address and license or registration number of the registered design professional and shall be signed, sealed and dated by the registered design professional in accordance with the professional registration or licensing laws, statutes, regulations or administration provisions of the State of Delaware." in place of "shall be prepared by a

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registered design professional where required by the statues of the jurisdiction in which the project is to be constructed."

Section 108.3. Insert: "see Section 5-21 Fees for permits" [Section 22-65, Permit fees] in place of "in accordance with the schedule as established by the applicable governing authority".

Section 112. BOARD OF APPEALS. Delete section in its entirety.

Section 113.4. Violation Penalties. Insert: "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, places, alters, repairs, a building or structure in violation of the approved construction documents or directive of the building inspector, or of a permit or certificate issued under the provisions of this code shall be charged with a violation of this code and be guilty of a misdemeanor, punishable by a fine ~~of not less than $100.00 or more than $10,000.00~~ as provided for in Appendix F, or by imprisonment thirty (30) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense." in place of "Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, places, alters, repairs, a building or structure in violation of the approved construction documents or directive of the building inspector, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law."

Section 114.3 Unlawful continuance. Insert: "Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be charged with a violation of this section and shall be fined ~~according to the following schedule: $100.00 for any first offense; $250.00 for any second offense; $500 for any third offense; and no less than $1,000.00 and no more than $10,000.00 for any fourth and subsequent offense~~ as provided for in Appendix F. Repeat offenders shall not receive warnings and shall

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instead be subject to progressively increasing fines according to the foregoing fore-mentioned schedule in appendix F to this code. Each day that a violation continues shall be deemed a separate offense." in place of: "Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform a violation or unsafe condition, shall be subject to penalties as prescribed by law."

BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article III - Building Code, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-65 Permit Fees.

(a) Before any permit shall be issued for buildings, fences, signs, swimming pools, demolitions, moving, or construction plan reviews a fee shall be paid unto the city as provided for in Appendix F. ~~Building permits. Each applicant for a building permit shall pay unto the city a permit fee computed as follows before such permit shall be issued: The sum of $25.00 for the first $1,000.00 of costs and $8.00 for each additional $1,000.00 of costs or multiple thereof up to $10,000,000.00 of costs, $6.00 for each additional $1,000.00 of costs or multiple thereof up to $20,000,000.00, and $5.00 for each additional $1,000.00 of costs or multiple thereof above $20,000,000.00.~~

~~(b) Fence permits. Each applicant for a fence permit shall pay unto the city a permit fee computed as follows before such permit is issued: The sum of $25.00 for the first $1,000.00 of costs and $8.00 for each additional $1,000.00 of costs or multiple thereof.~~

~~(c) Sign permits. Each applicant for a sign permit shall pay unto the city, before such permit is issued, the sum of $0.50 per square foot of sign area; provided, however, that the minimum fee for each permit shall be $15.00.~~

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~~(d) Swimming pool permits. Each applicant for a swimming pool permit shall pay unto the city a permit fee computed as follows before such permit is issued: The sum of $25.00 for the first $1,000.00 of cost and $8.00 for each additional $1,000.00 of cost or multiple thereof.~~

~~(e) Demolition permits. Each applicant for a demolition permit shall pay unto the city, before such permit is issued, the sum of $50.00 for any building which is being demolished for the purpose of vacating the land for future development or construction upon the same, provided that no fee shall be charged for buildings condemned and required to be demolished by the city or any public entity.~~

~~(f) Moving permits. Each applicant for a moving permit shall pay unto the city, before such permit is issued, the sum of $250.00 for each building.~~

~~(g) Construction plan reviews. Each applicant requesting review of nonresidential construction plans shall pay the sum of $20.00 per set of plans.~~

~~(h)~~ (b) *Reinspections*. There will be no charge for the first reinspection of a permit~~. The applicant shall pay the sum of $25.00 for the second reinspection, $50.00 for the third reinspection and $100.00 for any subsequent reinspection.~~ For subsequent reinspections the applicant shall pay unto the city a fee as provided for in Appendix F.

~~(i)~~ (c) *Doubling fees*. Fees established in Appendix F ~~this subsections (a)–(f) of this section~~ shall double in the event that a permit is applied for after construction has commenced without the permission of the building inspector. The building inspector may waive the doubling of fees in cases where the building permit applicant is not a professional contractor, and the work is not being done by a professional contractor. (Code 1981, § 5-21; Ord. of 6-28-1982, § 1; Ord. of 4-13-1987; Ord. of 11-22-1993; Ord. of 4-25-1994; Ord. of 9-11-1995; Ord. of 6-28-2004(2))

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BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article V – Mechanical Code, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-145. Heating, air conditioning, and heat pump permit fees.

(a) Enumerated. Before any permit shall be issued for ~~Each applicant for~~ a heating, air conditioning, or heat pump ~~permit~~ a fee shall be paid unto the city ~~a permit fee, computed as follows, before such permit is issued:~~ as provided for in Appendix F.

~~(1) Heating permit. The sum of $30.00 for the first 10,000 BTUs and the sum of $5.00 for each additional 10,000 BTUs or multiple thereof.~~

~~(2) Air conditioning permit. The sum of $30.00 per ton for the first five tons and the sum of $5.00 per ton for over five tons or multiple thereof.~~

~~(3) Heat pump permit. The sum of $15.00 for the first 10,000 BTUs and the sum of $2.50 for each additional 10,000 BTUs or multiple thereof and an additional $15.00 for the first five tons and the sum of $2.50 per ton for over five tons or multiple thereof.~~

(b) Doubling of fees. Fees established in this subsection ~~(a)(1)—(3) of this section~~ shall double in the event that a permit is applied for after construction has commenced without the permission of the building inspector. The building inspector may waive the doubling of fees in cases where the building permit applicant is not a professional contractor, and the work is not being done by a professional contractor.

(Code 1981, § 5-61; Ord. of 6-28-1982, § 3; Ord. of 4-13-1987; Ord. of 4-25-1994; Ord. of 6-28-2004(2))

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BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article VI – Plumbing Code, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-185. Permit Fees.

(a) Enumerated. Before any permit shall be issued ~~Each applicant~~ for a plumbing permit a fee shall be paid ~~pay~~ unto the city as provided for in Appendix F. ~~a permit fee, computed as follows, before such permit is issued:~~

~~(1) Fixtures. The sum of $25.00 for the first five fixtures and the sum of $2.00 for each additional fixture.~~

~~(2) Garbage disposals and hot water heaters. A minimum fee of $25.00.~~

~~(3) Gas, water and sewer inspection underground. The sum of $20.00 for the first 150 feet and $0.50 for each additional ten feet or multiple thereof.~~

(b) Doubling of fees. Fees established in this subsections ~~(a)(1)—(3) of this section~~ shall double in the event that a permit is applied for after construction has commenced without the permission of the building inspector. The building inspector may waive the doubling of fees in cases where the building permit applicant is not a professional contractor, and the work is not being done by a professional contractor. (Code 1981, § 5-75; Ord. of 6-28-1982, § 2; Ord. of 4-13-1987; Ord. of 4-25-1994; Ord. of 6-28-2004(2))

BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article VIII – Leases, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-251 Unlawful leases

(a) *Compliance with zoning.* No owner or landlord shall enter into any agreement, contract, lease, or sublease which provides for, permits, allows, contemplates, or facilitates occupancy of any structure contrary to the use requirements of the city zoning

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ordinance as set forth in appendix B. Any agreement, contract, lease, or sublease which provides for, permits, allows, contemplates, or facilitates such occupancy by more persons than permitted in appendix B to this Code is unlawful and hereby declared to be contrary to public policy.

(b) *Noise; disorderly conduct; drugs.* All agreements, contracts, leases, or subleases for the occupancy of dwelling units shall prominently stipulate that any renter or occupier of the rental unit shall not violate section 42-2 pertaining to noise or section 70-3 pertaining to disorderly conduct in connection with the use of the premises and shall also prominently stipulate that any renter or occupant of the rental unit shall not commit any drug offense on the premises. The agreement, contract, lease, or sublease shall also prominently stipulate that if any renter or occupant shall be convicted more than one time in any one-year period of violating section 42-2 pertaining to noise or section 70-3 pertaining to disorderly conduct in connection with the use of the premises or is convicted of any drug offense which occurred on the premises, the renter or occupier shall be considered to have breached a lawful obligation relating to his use of the premises and shall be grounds for termination of the agreement, contract, lease, or sublease as it applies to that renter or occupant.

(c) *Notice of conviction to landlord.* The city shall notify the landlord, owner, or owner's agent if a renter or occupant of the rental unit is convicted of violating section 42-2 pertaining to noise, section 70-3 pertaining to disorderly conduct or any drug law. Notice shall be deemed to be properly served upon the owner or the owner's agent if a copy thereof is delivered to the owner, or the owner's agent; or by leaving a notice at the usual place of abode, in the presence of someone in the family of suitable age and discretion, who shall be informed of the contents thereof, or by certified mail addressed to the owner or the owner's agent at the last known address, with return receipt requested;

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or lastly by posting a copy thereof in a conspicuous place in or about the structure affected by the notice.

(d) *Notice to renter.* Within seven days of the receipt of notice that a renter or occupier has been convicted of violating section 42-2 pertaining to noise or section 70-3 pertaining to disorderly conduct, the landlord, owner, or owner's agent shall cause notice to be served upon the affected renter or occupier that if a second such violation occurs within one year, the rental agreement will be terminated.

(e) *Second violation; termination of lease.* Within seven days of the receipt of the notice that a renter or occupier has been convicted of a second violation of section 42-2 pertaining to noise or section 70-3 pertaining to disorderly conduct, or has been convicted of a drug offense, the landlord, owner, or owner's agent shall cause to be served upon the affected renter or occupier, notice that the rental agreement is terminated and that the renter or occupier has not more than seven days to vacate the unit.

(f) *Failure of renter or landlord to comply.* If the renter or occupier fails to vacate the unit within the time specified in the notice, the landlord, owner, or owner's agent shall immediately initiate and diligently pursue, in good faith, summary proceedings for possession as specified in the Residential Landlord-Tenant Code (25 Del. C. § 5101 et seq.). The failure of the landlord, owner, or owner's agent to initiate or diligently pursue, in good faith, summary proceedings for possession shall constitute a violation of this section and shall subject the landlord, owner, or owner's agent to the penalties provided herein.

(g) *Violations; penalties.* Any person, firm, or corporation who violates any provision of this section shall have his rental license for the premises revoked and shall be punished by a fine ~~of $50.00 for the first offense and $100.00 for each subsequent offense~~ as provided for in Appendix F.

(Code 1981, § 10-41; Ord. of 10-15-1991; Ord. of 8-23-2004)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 22 – Buildings and Building Regulations, Article IX – Lodging Houses, Division II – Permit, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-301. Generally.

(a) *Required.* It shall be unlawful for any person to let, or offer to let, space in any lodging house by advertisement, without first obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the provisions of this chapter.

(b) *Expiration; fee.* The permit shall expire annually on January 31, and the fee for the annual permit shall be ~~$50.00 for the first ten rooms and $5.00 for each additional room. The fee for dormitories shall be $50.00 for the first ten rooms, and $2.50 for each room thereafter.~~ as provided for in Appendix F.

(c) *Failure to pay on due date.* In the event that the permit fee set forth herein is not paid on the date due, then the permittee shall incur a penalty fee in the amount of ten percent per month of the amount of the license fee until the same is paid.

(d) *Reimbursement fee.* An owner whose permit has been suspended in accordance with section 22-303 shall pay a ~~*$100.00 reinstatement fee.*~~ a reimbursement fee as provided for in Appendix F.

(e) *Lien.* In the event that the property owner fails to pay said fees within 30 days from the date a notice thereof is mailed to the owner, then such fees may be entered into the municipal lien docket as a lien owing the city, and the same may be turned over to the city solicitor for collection.

(f) *Utilities.* The owner or occupant of any lodging house shall not be entitled to receive city utilities until the permit fee required in this section is paid in full and city personnel shall refuse to provide sewage, water and electricity to the property until satisfactory proof is furnished that such permit fee has been paid.

DRAFT

(Code 1981, § 10-76; Ord. of 4-10-2000)

BE FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article X - Rental Dwellings, Division 2 - Permit, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-351. Generally.

(a) *Single-family dwellings.* It shall be unlawful for any person to operate any single-family rental dwelling without obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31. The fee for the annual permit shall be ~~$90.00 for each single-family detached dwelling, and $70.00 for each single-family attached dwelling.~~ as provided for in Appendix F.

(b) *Multiple-family dwellings.* It shall be unlawful for any person to operate any multiple dwelling without first obtaining an annual permit therefor from the licensing division of the department of planning and inspections in order to determine compliance with the appropriate provisions of this article. The permit shall expire annually on January 31, and the fee for the annual permit shall be ~~$90.00 for multiple dwellings consisting of three or less dwelling units, $90.00 for the first three dwelling units of a multiple dwelling with four or more dwelling units, and $30.00 for each additional dwelling unit in excess of three. The fee for condominium units and accessory apartments located within structures principally used for owner occupancy shall be $30.00.~~ as provided for in Appendix F.

(c) *Late payment penalty.* In the event that the permit fee set forth herein is not paid on the date due, then the permittee shall incur a penalty fee in the amount of ten percent per month of the amount of the license fee until the same is paid.

DRAFT

(d) *Reinstatement fee.* An owner whose permit has been suspended in accordance with section 22-352 shall pay a ~~$100.00~~ reinstatement fee~~.~~ as provided for in Appendix F.

(e) *Lien.* In the event that the property owner fails to pay said fees within 30 days from the date a notice thereof is mailed to the owner, then such fees shall be entered in the municipal lien docket as a lien owing the city; and the same may be turned over to the city solicitor for collection.

(f) *Utilities.* The owner or occupant of any rental unit shall not be entitled to receive city utilities until the permit fee required in this section is paid in full and city personnel shall refuse to provide sewage, water and electricity to the property until satisfactory proof is furnished that such permit fee has been paid.

(Code 1981, § 10-96; Ord. of 4-10-2000)

BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article XI - Dangerous Buildings, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-386. Violations; penalty for disregarding notices or orders.

(a) *Violations by owner.* The owner of any dangerous building who shall fail to comply with any notice or order to repair, vacate and close, or demolish said building given by the council shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined ~~a minimum of $100.00 for each offense.~~ as provided for in Appendix F.

(b) *Violations by occupant or lessee.* The occupant or lessee in possession who fails to comply with any notice to vacate and close or who fails to repair said building in accordance with any notice given by the council as provided for in this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined ~~a minimum of $100.00 for each offense.~~ as provided for in Appendix F.

DRAFT

(c) *Removal of notice.* Any person removing the notice provided for in section 22-384(9) shall be guilty of a misdemeanor and, upon conviction, shall be fined ~~not exceeding $100.00 for each offense~~ as provided for in Appendix F. 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.

(Ord. of 2-28-1955, § 6; Code 1981, § 5-91; Ord. of 10-28-1996; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 22 - Building and Building Regulations, Article XII – Vacant Buildings, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 22-403. Registration and registration fee.

(a) *Registration of building.* There are two ways to register the building as vacant.

(1) The owner shall register with the city not later than 30 days after any building in the city becomes vacant, as defined.

The registration of the vacant building shall include the site address, the name of the current owner or owners, current address of the owner and of all applicable owners, tax parcel number, proof of insurance on the building, description of the condition of the building, plans for the building (to eliminate the vacancy), the responsible person or agent and their contact information and any other applicable information. If any information changes the owner is responsible for informing the city of those changes in a timely manner.

(2) The building inspector or his designee shall investigate any property that may be subject to registration. Based upon his findings, the building inspector may register the property as a vacant building subject to this chapter.

a. *Notice of registration.* Within five business days of such registration, the licensing and permitting office shall notify the owners of the

DRAFT

registered property by certified mail at their last known address according to the records of the city and Kent County.

b. *Registration fee.*

(i) The annual registration fee shall be paid at the time of registration. If the building inspector registers the building as vacant the fee shall be due not later than 30 days after the building is registered as vacant. The annual registration fee will then be due by the 31st of March every year after that as long as it remains vacant. The starting point for counting a building as being vacant will begin on the date of the enactment of this article [June 26, 2006].

(ii) The registration fee will be prorated for a building when it is first registered as vacant from the date it is registered until the March 31 annual fee is due.

(iii) The annual fee is~~:~~ as provided for in Appendix F. ~~$250.00 for buildings vacant one year or less; $500.00 for buildings vacant for more than one year but less than two years; $1,000.00 for buildings vacant for more than two years but less than five years; and $2,000.00 for buildings vacant for five years or longer.~~

(Ord. of 6-26-2006; Ord. of 4-14-2008)

BE IT FURTHER ORDAINED THAT:

Chapter 26 - Businesses, Article II – Licenses, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 26-35. License required; fees.

DRAFT

a) *Nonprofessional service businesses.* Except where expressed by definition in section 26-31, nonprofessional service businesses shall pay an annual license fee for each store, place of business or vehicle from which the licensee conducts the business operated within the city.

(b) *Professional services.* Persons engaged in professional services, such as accountants, certified or public, landscape architects, architects, optometrists, lawyers, dentists, physicians and surgeons, psychologists, physical therapists, podiatrists, professional engineers, and veterinarians shall pay an annual license fee for engaging in such professional services within the city.

(c) *Corporate employees.* No license shall be required of any individual practicing a profession or trade who is in the employ of any corporation licensed under any other provision of this article and who does not practice his profession, except in his capacity as an employee of such corporation and, provided further, that no attorney in the employ of any such corporation shall be required to obtain a license under this section so as to fulfill assignments made to him by any state court.

(d) *Businesses licensed.*

(1) No person shall conduct or engage in any of the following trades, businesses, or occupations within the city without a license and paying the appropriate fee as ~~follows:~~ as provided for in Appendix F.

~~Advertising agency . . . $ 92.00~~

~~Amusement operator . . . 152.00~~

~~Architect . . . 242.00~~

~~Attorney-at-law . . . 303.00~~

~~Auctioneer . . . 152.00~~

~~Automobile race operator . . . 363.00~~

~~Bank, or loan and trust company . . . 303.00~~

DRAFT

~~Barber . . . 61.00~~

~~Each additional chair over two . . . 4.00~~

~~Beautician . . . 61.00~~

~~Each additional chair over two . . . 4.00~~

~~Bowling alley operator . . . 182.00~~

~~Broadcasting station . . . 303.00~~

~~Broker . . . 152.00~~

~~Car wash . . . 182.00~~

~~Certified public accountant . . . 242.00~~

~~Cesspool cleaner . . . 121.00~~

~~Chiropractor . . . 303.00~~

~~Clinical social worker . . . 93.00~~

~~Coin-operated amusement machine owner, per machine . . . 3.00~~

~~Coin-operated vending machine owner, per machine . . . 3.00~~

~~Coin-operated electronic video machine, per machine . . . 121.00~~

~~Commercial sign business . . . 121.00~~

~~Computer related services . . . 121.00~~

~~Consultant . . . 49.00~~

~~Day care operator:~~

~~Home based provider with six or fewer children . . . 0.00~~

~~Center or home provider with greater than six children . . . 49.00~~

~~Dental lab . . . 182.00~~

~~Dentist . . . 303.00~~

~~Distributor . . . 61.00~~

~~Drayperson or mover . . . 121.00~~

~~Eating establishment and/or eating establishment operator . . . 121.00~~

DRAFT

~~Employment agent . . . 121.00~~

~~Entertainer:~~

~~One--three entertainers per group . . . 49.00~~

~~Four--nine entertainers per group . . . 92.00~~

~~Ten or more . . . 121.00~~

~~Entertainment agent . . . 182.00~~

~~Finance or small loan agency . . . 242.00~~

~~Funeral director . . . 242.00~~

~~Gas, light, power, cable TV and telephone company . . . 908.00~~

~~General repairman . . . 61.00~~

~~Health spa or health club . . . 182.00~~

~~Hotel:~~

~~Per room . . . 9.00~~

~~Per suite . . . 12.00~~

~~Income tax consultant . . . 182.00~~

~~Incorporator . . . 121.00~~

~~Insurance adjustor office . . . 121.00~~

~~Itinerant merchant, per event . . . 40.00~~

~~Janitorial and cleaning service:~~

~~One--three employees . . . 49.00~~

~~Four--nine employees . . . 92.00~~

~~Ten or more employees . . . 121.00~~

~~Landscape service company:~~

~~One--three employees . . . 49.00~~

~~Four--nine employees . . . 92.00~~

~~Ten or more employees . . . 121.00~~

DRAFT

~~Laundry service operator:~~

~~Primary facility . . . 121.00~~

~~Additional drop-off locations . . . 49.00~~

~~Linen supplier . . . 121.00~~

~~Manicurist . . . 31.00~~

~~Manufacturer's agent or representative . . . 121.00~~

~~Mercantile agency or collection agency . . . 121.00~~

~~Mobile home park, per space . . . 7.00~~

~~Motel, per room . . . 7.00~~

~~Motion picture theater . . . 182.00~~

~~Motor vehicle serviceman . . . 92.00~~

~~Nursing, rest or convalescent home . . . 182.00~~

~~Open market operator:~~

~~First 20 spaces, per rented space . . . 22.00~~

~~21st - 50th space, per rented space . . . 11.00~~

~~Each space over 50, per rented space . . . 6.00~~

~~Outdoor tables, per table . . . 6.00~~

~~Optometrist . . . 303.00~~

~~Outdoor music festival promoter . . . 1,210.00~~

~~Parking lot or garage operator . . . 61.00~~

~~Pawnbroker . . . 182.00~~

~~Pest control services . . . 92.00~~

~~Pharmacist . . . 182.00~~

~~Photographer . . . 121.00~~

~~Physical therapist . . . 182.00~~

~~Physician and/or surgeon . . . 303.00~~

DRAFT

~~Plant nursery and florist . . . 92.00~~

~~Podiatrist . . . 303.00~~

~~Pool table operator, per table . . . 61.00~~

~~Maximum fee . . . 183.00~~

~~Printer . . . 121.00~~

~~Private investigator agency . . . 182.00~~

~~Professional counselor . . . 61.00~~

~~Professional engineer . . . 242.00~~

~~Professional land surveyor . . . 242.00~~

~~Psychologist . . . 303.00~~

~~Public accountant . . . 182.00~~

~~Public stenographer . . . 37.00~~

~~Publisher . . . 303.00~~

~~Real estate broker, appraiser, and manager . . . 152.00~~

~~Real estate property manager:~~

~~One - three units managed . . . 49.00~~

~~Four - ten units managed . . . 121.00~~

~~Ten+ units managed . . . 121.00~~

~~Real estate salesperson or associated broker . . . 49.00~~

~~Rental service . . . 121.00~~

~~Sales representative . . . 49.00~~

~~School and educational service (nonvocational) . . . 61.00~~

~~School and educational service (vocational) . . . 121.00~~

~~Scientific laboratory . . . 242.00~~

~~Scrap and waste material service . . . 121.00~~

~~Secondhand dealer of precious metals . . . 121.00~~

DRAFT

~~Security service . . . 182.00~~

~~Self-service laundry or dry cleaner . . . 121.00~~

~~Shoe repairman . . . 49.00~~

~~Sound truck, per hour . . . 31.00~~

~~Tailor and garment service . . . 49.00~~

~~Taxicab or bus operator:~~

~~First vehicle . . . 25.00~~

~~Each additional vehicle . . . 25.00~~

~~Taxidermist . . . 121.00~~

~~Telephone answering service . . . 121.00~~

~~Television repairman . . . 92.00~~

~~Tourist home, per room . . . 7.00~~

~~Trailer park, per space . . . 7.00~~

~~Travel agency . . . 121.00~~

~~Veterinarian . . . 303.00~~

~~Warehouseman . . . 242.00~~

~~Wholesale news agency . . . 61.00~~

~~All other businesses not listed:~~

~~One--three employees . . . 49.00~~

~~Four--nine employees . . . 92.00~~

~~Ten--50 employees . . . 121.00~~

~~51--100 employees . . . 303.00~~

(2) Manufacturers and contractors shall pay a license fee as provided for in Appendix F. ~~at the rate of $0.00046 of the aggregate gross receipts; provided, however, that the minimum license shall be $121.00.~~

DRAFT

(3) Merchants and bottlers shall pay a license fee as provided for in Appendix F. ~~at the rate of $0.00046 of the aggregate gross purchases for resale; provided, however, that the minimum license fee shall be $61.00.~~

(Code 1968, §§ 18-34, 18-35; Ord. of 3-12-1972, § 1; Ord. of 4-28-1980; Code 1981, § 11-4; Ord. of 2-8-1982; Ord. of 8-23-1982; Ord. of 4-14-1986; Ord. of 1-22-1993; Ord. of 5-23-1994; Ord. of 2-23-1998; Ord. of 12-11-2000; Ord. of 6-28-2004(1))

BE IT FURTHER ORDAINED THAT:

Chapter 26 - Businesses, Article III – Going-Out-Of-Business Sales; Fire Sales, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 26-137. Fees.

Any applicant for a license hereunder shall submit a ~~$25.00~~ license fee as provided for in Appendix F, to the license officer with his application. Any applicant for a renewal license hereunder shall submit a renewal license fee ~~of $25.00~~ as provided for in Appendix F, to the license officer with his renewal application.

(Code 1968, § 3B-4(B); Ord. of 4-28-1980; Code 1981, § 8.5-22)

BE IT FURTHER ORDAINED THAT:

Chapter 30 – Code of Conduct and Ethics Commission, Article II – Code of Conduct, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 30-33. Prohibitions relating to conflicts of interest.

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

(1) *Prohibited participation.* No city employee or official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he has a personal or private interest, provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to

DRAFT

questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.

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

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

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

(3) *Statutory responsibility.* In any case where a person has a statutory responsibility with respect to action or inaction on any matter where he has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided that, promptly after becoming aware of such conflict of interest, he files a written statement with the ethics commission, fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

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

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

DRAFT

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

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

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

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

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

(e) *Unauthorized disclosure of confidential information.* No person shall disclose any information required to be maintained confidential by the ethics commission under section 30-34(d), 30-35(b) or 30-73.

(f) *Abuse of office.*

DRAFT

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

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

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

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

(g) *Criminal sanctions.*

(1) *Penalties.* Any person who knowingly or willfully violates any provision of this section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine ~~not to exceed $1,000.00~~ as provided for in Appendix F.

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

(h) *Contracts voidable by court action.* In addition to any other penalty provided by law, any contract entered into by any city agency in violation of this chapter shall be voidable by the city agency; provided that in determining whether any court action

DRAFT

should be taken to void such a contract pursuant to this subsection, the city agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the city agency involved has, or should have, knowledge of such violation.

(Code 1981, § 2-10; Ord. of 7-13-1998)

BE IT FURTHER ORDAINED THAT:

Chapter 42 – Environment, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 40-2. Noise.

(a) *Generally.* It shall be unlawful for any person to make or continue, or cause to be made or continued, any excessive, unreasonable or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, or creates the risk thereof, within the limits of the city.

(b) *Prohibited acts.* The following acts, among others, are declared to be loud, disturbing and unreasonable noises in violation of this section, but said enumeration shall not be deemed to be exclusive:

(1) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, street car or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unreasonable period of time; the use of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

DRAFT

(2) *Radios, phonographs, etc.* The playing, using or operating of, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(3) *Loudspeakers, amplifiers for advertising.* The playing, using or operating of, or permitting to be played, used, or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure unless authorized by a permit.

(4) *Yelling, shouting, etc.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(5) *Animals or fowl.* The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity.

DRAFT

(6) *Whistles.* The blowing of any locomotive whistle or steam whistle attached to any stationary boiler, except to give notice of time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities or in compliance with state law.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such a manner as to create loud and unreasonable grating, grinding, rattling or other noise.

(9) *Loading, unloading, opening boxes, etc.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

(10) *Construction, repair, etc., of buildings.* The erection (including excavation), demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. weekends, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m. weekdays and 6:00 p.m. and 10:00 a.m. weekends, and if he shall further determine that loss or inconvenience would

DRAFT

result to any part in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. weekdays and 6:00 p.m. and 10:00 a.m. weekends, upon application being made at the time the permit for the work is awarded or during the progress of the work.

(11) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.

(12) *Hawkers, peddlers, etc.* The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(13) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention, by the creation of noise, to any public concert, parade, performance, show or sale, unless authorized by a permit.

(14) *Transportation of metal rails, pillars and columns, iron, steel or other material.* The transportation of rails, pillars or columns, or iron, steel or other material, over and along streets and other public places, upon carts, trays, cars, trucks, or in any other manner so loaded as to cause loud noises or so as to disturb the peace and quiet of such streets or other public places.

(15) *Pile drivers, hammers, etc.* Except under emergency situations, the operation, between the hours of 10:00 p.m. and 7:00 a.m., of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

(16) *Devices requiring muffler.* The operation of any noise-creating blower or power fan, or any internal combustion engine, the operation of which causes

DRAFT

noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

(17) *Engine compression brakes.* No person shall operate an engine compression brake within the city limits, with the exception of emergency vehicles where the use of said compression brake is necessary for the protection of persons or property. An engine compression brake refers to any motor vehicle brake that is operated by the compression of the engine of the motor vehicle or any unit or part thereof.

(c) *Notice.* Owners, landlords, lessees, or renters of public or private premises where there is a failure to maintain compliance with this section shall be notified of violations and complaints and shall take appropriate and recommended actions necessary to assist in bringing the premises in compliance with this section.

d) *Violations; penalties.* The violation of any provision of this section shall be punishable by a fine ~~of not less than $50.00, nor more than $100.00~~ as provided for in Appendix F. 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 1968, § 20-12; Ord. No. 3-77, § 2, 9-26-1977; Code 1981, § 14-8; Ord. of 9-13-1993; Ord. of 2-26-1996; Ord. of 10-25-1999; Ord. of 11-26-2001; Ord. of 9-22-2003; Ord. of 7-12-2004(1); Ord. of 7-26-2004)

BE IT FURTHER ORDAINED THAT:

Chapter 46 – Fire Prevention and Protection, Article I - In General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 46-3. Impairment of Fire Protection Equipment.

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(a) *Prohibited.* It shall be a violation of this chapter for any owner, renter, lessor, or contractor, after having been notified, in writing, by the fire marshal or code enforcement officer of any impairment to fire protection equipment, including but not limited to fire hydrants, fire alarm systems, sprinkler systems, commercial cooking ventilation and fire suppression systems, standpipes, and smoke removal or pressurization systems, to allow it to remain impaired for any time beyond that allowed by the fire marshal for repair. For the purposes of this section, the term "impairment" means any effective lessening of the equipment to operate as designed, including times of maintenance and annual testing.

(b) *Notification required.* The owner, tenant, or contractor shall notify the Robbins Hose Company of the city of any impaired fire protection equipment, and shall renotify the Robbins Hose Company when the fire protection equipment has been restored to normal service. Certification from the repairing contractor shall be required to verify that the system has been fixed and is functioning as designed.

(c) *Fire watch required.* When any impairment would cause a sprinkler system not to operate or a fire alarm system not to detect and signal a fire, and if the building is to remain occupied, a fire watch shall be established in that building or that portion of a building affected. It shall be the responsibility of the owner or tenant to set up the fire watch. The fire watch shall consist of an hourly check of the building or portion of the building affected, and a log kept, there stating the date, time of the checks, and who was making the checks. This log shall be accessible for immediate inspection by the fire chief, fire marshal, or code enforcement officer.

(d) *Fines.* Any owner, occupant, contractor or body corporate found to be in violation of this section shall be issued a summons ~~for $50.00 for the first offense and $100.00 for the second and subsequent offenses~~ as provided for in Appendix F.

(Code 1981, § 7-3; Ord. of 2-9-1998)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 46 – Fire Prevention and Protection, Article III – Fire Codes, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 46-126. Fire Prevention Permit.

(a) *Required.* It shall be unlawful to construct, enlarge, alter or demolish a fire protection system without obtaining a fire prevention permit.

(b) *Fee.* Each applicant for a fire prevention permit, including but not limited to sprinkler systems, fire alarms, hood suppression units, and tank installation, shall pay unto the city a permit fee ~~computed as follows :~~ as provided for in Appendix F, before such permit shall be issued. ~~: The sum of $12.00 for each $1,000.00 of costs or multiple thereof of the fire protection system; provided that a minimum fee for each permit shall be $50.00.~~

(c) Reinspections. There will be no charge for the first reinspection of a permit. The applicant shall pay a fee for subsequent reinspections as provided for in Appendix F. ~~the sum of $25.00 for the second reinspection, $50.00 for the third reinspection, and $100.00 for any subsequent reinspection.~~

(d) *Doubling of fees.* Fees established in subsection (b) of this section shall be doubled in the event that a permit is applied for after construction has commenced without the permission of the fire marshal. The fire marshal shall waive the doubling of fees in cases where the permit applicant is not a professional contractor and the work is not being done by a professional contractor.

(Code 1981, § 7-61; Ord. of 11-22-1993; Ord. of 9-11-1995; Ord. of 6-28-2004(2))

BE IT FURTHER ORDAINED THAT:

Chapter 46 – Fire Prevention and Protection, Article III – Fire Codes, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

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Sec. 46-127 Smoke Detection Devices.

a) *Installation required.*

(1) *New dwellings.* All new structures and new dwellings shall be equipped with smoke detectors and fire protection equipment as required by the provisions of the International Building Code.

(2) *Existing dwellings.* All existing single-family dwellings, multifamily dwellings, and dwelling units, whether such dwellings are owner-occupied or tenant-occupied, shall be equipped with automatic smoke detection devices, which shall be approved smoke detectors of the photoelectric or ionization type or battery powered Underwriters' Laboratories, Inc., or Factory Mutual approved type, as required by subsection (b)(1) of this section. Such smoke detectors shall be installed in the number, location and manner required by this section and the rules and regulations of the fire marshal and, when actuated, each such smoke detector shall provide an alarm suitable to warn the occupants within the dwelling. It shall be the responsibility of the seller or lessor of such existing dwellings to make such installations.

(3) *Unlawful acts.* In addition to and not in lieu of any other provisions of this section and this Code, it shall be unlawful for any person responsible for the installation of a smoke detector to fail to so install it. It shall be unlawful for any person to tamper with, damage, or render inoperative, such as, but not exclusively, by disconnecting electrical wiring or by removing the batteries, from any smoke detector.

(b) *Types.*

(1) *Generally.* Smoke detection devices shall be of the photoelectric or ionization type and shall be electric, 110-volt AC, or battery powered smoke detectors, Underwriters' Laboratories, Inc., or Factory Mutual approved.

DRAFT

(2) *Electric.* Electric units shall be direct wired on a separate circuit on the line side of service equipment, and immediately fused with the proper size fuse. Detector wiring shall be a minimum of 14-gauge wire. All wiring shall comply with the National Electrical Code and shall be performed by registered, licensed electricians or inspected by the appropriate authority.

(3) *Battery powered.* Battery powered units shall be permitted only in existing structures. Where battery powered units are permitted, the battery shall be of the type approved for the detector and shall provide a minimum of 12 months' service. Battery powered units shall be equipped with an audible sounding device to alert occupants of the need for battery replacements. In rental dwelling units where battery powered devices are permitted, after installation of the detection devices at the landlord's expense, in accordance with subsection (a) of this section, it shall be the tenant's responsibility, unless otherwise provided in the tenant's lease agreements, to:

a. Make periodic inspections of the unit to determine that it is in proper working order;

b. Notify the landlord of any malfunction of said detection device, which the landlord shall then repair or replace at his own expense;

c. Replace the batteries, when necessary, during the entire term of the rental agreement.

(c) *Audible signal.* Smoke detection devices shall be equipped with an audible sounding device that provides a steady signal with a minimum decibel rating of 85 decibels.

(d) *Number required.*

(1) *Generally.* The major threat from fire in a family living unit is at night when everyone is asleep. The principal threat to persons in sleeping areas comes from fires in the remainder of the unit; therefore, smoke detectors shall be located

DRAFT

between the bedroom areas and the rest of the unit. In units with only one bedroom area on one floor, the smoke detector shall be located as shown in figure B-2.1.1 of the appendix of the NFPA 74-1984 Standard for the Installation, Maintenance, and Use of Household Fire Warning Equipment.

(2) *Multiple detectors.* In family living units with more than one bedroom area or with bedrooms on more than one floor, more than one smoke detector will be required as shown in figure B-2.1.2 of the appendix of the NFPA 74-1984 Standard For the Installation, Maintenance, and Use of Household Fire Warning Equipment.

(3) *Each story of living unit.* In addition to smoke detectors outside of the sleeping areas, this subsection requires the installation of a smoke detector on each additional story of the family living unit, including the basement. These installations are shown in figure B-2.1.3 of the appendix of the NFPA 74-1984 Standard for the Installation, Maintenance, and Use of Household Fire Warning Equipment. The living area smoke detector shall be installed in the living room and/or near the stairway to the upper level. The basement smoke detector shall be installed in close proximity to the stairway leading to the floor above. If installed on an open-joist ceiling, the detector shall be positioned relative to the stairway so as to intercept smoke coming from a fire in the basement before the smoke enters the stairway.

(e) *Jurisdictional authority.* The fire marshal shall have jurisdiction for purposes of enforcing compliance with this section.

(f) *Supervision of enforcement.*

(1) *Registration of contractors.* All general contractors, subcontractors and their agents who install electric 110-volt, AC-powered smoke detection devices

DRAFT

shall be registered with the office of the city fire marshal in order to sell, distribute, furnish or install smoke detection equipment within the city.

(2) *Certification of device.* It shall be the responsibility of the contractor, installer or seller of an electric 110-volt, AC-powered smoke detector to certify, in writing, to the fire marshal that the device is in compliance with this section.

(3) *Exception.* This subsection (f) shall not apply to persons who perform the actual installation of smoke detectors in dwelling units they own; however, such installations shall still require any applicable inspections required by the building code.

(g) *Violations; penalties.* Any violation of the provisions of this section shall render the owner or operator, or agent of the owner or operator of the building, or the tenant of rental property if the rental agreement so provides in accordance with subsection (b) of this section, and/or the general contractor, subcontractors, or their agents, liable for suspension or revocation of any existing license to do business in the city, or a fine ~~of not more than $100.00 per violation~~ as provided for in Appendix F, or both such penalties. Copies of this section shall be made available to the public by the building inspector. 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.

(h) *Secured key systems.*

(1) *When required; exemption.* A secured key system shall be required for any new or existing building where a fire alarm or sprinkler system is being installed. It shall be the responsibility of the owner or occupant to keep a set of keys in the secured key box that are current to the locks of the protected occupancy. Buildings with 24-hour staffing or guard service shall be exempt from this subsection.

DRAFT

(2) *Location.* The secured key system shall be located as close to the main entrance as possible. Should the building design not allow the secured key system to be located by the main entrance, the fire marshal and fire chief shall come to an agreement as to an alternate location for the key box. A secured key system, once installed, shall not be obstructed from view or obstructed by any means that would delay the fire department access to the box.

(3) *Required keys.* Keys to be secured in the key box shall include keys to all points of ingress or egress, whether on the interior or exterior of the building, and keys to locked mechanical rooms, electrical rooms, elevator rooms, fire alarm and sprinkler controls and any area protected by automatic fire detection. Keys to individual residential apartment units are not required.

(4) *Ordering responsibility.* It shall be the responsibility of the general contractor to order the key box for new buildings. It shall be the responsibility of the owner or tenant to order the key box for existing buildings.

(5) *Installation before testing.* No acceptance test for sprinklers or fire alarms shall be conducted before the installation of a key box.

(Code 1981, § 7-62; Ord. of 2-13-1989; Ord. of 11-22-1993; Ord. of 2-9-1998; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 46 - Fire Prevention and Protection, Article IV - Public Occupancies, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 46-163 Permit required.

It shall be unlawful for any person to operate any public occupancy ~~in section 46-164~~ without first obtaining a permit from the licensing division of the department of planning and inspections in order to determine compliance with the provisions

DRAFT

of this article. A person desiring the permit shall pay unto the city a fee as provided for in Appendix F.

BE IT FURTHER ORDAINED THAT:

Chapter 46 - Fire Prevention and Protection, Article IV - Public Occupancies, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 46-164 Fees.

A person desiring the permit required by the provisions of this article shall pay the ~~following~~ appropriate permit fee as provided for in Appendix F:

~~(1) Churches, $25.00;~~

~~(2) Civic auditoriums, $25.00;~~

~~(3) Clubhouses, $50.00;~~

~~(4) Commercial auditoriums, $25.00 for the first 200 seats and $2.50 for each additional 50 seats;~~

~~(5) Day care facilities, $25.00;~~

~~(6) Hospitals, nursing homes or rest homes, $5.00 for the first ten rooms and $1.25 for each additional room;~~

~~(7) Mercantile (10,000 square feet of area or greater), $25.00;~~

~~(8) Outdoor public events, including but not limited to firework displays, carnivals, and outdoor music concerts, $25.00;~~

~~(9) Public office buildings, $25.00;~~

~~(10) Schools, $25.00;~~

~~(11) Theaters, $25.00 for the first 200 seats and $2.50 for each additional 50 seats.~~

(Code 1968, §§ 17-38, 17-46, 17-50, 17-54, 17-58; Code 1981, § 7-65; Ord. of 3-23-1992; Ord. of 11-22-1993)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 46 – Fire Prevention and Protection, Article IV – Public Occupancies, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 46-168 Reinspecton Fee

a) *Amount.* There is hereby created a reinspection fee ~~of $25.00~~ that shall be charged for any repeated violation cited by the fire marshal, determined to be a violation and which requires a follow up inspection to confirm the correction of the violation. The reinspection fee will be as provided for in Appendix F.

(b) *Sending of bill.* Reinspections for the above referenced violations shall cause the fire marshal to direct a bill to be sent to the operator having had such violations.

(c) *Failure to pay.* Failure to pay the reinspection fee within ten days from the receipt of such bill may permit the city's fire marshal to suspend, without warning, notice or hearing, any permit to operate a public occupancy for noncompliance with the requirement of this section.

(Code 1981, § 7-69; Ord. of 11-22-1993)

BE IT FURTHER ORDAINED THAT:

Chapter 50 - Floods, Article II - Flood Damage Prevention, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 50-50. Violation and non-compliance; penalties

Any person who fails to comply with any or all of the requirements or provisions of this article, or direction of the department of planning and inspections or any other authorized employee of the city shall be guilty of an offense and, upon conviction, shall pay a fine to the city ~~in an amount of not less than $25.00, nor more than $100.00~~ as provided for in Appendix F, plus costs of prosecution. In addition to such penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this article.

DRAFT

The imposition of a fine or penalty for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated in noncompliance with this article may be declared by the building, plumbing, mechanical and fire prevention code appeals committee to be a public nuisance and abatable as such.

(Code 1981, § 7.5-20; Ord. of 8-23-1982, § 7.3)

BE IT FURTHER ORDAINED THAT:

Chapter 54 – Health and Sanitation, Article I – In General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 54-4. Smoking Regulations

(a) *Generally.* The Surgeon General of the United States, the National Academy of Sciences, and other health organizations have linked passive exposure to tobacco smoke (secondhand smoke) to a variety of negative health conditions in nonsmokers, which has prompted the council to enact smoking regulations for the health, welfare and safety of residents of the city and to strike a reasonable balance between the rights of smokers and nonsmokers by regulating smoking in certain public places and places of employment.

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

Bar or cocktail lounge area means that part of any restaurant or other establishment, to a depth of 20 feet from such bar, primarily engaged in the business of selling or dispensing alcoholic beverages or other beverages and duly licensed by the

DRAFT

state for the same, but secondary to the restaurant or other primary use of the establishment.

Employee means any person who renders or has rendered any service to another for a consideration or its equivalent, under an expressed or implied contract, and who is or was under the control and direction of the latter when rendering the services, including temporary, provisional, casual or part-time employment.

Employer means an individual, partnership, association, corporation, governmental body or agency, or any other entity, for whom or for which one or more persons renders or have rendered any service on a salary, commission or other compensation basis.

Health care facility means any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions.

Place of employment means any enclosed area under the control of a public or private employer, which employees normally frequent during the course of employment. A private residence is not considered to be a place of employment for the purpose of this section, nor is a motor vehicle of the employer used by employees in the course of employment.

Public conveyance means any taxicab, mass transit vehicle or school bus, or any vehicle offered to passengers for a fee.

Public meeting includes any meeting or assembly held in any room, auditorium or chamber wherein public, civic or governmental business is conducted and which is open to the public either as participants or spectators.

Public place includes any enclosed area to which the public is invited or in which the public is permitted, including, but not limited to, banks; educational facilities; health care facilities; day care centers, retirement homes, rest or nursing centers; property

DRAFT

owned, occupied or operated by the city or any agency thereof; public transportation facilities; lobbies and reception areas, but not including the offices or work areas not entered by the public in the normal course of business or use of the premises. A private residence is not a public place, but the lobby or common area of a multifamily dwelling is a public place.

Restaurant means any establishment which is regularly used and kept open principally for the purpose of serving complete meals to persons for a consideration and which has seating at tables for 35 or more persons, and suitable kitchen facilities connected therewith for cooking an assortment of foods under the charge of a chef or cook. The service of only such food and victuals as sandwiches or salads shall not be deemed to be the service of meals. Any such establishment shall be duly licensed as a restaurant by the city and state.

Retail store means any establishment, the primary purpose of which is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise, articles or food for consumption off the premises.

Secondhand smoke means the smoke to which a person may be involuntarily exposed, either through a smoker exhaling the smoke of or from a tobacco product, or through the lighting or burning of any tobacco product.

Smoking includes the lighting, burning, holding or carrying of, or emitting, or inhaling, or exhaling the smoke of, a pipe, cigar or cigarette of any kind or any form of lighted object or device which contains tobacco.

Sports arena means any indoor facility primarily used for sports, cultural or similar events.

Taproom means any establishment which is regulated and licensed as such by the state pursuant to the Delaware Alcoholic Beverage Control Act (4 Del. C. § 101 et seq.), and which is provided with special space and accommodations and operated primarily for

DRAFT

the sale by the glass for consumption on the premises of alcoholic beverages with the sale of food as a secondary object, as distinguished from a restaurant where the sale of food is the primary object.

Tavern means any business selling spirits, wine or beer by the glass at retail for consumption on the premises, and which is duly licensed and regulated as such pursuant to the Delaware Alcoholic Beverage Control Act, and in which the sale of food is a secondary object, as distinguished from a restaurant where the sale of food is the primary object.

Theater means any indoor facility primarily used for the exhibition of any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

(c) *Prohibitions.* Smoking is unlawful in "public places" as such term is defined in subsection (b) of this section and in the following public places during the hours in which they are open to the public:

(1) Art galleries, libraries, museums and similar cultural facilities;

(2) Classrooms and lecture halls;

(3) Restaurants;

(4) Elevators;

(5) Health care facilities;

(6) Public conveyances;

(7) Public meetings;

(8) Retail stores, other than retail tobacco stores, the primary activity of which is the sale or promotion of tobacco and tobacco products and accessories; provided, however, that smoking may be permitted in those areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another and consist primarily of

DRAFT

walkways and seating arrangements; and further provided that where smoking is permitted, the proprietor shall post a sign to that effect;

(9) Theaters and indoor sports arenas;

(10) Restrooms located in "public places" as such term is defined in subsection (b) of this section, and in the facilities listed in subsections (c)(1), (c)(2), (c)(5), (c)(6), (c)(8), and (c)(9) of this section; and

(11) Places of employment not exempted in 16 Del. C. § 2904.

(d) *Violations; penalties; appeals.*

(1) *Violations.* The following acts constitute violations of this section:

a. Smoking in a posted nonsmoking area;

b. Failure to post a "No Smoking" sign as required by this section;

c. Failure to inform any person who violates this section, when such duty to inform arises as set forth in subsection (f) of this section;

d. Willful destruction or defacement of a sign posted as required by this section;

e. Failure to adopt a smoking policy as set forth in subsection (f) of this section.

(2) *Penalties.* Anyone who violates any provision of this section shall be liable for a fine ~~in an amount not to exceed $25.00~~ as provided for in Appendix F. Each day such violation continues, shall constitute a separate offense. 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.

(3) *Appeals.* In the event that the enforcement of this section causes undue and extraordinary financial hardship peculiar to any person, then that person shall have the right to appeal this hardship to the council by written request directed to the city clerk. In considering the appeal, the council shall have the power to alter

DRAFT

the terms and conditions of this section to meet any peculiar and extraordinary hardship proven by the person as long as such alteration or relief does not detract from the purpose and intent of this section.

(e) *Signs.* The owner or other person having the authority to manage and control any area designated as a no-smoking area pursuant to this section shall post, or cause to be posted, and prominently display, and shall maintain, no-smoking signs in conspicuous locations within such areas. Such signs shall clearly and conspicuously recite the phrase "No Smoking" and/or use the international no-smoking symbol and shall cite "Section 54-4 of the city Code." Signs shall be of sufficient number and prominent location to convey the message clearly and legibly to a person of reasonable sensibilities. Signs shall be at least one square foot in size, shall be affixed to the structure of the building and/or shall be so distributed that from any point in the no-smoking area at least one such sign is visible. A combination of fixed or pedestal type signs may be used.

(f) *Places of employment.*

(1) *Written smoking policy.* Every employer of 25 or more employees at any one location in the city, if exempted in 16 Del. C. § 2904, shall adopt, implement and maintain a written smoking policy which shall contain, at a minimum, the following provisions:

a. *Accommodate preferences.* A statement providing that the employer shall attempt to reach a reasonable accommodation, insofar as possible, between the preferences of smoking and nonsmoking employees; provided, however, that the employers are not required to incur any expense to make structural or physical modifications to accommodate individual preferences; however, if a satisfactory accommodation cannot be reached, the preferences of nonsmoking employees shall prevail;

DRAFT

b. *Offices.* Smoking may be permitted in private, enclosed offices, even though such offices may be visited in the normal course of business by nonsmoking employees;

c. *Common use.* Prohibition of smoking in auditoriums, classrooms, elevators, medical facilities, conference rooms and rooms containing photocopying or other office equipment used in common by employees;

d. *Cafeterias, lunchrooms, and lounges.* Designation of some portion of the seating capacity of cafeterias, lunchrooms and employee lounges as no-smoking areas; provided, however, that if there are two or more lounges available for employee use, one entire lounge may be designated as a smoking area;

e. *Disputes.* A procedure to resolve employee disputes and objections arising under the smoking policy; and

f. *Retaliation.* A statement providing that the employer will not retaliate or take any adverse personnel action against any employee exercising his rights granted under the smoking policy.

(2) *Copies of policy to be provided to employees.* Employers shall supply a written copy of the smoking policy to all current employees within 30 days of the date of adoption of such policy and shall supply copies of it to all future employees at the time of their entry into employment.

(3) *Posting of policy.* Employers shall post the smoking policy conspicuously in the place of employment.

(g) *Enforcement.*

(1) *Authority to restrict in employment and public areas.* The owner, proprietor, manager, or other person having the authority to manage and control any public place or place of employment, or a designated agent of such owner or

DRAFT

manager, shall inform persons smoking in restricted areas of such places in order to warn them that they are in violation of the law. Any person may file a complaint with the licensing division of the department of planning and inspections or with the police department, alleging a violation of any provision of this section.

(2) *Procedures.* Upon complaint to the licensing division of the department of planning and inspections or the police department, each department shall have concurrent jurisdiction to enforce the provisions of this section by any of the following actions:

a. *Notice.* Serving notice requiring the prompt correction by the owner, proprietor, manager or other person having the authority to manage and control any public place or place of employment of any violation of this section;

b. *Legal action.* Advising the city solicitor of violations of this section in order to maintain an action at law or in equity to enforce the provisions of this section, recover the fines and costs of prosecution, or prevent, enjoin, abate or remove or otherwise cause the correction of any such violation of the provisions of this section;

c. *Summons.* Issue to any person a citation or summons to appear in the justices of the peace court to answer to a charge of any violation of this section.

(h) *Miscellaneous provisions.*

(1) *Other prohibitions.* Nothing in this section shall be construed to permit smoking where it is otherwise prohibited by law or regulation.

(2) *Authority of owner*. Nothing in this section shall be construed to preclude any owner or other person having the authority to manage and control any public

DRAFT

place or place of employment from prohibiting smoking to a greater extent than is provided by this section.

(3) *Fire safety.* Nothing in this section shall be construed to permit or authorize, or be permitted to result in a fire safety hazard or violation, as may be determined by the fire marshal, by anyone in attempting to comply with the provisions of this section.

(Code 1981, § 14-15; Ord. of 4-8-1991; Ord. of 4-12-1993; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 54 - Health and Sanitation, Article II - Food and Food Handlers, Division 2 - Certificate, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 54-52. Fee.

(a) *Type of establishment.* A person desiring the certificate required by the provisions of this division shall pay the appropriate certificate fee as provided for in Appendix F. ~~as follows:~~

~~(1) Mobile food units . . . $ 50.00~~

~~(2) Push carts . . . 25.00~~

~~(3) For profit temporary eating places . . . 25.00~~

~~(4) Membership clubs . . . 50.00~~

~~(5) Institutions . . . 100.00~~

~~(6) All other public eating establishments as per the schedule found in subsection (b) of this section.~~

(b) *Services provided.* Public eating establishments paying a certificate fee based on the ~~following~~ schedule provided in Appendix F shall calculate the fee based on the sum of the fee amounts for each service provided by the establishment.

~~(1) Breakfast service . . . $ 15.00~~

DRAFT

~~(2) Lunch service . . . 18.00~~

~~(3) Dinner service . . . 18.00~~

~~(4) Salad bar service . . . 15.00~~

~~(5) Hot and cold buffet, including salad bar service . . . 40.00~~

~~(6) Drive-through service . . . 75.00~~

~~(7) Delivery service . . . 20.00~~

~~(8) Catering service . . . 15.00~~

~~(9) Takeout service . . . 20.00~~

~~(10) Seating service:~~

~~100—150 . . . 50.00~~

~~151—200 . . . 75.00~~

~~201 or more . . . 100.00~~

(Code 1981, § 9-18; Ord. of 1-22-1993)

BE IT FURTHER ORDAINED THAT:

Chapter 62 - Law Enforcement, Article I - In General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 62-2. False Alarms to Police.

(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:

Alarm system means an assembly of equipment and devices arranged to signal the presence of a situation requiring urgent attention and to which police are expected to respond.

DRAFT

Alarm user means any person, firm, partnership, corporation, or other entity, or any agent, officer, or employee thereof, on whose premises an alarm system is maintained within the city.

False alarm means the activation of an alarm system through negligence of the alarm user, causing the city police to respond. Negligence does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes, mechanical failure, malfunction, or improper installation; provided, however, in the event that during the course of the calendar year an alarm user has three mechanical failures, malfunctions, or improper installations causing a false alarm, then the third such mechanical failure, malfunction, or improper installation within the calendar year shall constitute negligence.

(b) *Maintenance of alarm system.* Every alarm user shall maintain its alarm system in such a manner as to minimize the number of incidents of false alarms to the police.

(c) *Violations; penalties.*

(1) When there is a false alarm signal eliciting notification to and a response by the city police department when a situation requiring a response by the police does not in fact exist, but is in fact negligently caused by the alarm user, then the alarm user shall be charged as provided in this subsection for false alarms transmitted during the calendar year. An alarm user is permitted to have two false alarms every calendar year; thereafter, the ~~following~~ fees as provided for in section Appendix F shall be imposed:

~~TABLE INSET:~~

~~Number of False Alarms~~	~~Amount of Fee Per False Alarm~~
~~3—5~~	~~$ 25.00~~
~~6—9~~	~~50.00~~
~~10—15~~	~~100.00~~
~~16 and over~~	~~150.00~~

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(2) Such fees shall be paid directly to the city police department within 30 days of the day the fee was issued. Fees not paid within 30 days of the day the fee was issued, including the day the fee was issued, shall be automatically doubled in amount.

(Code 1981, § 14-3.5; Ord. of 8-9-1982; Ord. of 8-28-2000; Ord. of 9-22-2003; Ord. of 3-8-2004)

BE IT FURTHER ORDAINED THAT:

Chapter 66 - Manufactured Homes and Trailers, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 66-2. License.

a) *Required fee.* The owner of a mobile home shall obtain an annual license for it and shall pay a fee ~~of $45.00~~ for such license as provided for in section Appendix F.

(b) *Payment; penalties.* Such license shall be obtained and the license fee paid by July 1 of each year and if such fee is not paid before August 1 of such year, then, in addition to any penalty incurred pursuant to section 1-17, a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee.

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

(d) *Sticker; where placed.* Once the annual license fee has been paid by the owner of a mobile home, he shall be issued a sticker or other evidence of payment by the city manager or his authorized agent. This sticker or other evidence of payment must be placed upon the mobile home on the front of the mobile home facing the street on the right hand side when facing said mobile home one foot up from the bottom of the skirting and one foot over from the side of the mobile home.

DRAFT

(Ord. of 2-23-1970, § 2; Ord. of 5-24-1976; Ord. of 3-27-1980; Code 1981, § 12-2; Ord. of 8-8-1988; Ord. of 3-22-1993)

BE IT FURTHER ORDAINED THAT:

Chapter 70 - Offenses and Miscellaneous Provisions, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 70-1. Combative fighting.

(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:

Contest means a live boxing contest, match, performance, sparring match, wrestling match, or exhibition demonstrating the skill and ability of professional contestants when an admission fee is charged or that is telecast, televised, or broadcast to the public in any manner, including television, radio, transmission via cable television system, microwave, closed-circuit, satellite, fiberoptic link, or any other method of distribution.

Exhibition means an engagement in which the participants show or display their skills without necessarily striving to win.

Match. See definition in this subsection of the term Contest.

Program of matches means a group of matches, events, contests, or exhibitions billed and/or promoted together, or organized by the same promoter.

Tough man contest means a contest in which tough man contestants compete.

Tough man contestant means a person who:

(1) Participates in a contest for a cash purse in any amount or for a noncash purse with more than a nominal value; and

(2) Is not licensed as a professional contestant in any state.

DRAFT

Ultimate fighting match means a live match in which:

(1) An admission fee is charged;

(2) Match rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques; and

(3) Match rules do not:

a. Incorporate a formalized system of combative techniques against which a contestant performance is judged to determine the prevailing contestant;

b. Divide a match into two or more equal and specified time periods for a match total of no more than 50 minutes; or

c. Prohibit contestants from:

1. Using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

2. Striking a person who demonstrates an inability to protect himself from the advances of an opponent;

3. Biting; or

4. Direct, intentional and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and temple area of the head.

(b) *Prohibited.* The following types of events shall be prohibited:

(1) *Tough man.* Professional or amateur tough man matches. Such competition includes any contest or exhibition where participants compete by using a combination of skills;

(2) *Ultimate fighting.* Ultimate fighting matches;

DRAFT

(3) *Brawls.* Any barroom type brawls, "so you think you're tough"-type challenges, and roughneck-type bouts.

(c) *Exclusions.* This section shall not apply to any match approved by the director of the division of professional regulations for the state.

(d) *Violations; penalties.*

(1) *Fines.* Promoting, hosting, organizing, staging, conducting and/or participating in an event that does not meet the requirements set out in this section shall be subject to a fine ~~in an amount not to exceed $1,000.00~~ as provided for in Appendix F. Separate fines may be issued to the promoter of such an event, participants in such an event, and the owner of the premises of such an event.

(2) *Suspension or revocation of license or permit.* The city will suspend or revoke a license or permit if the city finds that the licensee or permittee has been violating the requirements of this chapter.

(Code 1981, § 14-1; Ord. of 9-8-2003)

BE FURTHER ORDAINED THAT:

Chapter 74 - Parks and Recreation, Article I - In General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 74-51 Same-Fine.

Any person who shall violate any of the sections of this chapter, or who shall fail to comply therewith or with any of the requirements thereof, shall be subject to a fine ~~not to exceed $100.00, and not less than $10.00~~ as provided for in Appendix F. 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, § 15-51; Ord. of 7-28-1986; Ord. of 9-22-2003)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 86 - Secondhand Goods, Article II - Precious Metals, Division 2 - License, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 86-63 License Fee.

The license fee to be paid to the city license officer by any secondhand dealer of precious metals shall be ~~$25.00~~ as provided for in Appendix F.

(Ord. of 6-22-1981, § 4; Code 1981, § 18.5-19

BE IT FURTHER ORDAINED THAT:

Chapter 86 - Secondhand Goods, Article II - Precious Metals, Division 2 - License, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 86-64 Bond Required.

Every secondhand dealer of precious metals shall, at the time of receiving such license, execute a bond to the city in the penal sum ~~of $1,000.00~~ as provided for in Appendix F, with good and sufficient surety or sureties to be approved by the city solicitor, conditioned that said licensee will faithfully observe and comply with the provisions of this article at all times during the continuance of such license, and conditioned further to indemnify, keep, and save harmless the city against all liabilities, judgments, costs, damages and expenses which may in any way come against the city in consequence of the issuance of said license, or from or by any act or thing done or neglected to be done by said licensee under and by virtue of the authority granted in said license, or the failure or neglect of such licensee to observe and comply with ordinances of the city relating to the business licensed.

(Ord. of 6-22-1981, § 11; Code 1981, § 18.5-20)

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BE IT FURTHER ORDAINED THAT:

Chapter 90 - Solid Waste, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 90-17 Violations; penalties

Any person convicted of violating any provision of this chapter shall be fined in an amount ~~not in excess of $100.00, nor less than $5.00 for each violation~~ as provided for in appendix F, and if the violation amounts to an unlawful deposit of rubbish, refuse or other offensive matter in the corporate limits of the city, he shall be directed to remove the same, and in the event of his failure to do so, the offensive matter shall be removed by the city at the expense of the violator. 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, § 8-15; Ord. of 8-23-1982; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 98 – Streets, Sidewalks and other Public Places, Article V – Excavations, Division 2 – Permits, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 98-193 Bond.

No permit shall be issued to any person permitting or allowing the opening or the making of an excavation in any street, sidewalk, public alley or public place, or any part thereof, until the person making application for such permit shall have first executed to the city a good and sufficient bond ~~up to the sum of $5,000.00 per opening~~ as provided for in Appendix F, with sureties to be approved by the city manager, conditioned to indemnify and keep harmless the city from any and all loss, cost, damage, expense or liability of any kind whatsoever, which the city may suffer or to which it may be put or which may be recovered from it from or on account of the issuance of such permit or from or on account of any act or thing done by virtue of the authority given in such permit or by

DRAFT

reason of careless or improper guarding of said openings or excavations, or for any damage, loss or expense to any person caused by or on account of the obstruction of any street, sidewalk, public alley, or public place, or the tearing up, repairing or removing of such street, sidewalk, public alley or public place, or part thereof. A bond shall be filed each year for the openings or excavations to be made during that year, which said year shall commence on the May 1 and end on April 30.

(Code 1981, § 19-73)

BE IT FURTHER ORDAINED THAT:

Chapter 98 - Streets, Sidewalks and Other Public Places, Article VI - Parades, Division 2 - Permits, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 98-243 Fee.

There shall be paid a fee ~~of $10.00~~ as provided for in Appendix F, at the time of filing the application for a parade permit. This fee may be waived, in whole or in part, by the chief of police.

(Code 1968, § 6-4; Ord. of 6-22-1970; Code 1981, § 19-95)

BE IT FURTHER ORDAINED THAT:

Chapter 102 – Taxation, Article I - General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 102-2 Delinquent property tax collection

(a) If an action to collect delinquent property taxes is filed in a court of appropriate jurisdiction, a fee ~~of $50.00~~ as provided for in Appendix F shall be added to the amount due.

DRAFT

(b) If an action proceeds and a writ of venditioni exponas monition or similar execution process is filed, an additional fee ~~of $100.00~~ as provided for in Appendix F 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)

BE IT FURTHER ORDAINED THAT:

Chapter 102 - Taxation, Article III - Reality Transfer Tax, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 102-79 Violations; penalties.

Any person guilty of conduct prohibited in section 102-78 shall, upon conviction, be punished by imposition of a fine ~~of not more than $100.00~~ as provided for in Appendix F. 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)

BE IT FURTHER ORDAINED THAT:

Chapter 106 – Traffic and Vehicles, Article I - General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 106-14 Off road motor vehicle regulations.

(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:

DRAFT

Off-road motor vehicle means any motor vehicle or other motorized vehicle not licensed to travel on the public roads of the state or permitted to travel on the public roads of the state.

(b) *Regulations.* All off-road motor vehicles shall comply with the following regulations:

(1) *City license.* The operator must obtain a license from the city in order to operate the vehicle within the corporate limits of the city, which license shall be issued according to regulations adopted by the city regarding the amount of the fee, display of the license, proof of insurance coverage, etc.

(2) *Muffler.* The vehicle must have a muffler system which limits engine noises to state noise violation standards.

(3) *Place of operation; approval.* The operator must have in his possession written approval of the owner of the property upon which he operates the vehicle or he must operate the vehicle on a site which is licensed and designated for such purpose.

(c) *Violations.* If any person witnesses a violation of subsection (b)(1), (b)(2), or (b)(3) of this section by a person on or in a motor vehicle and the identity of the offender is not otherwise apparent, there shall be a rebuttable presumption that the person in whose name such motor vehicle is registered committed such violation.

(d) *Penalties.* Anyone violating any provision of this section shall be fined ~~a minimum of $25.00 and a maximum of $100.00~~ as provided for in appendix F. 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, § 13-15; Ord. of 9-13-1982, § 2; Ord. of 9-22-2003)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 106 – Traffic and Vehicles, Article I - General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 106-15. Failure to stop for a red traffic signal; traffic light signal violation monitoring program; penalties.

(a) *Generally.* Vehicular traffic facing a red traffic signal shall stop before crossing the stop limit, whether marked by a sign or painted line or, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown.

(b) *Traffic light signal violation monitoring program.*

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

Owner means the registered owner of such vehicle on record with the division of motor vehicles; provided, however, that in the event the owner is a vehicle leasing company licensed to do business in this state, the "owner" shall mean the person shown on the records of the division of motor vehicles to be the lessee of such vehicle. Vehicle rental companies are excluded from the definition of the term "owner" for purposes of this subsection (b) only.

Traffic light signal violation monitoring system means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this subsection (b).

(2) *Administration and enforcement.* A failure to stop for a red traffic signal may be recorded by a traffic light signal violation monitoring system in accordance with a program or authorization approved by the city manager,

DRAFT

pursuant to the provisions of 21 Del. C. § 4101(d) and this section. The administration and enforcement of the provisions of this section shall be done in accordance with the provisions of 21 Del. C. § 4101(d), which shall prevail in the event of any conflict with the provisions of this section.

(3) *Civil or administrative assessment.* The owner or operator of a vehicle which has failed to comply with a traffic light signal, as evidenced by information obtained by a traffic light signal violation monitoring system, shall be liable for a civil or administrative monetary assessment ~~of $75.00; provided, however, if the civil or administrative assessment is not paid within 14 days, an additional assessment of $10.00 shall be added to the original assessment, which additional assessment shall be increased to $20.00 if the assessment is not paid within 45 days, and shall be increased to $30.00 if the assessment is not paid within 90 days~~ as provided for in Appendix F. Court costs or similar administrative fees, ~~not to exceed $30.00,~~ as provided for in Appendix F, may also be assessed if the owner requests a hearing to contest the violation, and is ultimately found to be in violation or fails to pay or contest the violation in a timely manner.

(4) *Nonclassification as criminal offense.* A violation for which a civil or administrative assessment is imposed pursuant to subsection (b)(3) of this section shall not be classified as a criminal offense. Judgments pursuant to this section shall not be deemed a conviction of the owner and shall not be made part of the motor vehicle operating record of the person upon whom such liability is imposed.

(5) *Summons and notice of violation.*

a. A summons for a violation of this subsection (b) may be executed by mailing a copy thereof by first class mail to the address of the owner of

DRAFT

the vehicle as shown on the records of the division of motor vehicles of this or any other state. Collection actions, including default judgment and execution, may proceed, based upon jurisdiction obtained through the mailing by first class mail of a summons and subsequent court notices pursuant to this subsection. Every initial mailing shall include the:

1. Name and address of the owner of the vehicle;

2. Registration number of the motor vehicle involved in the violation;

3. Violation charges;

4. Location where the violation occurred;

5. Date and time of the violation;

6. Copies of two or more photographs, microphotographs or other recorded images taken as proof of the violation;

7. Amount of the civil assessment imposed and the date by which the civil assessment should be paid;

8. Information advising the summonsed person of the matter, time and place by which liability as alleged in the notice may be contested, and warning that the failure to pay the civil assessment or contest liability in a timely manner is an admission of liability and may result in a judgment being entered against the summonsed person and/or the denial of the registration or the renewal of the registration of any of the owner's vehicles; and

9. Notice of the summonsed person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation and the means for rebutting such presumption.

DRAFT

b. All subsequent mailings of court notices, summonses, and payment requests shall include all information listed in subsections (b)(5)a.1.--9. of this section.

(6) *Payment by voluntary assessment.* Persons electing to pay by voluntary assessment shall make payments to the entity designated for payment on the summons. Procedures for payment under this subsection shall be as provided by court rule of the justice of the peace court and shall be in lieu of the procedures set forth in 21 Del. C. § 709.

(7) *Procedures to contest violations.* A person receiving the summons pursuant to this subsection (b) may request a hearing to contest the violation by notifying, in writing, the entity designated on the summons within 20 days of the date of such summons. Upon receipt of a timely request for a hearing, a civil hearing shall be scheduled and the defendant notified of the hearing date by first class mail. A civil hearing shall be held by the justice of the peace court. The hearing may be informal and shall be held in accordance with justice of the peace court rules. Costs for such hearing shall not be assessed against the prevailing party.

(8) *Failure to pay or successfully contest a violation.* If the owner fails to pay the civil assessment, to respond to the summons within the time period specified on the summons, and/or to successfully contest the civil assessment resulting from the violation, the city manager shall notify the division of motor vehicles of such facts. In addition, city manager shall refer the unpaid assessment and costs to the administrative services department for the collection of these assessments and the city solicitor may enforce the assessments by civil action, including seeking judgment and execution on a judgment against the owner in accordance with this subsection (b).

DRAFT

(9) *Proof of violation.* Proof of a violation of this subsection (b) shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this subsection (b). A certificate, or facsimile thereof, based upon inspection of photographs, microphotographs, videotapes or other recorded images produced by a traffic light signal violation monitoring system shall constitute prima facie evidence of the facts contained therein, if the certificate, or facsimile thereof, is sworn to or affirmed by a technician employed by a locality authorized to impose assessments pursuant to this subsection (b), or by an employee of an entity designated by such locality to administer records under this subsection (b). Any photographs, microphotographs, videotapes or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to regulation, ordinance or other law adopted pursuant to this subsection (b). Any affidavit submitted pursuant to subsection (b)(10)a.1. of this section shall be admissible in any proceeding to contest the violation.

(10) *Presumptions.*

a. The owner of any vehicle found to be in violation of this subsection (b) shall be held prima facie responsible for such violation in the same manner as provided for under 21 Del. C. § 7003, unless the owner can furnish evidence that the vehicle was, at the time of the violation, in the care, custody or control of another person. Such presumption shall be rebutted if the owner:

1. Furnishes an affidavit by regular mail to the entity indicated on the summons that he was not the operator of the vehicle at the time of the alleged violation and provides the name and address

DRAFT

of the person or company who leased, rented or otherwise had the care, custody or control of the vehicle, or attaches a certified copy of a police report showing that the vehicle or license plate thereof had been reported to the police as stolen prior to the time of the alleged violation of this subsection (b); or

2. Provides proof at the hearing to contest the violation that he was not the operator of the vehicle at the time of the alleged violation or that he failed to comply with the traffic signal either in order to yield the right-of-way to an emergency vehicle or as part of a funeral procession.

b. Notwithstanding any other provision in this section, if the motor vehicle which is found by the traffic light signal violation monitoring system to have failed to comply with a traffic light signal is commercially licensed, then the owner of that vehicle shall be sent notice of the date, time and location of the violation, with two photographs thereof. Within ten days of the receipt of said notice, the owner of the vehicle shall provide the law enforcement agency which has issued the summons with the name and address of the driver of the vehicle at the date, time and location of the violation, and within the same time period, shall provide the driver of the vehicle with the photographs of the violation. After receipt by the law enforcement agency which has issued the summons of the name and address of the driver of the vehicle at the time of the violation, the driver of the vehicle shall be prima facie responsible for such violation in the same manner as provided under 21 Del. C. § 7003 and shall be subject to the provisions of this section. Failure of the owner of the vehicle found to be in violation of this

DRAFT

subsection (b) to provide the name and address of the driver at the time of the violation within the period prescribed shall cause the owner to be held responsible as set forth in this subsection (b)(10).

(c) *Applicability.* This section shall apply to all cases arising, opened or reopened on or after October 12, 2004, as well as those cases pending on October 12, 2004, without regard to the date of the alleged violation.

(Ord. of 10-11-2004)

BE IT FURTHER ORDAINED THAT:

Chapter 106 – Traffic and Vehicles, Article I - General, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 106-16. Violations.

(a) Except as otherwise provided, any person who:

(1) Violates any provision of this chapter which is a moving offense shall be fined ~~a minimum of $10.00~~ as provided for in Appendix F.

(2) Violates a provision of this chapter which is a nonmoving offense shall be fined ~~a minimum of $15.00~~ as provided for in Appendix F.

(3) Violates a provision of this chapter which is a parking violation shall carry a fine ~~of $20.00 for each offense; however, if the fine is paid within 72 hours from the date the offense is recorded in time, the fine shall be $15.00~~ as provided for in Appendix F.

(b) 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 1968, § 31-114; Ord. of 8-25-1971,§ 2; Code 1981, § 13-16; Ord. of 7-12-1982; Ord. of 8-23-1982; Ord. of 9-13-1982, § 1; Ord. of 6-26-1989; Ord. of 9-9-2002(1); Ord. of 9-22-2003; Ord. of 3-8-2004(2))

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 106 – Traffic and Vehicles, Article II - Bicycles, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 106-55. Penalties for violations.

Any person, who shall violate any of the sections of this chapter, or who shall fail to comply therewith, or with any of the requirements thereof, shall be subject to a fine ~~not to exceed $100.00 and not less than $10.00~~ as provided for in Appendix F. 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.

(Ord. of 4-11-2005(8), § 4.5-5)

BE IT FURTHER ORDAINED THAT:

Chapter 106 – Traffic and Vehicles, Article III – Stopping, Standing and Parking, Division 2 – Metered Parking, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 106-164. Violations; penalties

(a) *Generally.* Any person convicted of violating the provisions of this division or of aiding, abetting or assisting in the violation of said provisions shall be sentenced to pay a fine ~~of not less than $1.00 for each offense; provided, however, that any person violating the provisions of this division may, within 24 hours from the time that the summons giving notice of the violation is issued, pay the sum of $1.00 for each violation~~ as provided for Appendix F. After the expiration of 24 hours, the violator may pay the sum ~~of $2.00 for each violation~~ as provided for Appendix F, if payment is made voluntarily prior to the time and date set forth in the summons.

(b) *Fourth violation.* Any person committing a fourth violation within any 30-day period of the provisions of this division within one hour from the time that the summons

DRAFT

giving notice of the violation is issued, may pay ~~the sum of $1.00 for each such violation~~ as provided for Appendix F. After the expiration of one hour from the issuance of the summons, the violator may pay ~~the sum of $2.00 for~~ each such violation as provided for Appendix F, if payment is made voluntarily prior to the time and date set forth in the summons.

(c) *Fifth violation, etc.* Any person committing more than four violations within any 30-day period of the provisions of this division may pay the sum ~~of $5.00 for each such violation~~ as provided for Appendix F, if payment is made voluntarily prior to the time and date set forth in the summons.

(d) *Cost.* No cost will be assessed if payment of the penalty as hereinbefore imposed is voluntarily paid without the necessity of a hearing before the proper official.

(Code 1968, § 31-77; Ord. of 8-25-1971, § 1; Code 1981, § 13-49)

BE IT FURTHER ORDAINED THAT:

Chapter 114 - Vegetation, Article II - Weed, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 114-33. Failure to maintain proper height; abatement by city; costs and lien.

(a) *Summons; action by city.* In the event that any owner, occupant or tenant of any premises within the city, or any agent caring for or in charge of the premises, shall permit any grass, weeds, underbrush, deleterious or unhealthful growths or other noxious matter to grow to a height of eight inches or more as prohibited by this article, then the health inspector or fire marshal or his authorized agents shall issue a summons showing a violation of section 114-32, said summons to be served personally or by certified mail upon the owner, occupant, or tenant of the premises, or any agent caring for or in charge of the premises. The summons shall cite the violation of this article and shall be accompanied by a letter or a copy of the relevant provisions of this article stating what

DRAFT

corrective action must be taken and shall state the consequences for failure to take such corrective action. If the violation is not corrected within three days from the date of personal service of the summons or within seven days from the date of mailing of the summons by certified mail, then the city, at the direction of the health inspector or the fire marshal, may remove the weeds, grass, underbrush, deleterious or other unhealthful growths or other noxious matter growing to a height in excess of eight inches or more in violation of section 114-32 and charge the responsible person ~~$50.00 per hour~~ a fee as provided for in Appendix F, for such work that must be done to render the property in compliance with this article. When the owner, occupant, or tenant of any premises, or any agent caring for or in charge of the premises, has received summonses and fails to take corrective action, and the city has corrected the violation in accordance with this subsection, then no further notification shall be necessary for the city to take any further corrective action on any subsequent violations within the following 12-month period starting from the date of the first corrective action by the city.

(b) *Failure to pay charges.* In the event that the owner, occupant, tenant or other agent caring for or in charge of the premises is deemed to be in violation of section 114-32, and in the event that the violation is corrected in compliance with subsection (a) of this section, and if the charges assessed by the city for correcting said deficiency are not paid, then the city, after having corrected the deficiency and violation, shall place its charges and expenses as specified in the municipal lien docket as a lien against said property, and the city solicitor shall be directed to enforce said lien or to collect the charges imposed by the city by any other means that he may deem desirable and most advantageous.

(Ord. of 9-13-1976; Code 1981, § 21-18; Ord. of 7-27-1992; Ord. of 8-28-2000)

DRAFT

BE IT FURTHER ORDAINED THAT:

Chapter 114 - Vegetation, Article II - Weed, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 114-34. Fines.

(a) *Generally.* Any person convicted of a violation of section 114-32, regardless of corrective actions taken, shall be punished for that violation by a fine ~~of not less than $25.00, nor more than $100.00~~ as provided for in Appendix F. Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to section 114-33(a). All fines imposed shall be in accordance with the minimum fine schedule set out in subsection (c) herein.

(b) *Each day.* Every day that a violation of section 114-32 continues shall be considered a separate offense, for which the violator may be tried and convicted without necessity of further notice.

(c) *Minimums.*

(1) Any fine assessed pursuant to subsection (a) of this section shall be no less than the minimum amount as provided for in Appendix F ~~set out in the following schedule:~~

~~a. First offense . . . $ 25.00~~

~~b. Second offense . . . 50.00~~

~~c. Third and subsequent offenses . . . 100.00~~.

(2) In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the defendant has previously pleaded, or been found guilty of causing or permitting the same nuisance at the same location within the past 18 months, or for every day that the violation of section 114-32 continues as per subsection (b) of this section.

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(d) *Lien.* Any fines imposed pursuant to subsection (a) of this section which remain unpaid shall be placed by the city as specified in the municipal lien docket as a lien against the property on which the violation occurred, and the procedures for enforcement or collection of said lien shall be as set out in section 114-33(b).

(e) *When not paid.* 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, § 21-19; Ord. of 3-23-1992; Ord. of 7-27-1992; Ord. of 9-22-2003)

BE IT FURTHER ORDAINED THAT:

Chapter 118 - Vehicles for Hire, Article II - Taxicabs, Division 2 - Operators Permit, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Sec. 118-54. Fees.

A person desiring a taxicab operator's permit shall pay a fee ~~of $5.00~~ as provided for in Appendix F to the police department.

(Code 1968, § 25-2; Code 1981, § 20-19)

BE IT FURTHER ORDAINED THAT:

Appendix A - Subdivisions, Article IV – Subdivision - Procedures, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section A. Preapplication.

1. Prior to filing an application for conditional subdivision approval, the subdivider shall meet, in person, with the city planner, or his/her designee, to discuss the proposed subdivision and the required steps associated with the review process and to determine whether or not the plan is a major subdivision, minor subdivision or whether the plan merely represents a minor lot line adjustment. Plans limited to minor lot line adjustments may be approved for recordation by the city planner, or his/her designee,

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after review and determination of compliance with all applicable zoning and subdivision regulations.

2. Following this step, the subdivider shall submit to the commission pre-application plans and data as specified in article V, section A, with a filing fee ~~of $200.00~~ as provided for Appendix F.

3. Prior to the review of the preapplication, the commission shall hold a public hearing to be advertised by the applicant in a newspaper of general circulation at least ten days prior thereto. The applicant shall notify, by mail, all property owners within 200 feet of the extreme limits of the subdivision, as their names appear on the municipal tax record, at least ten days prior thereto. The applicant shall provide the commission with a copy of the notice, verification of newspaper publication, and post office return receipts for all letters on or before the meeting date. Said notices shall state the time and place of the hearing, a brief description of the subdivision and that a copy of the subdivision application and plan is filed with the department of planning and inspections for public review.

4. Within five days after the next regularly scheduled meeting of the commission following said preapplication, the commission shall notify the subdivider whether his proposal is classified as a minor subdivision and that the plans and data, as submitted, do or do not meet the objectives of these regulations, and if not, it shall state its reason therefore. Minor subdivisions shall be designated by a majority vote of the commission and shall only include subdivisions where no improvements, dedications or easements are required. If, in the opinion of the commission, the character of the subdivision (by reason of size or design) so warrants, it may hold a public hearing on the preapplication, with notice to be given substantially in accordance with subparagraph [subsection] 4. of this article.

(Ord. of 6-24-1991; Ord. of 10-13-1992; Ord. of 4-25-1994; Ord. of 7-12-2004(2))

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BE IT FURTHER ORDAINED THAT:

Appendix A - Subdivisions, Article IV – Subdivision - Procedures, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section B. Filing Fee.

1. A preliminary layout 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 conforming to the conclusions reached by the commission with respect to the preapplication plan above.

2. Application for conditional approval of the preliminary layout shall be submitted in writing ~~for~~ with a filing fee, as provided for in Appendix F, ~~of $325.00~~ by the subdivider to the commission, together with the original and 20 prints of the preliminary layout, and other specified documents at least 30 days prior to the meeting at which it is to be considered.

3. Since the provision of some public facilities and utilities are the responsibility of special districts, governments, boards, agencies or utility companies, the commission or their [sic] representative shall direct the referral of proposed subdivision layouts to such agencies as may be involved. Distribution may include the following:

(1) The director of state division of highways.

(2) Affected school districts.

(3) City fire department.

(4) Delaware Department of Health and Social Services, and Dover City Board of Health.

(5) U.S. Postal Service cluster mailbox location.

(6) Other agencies or jurisdictions involved.

4. Prior to the review and action on the preliminary layout application, the commission shall hold a public hearing to be advertised by the applicant in a newspaper

DRAFT

of general circulation at least ten days prior thereto. The applicant shall notify by mail all property owners within 200 feet of the extreme limits of the subdivision as their names appear on the municipal tax record at least ten days prior thereto. The applicant shall provide the commission with a copy of the notice, verification of newspaper publication, and post office return receipts for all letters on or before the meeting date. Said notices shall state the time and place of the hearing, a brief description of the subdivision and shall state that a copy of the subdivision application and plan is filed with the planning department [department of planning and inspections] for public review.

5. The commission shall, within 45 days from the date of the submission of the preliminary layout or within such additional time as may be consented to by the applicant, act on said layout as submitted or modified, and, within five days, shall notify the subdivider in writing of its decision, and state the conditions of approval if any, the suggested modification if any, or the reason for disapproval of the layout. Approval of the preliminary layout by the commission shall be expressed as conditional approval.

6. Any condition required by the city planner shall be noted on the original and a print of the preliminary layout. The chairman of the planning commission and the city planner shall sign the original and print as approved by the city planner. The print shall be retained by the city planner and the original shall be returned to the subdivider, who shall deliver two prints of the signed original to the city planner.

7. Conditional approval of the preliminary layout shall not constitute approval of any subsequent plat, rather it is an expression of approval of the general design submitted to be used as a guide to the preparation of the plan to be submitted to the commission for its approval. For the protection of the subdivider, it is stressed that the commission's approval of the preliminary layout shall be secured before undertaking of final surveys of streets and lots and final construction plans, and that the start of any grading or street construction work must await approval by the commission of the plat

DRAFT

and of a grading plan. However, in the case of minor subdivisions, approval of the preliminary layout shall be equivalent to final approval and the subdivider shall follow procedures set forth in paragraphs [section] C.7., C.8. and C.9. of this article.

(Ord. of 6-24-1991; Ord. of 10-13-1992; Ord. of 4-25-1994; Ord. of 1-10-1996; Ord. of 7-12-2004(2))

BE IT FURTHER ORDAINED THAT:

Appendix A – Preliminary Layout, Article IV – Subdivision - Procedures, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 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.

DRAFT

(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 ~~of $150.00, plus $65.00 per acre for the first ten acres, $40.00 per acre for the next ten acres and $25.00 per acre for each acre thereafter. Plats for minor lot line adjustments shall require a review fee of $100.00. Plats for minor subdivisions shall require a review fee of $100.00~~ as provided for in Appendix F.

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.

DRAFT

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 assessor's office.

8. The subdivider shall secure the assessment lot and house numbers from the assessor.

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

DRAFT

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

DRAFT

demand of the subdivider or the city by a given date written in the agreement.

(Ord. of 7-12-2004(2))

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 3 – District Regulations, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 24. Planned Neighborhood Design Option (PND)

24.1*General[ly]*.

(a) *Planned neighborhoods.* In order to encourage superior residential environments through a unified planning process, the planned neighborhood design option shall be permitted in R-20, R-15, R-1O, R-8, RM-1 and RM-2 zones as a conditional use subject to the provisions of article 10 of this ordinance and after a determination by the planning commission that the proposed planned neighborhood design presents a superior community design than would be possible under the conventional zone and is in accordance with the goals and policies of the comprehensive plan. The minimum size required for a planned residential development shall be 20 acres.

(b) *Senior citizen housing option.* In order to encourage the development of high quality housing opportunities designed to accommodate the particular needs of senior citizens, the senior citizen housing option shall be permitted in all zones as a conditional use, except in the M, IMP and C-4 zones within which this option shall not be applicable. Preference shall be given to those projects which are within close proximity to public transit services and which are situated within one-quarter mile of a grocery store, pharmacy, restaurant, physician office, senior center or similar convenience service establishment.

DRAFT

24.2 *Review process.* The planned neighborhood design option shall involve a three-step review and approval process. In the first step, the developer shall meet with the city council and present a general sketch plan and a statement documenting the project's compliance with the goals of the comprehensive plan for review. The general sketch plan shall reflect the general layout of streets, open space, and housing areas and types. Each application for a general sketch plan review shall be accompanied by a fee ~~of $100.00~~ as provided for in Appendix F. The city council shall determine whether the proposed project is of such a design and type that it warrants further review by the planning commission. If the city council determines that further review is warranted, the second step shall be the conditional use review process which involves the submission of a conceptual plan which conforms in content to the design standards and requirements specified in subsections 24.5 and 24.6 of this section, as well as the plan submission requirements of subsection 24.8 of this section and article 10, section 1.6 of the zoning ordinance [this appendix]. Depending upon the type of development proposed, the following additional requirements shall apply:

(a) *Proposals not involving land subdivision.* Submission of plans for proposals which do not involve the subdivision of land shall also conform in content to the provisions of article 10, section 2.5 of the zoning ordinance [this appendix] pertaining to site development plans. Depending upon the complexity and physical size of a proposal, either a one- or two-step planning commission review process will be required. Plans for smaller, less complex projects may be processed as a unified conditional use and site development plan application which shall reflect conformity with the provisions of article 10, sections 1.6 and 2.5 of this ordinance. Large scale, more complex proposals may involve an initial conditional use/conceptual plan review by the planning commission in accordance with the provisions of article 10, section 1 of this ordinance, to be

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followed by a more detailed site development plan submission reflecting conformity with the provisions of article 10, section 2.5 of this ordinance.

(b) *Proposals involving land subdivision.* In the case of proposals involving subdivision of land, the conditional use plan shall also conform to the provisions of article V, section A of the land subdivision ordinance.

If the conditional use/conceptual subdivision plan is approved, the plan would proceed to the third step which involves the submission of a site development plan and preliminary subdivision plan for review and approval by the planning commission in accordance with the provisions subsection 24.9 of this section.

24.3*Permitted uses:*

(a) Any use permitted in one-family residence zones;

(b) Any other residential use, including one-family lot line dwelling units, duplexes, multiplexes, townhouses, patio houses, garden apartments, [and] mid-rise apartments, but not including high-rise apartments and mobile homes;

(c) Accessory dwelling units may be proposed in conjunction with detached single-family houses if approved by the planning commission as an integral part of planned neighborhood design;

(d) Commercial uses accessory to the development as a whole in accordance with the standards of the C-1A zone;

(e) Under the senior citizen housing option, all housing types, and including congregate housing structures and uses, assisted living residences, and nursing homes. All such housing units and/or property shall be deed restricted to require that the head of household for each housing unit be at least 55 years of age or older.

24.4 *Maximum density.* The maximum density for each zone shall be the same as follows, plus additional bonuses as set forth in section 24.7:

DRAFT

24.41*R-20.* The gross residential density in an R-20 planned residential development shall not exceed 1.6 dwelling units per acre.

24.42*R-15.* The gross residential density in an R-15 planned residential development shall not exceed two dwelling units per acre.

24.43*R-10.* The gross residential density in an R-10 planned residential development shall not exceed three dwelling units per acre.

24.44*R-8.* The gross residential density in an R-8 planned residential development shall not exceed 3.8 dwelling units per acre.

24.45*RM-1.* The gross residential density in an RM-1 planned residential development shall not exceed six dwelling units per acre.

24.46*RM-2.* The gross residential density in an RM-2 planned residential development shall not exceed eight dwelling units per acre.

24.47*Senior housing option.* Project density shall be generally compatible with the development pattern and existing or potential zone densities of the surrounding area. The applicant shall demonstrate to the satisfaction of the planning commission that the project density proposed is compatible with the development pattern and density potential of the surrounding area in general, and with that of adjoining properties in particular.

24.5*Design standards.* The design standards and dimensional requirements (bulk and parking regulations) shall be in accordance with article 4, sections 4.10 and 4.11, except that the planning commission may relax any of these requirements where the developer can demonstrate that such action is desirable and consistent with the objectives of this ordinance and the comprehensive plan.

24.51*Accessory dwelling units.* Accessory dwelling units shall only be permitted if approved by the planning commission as part of the overall planned neighborhood design when it has been demonstrated to the satisfaction of the

DRAFT

planning commission that such units would be beneficial to achieving a well balanced residential neighborhood. The following standards shall pertain to accessory dwelling units:

(i) Only one accessory dwelling unit shall be permitted in conjunction with a detached single-family house.

(ii) Accessory dwelling units shall only be permitted if dispersed occasionally within the neighborhood. It is not the intention of this [sub]section to permit such units in conjunction with the majority of single-family units proposed, but rather to permit such units on a limited basis in recognition of accessory units as valid contributors to the overall balance of housing options within a healthy and well designed residential neighborhood.

(iii) An accessory dwelling unit may be within the main dwelling house or within a freestanding structure such as a carriage house.

(iv) For purposes of calculating density, minimum lot area and a single-family unit with an accessory dwelling unit shall be counted as 1.5 dwelling units. Single-family houses with accessory dwelling units shall be physically separated from each other by at least three dwelling units of a different dwelling type which do not include accessory dwelling units.

24.52*Senior citizen housing option.*

[(i)] For conventional housing types, the design standards and dimensional requirements referenced in [sub]section 24.5 above shall prevail.

(i) [(ii)] For congregate living facilities, assisted living residences, and nursing homes, the following standards shall apply:

DRAFT

Lot coverage. In R-20, R-15, R-10, R-8, R-7 and RG-1 [zones], no more than 40 percent of the lot shall be covered by buildings and impervious surfaces. In the RG-2, RG-3, RG-4, RG-5, RM-1 and RM-2 [zones], no more than 60 percent of the lot shall be covered by buildings and impervious surfaces. In all other zones, the lot coverage limitations for buildings in those zones shall apply as set forth in article 4 of this ordinance.

Minimum setback areas. In all residential zones, new buildings shall observe a 30-foot minimum front yard, 20-foot minimum side yards, and a 30-foot minimum rear yard. In all other zones, the minimum building setback requirements set forth in article 4 of this ordinance shall apply for the applicable zoning district designation.

Off-street parking. Off-street parking shall be provided for residents, visitors and employees of the facility. The applicant shall demonstrate to the satisfaction of the planning commission that, based on total potential occupancy load (resident, visitor and employee), a sufficient number of off-street parking spaces will be provided.

24.6*Design requirements.*

24.61*Common open space.* Common open space shall be provided in all planned neighborhood design proposals. At least one-half of the minimum required open space land must be free of wetland area, in order to be readily accessible and usable for active and passive recreation. Significant natural features shall be incorporated into common open space whenever possible.

The common open space shall be designed as a contiguous area if possible, and shall be interspersed with residential areas so as to provide pedestrian access and visual amenity. The common open space shall be designed and maintained as

DRAFT

detailed in article 5, section 10. Recreational areas shall be constructed in accordance with article 5, section 10.1, and may be located within the 25 percent open space set aside. Area requirements are as follows:

(a) *Planned neighborhoods.* The area set aside and preserved for open space shall aggregate no less than 25 percent of the total site area.

(b) *Senior citizen housing option.* Useable open space shall be provided in accordance with the area requirements set forth in article 5, section 10.16 of this ordinance. The location, dimensions and orientation shall be designed to afford maximum accessibility and convenience for the residents of the development. Open space areas shall include landscaped walkways with park benches, patios, and garden areas, and may include other active recreation amenities suited to the needs, abilities and preferences of the anticipated service population. The open space area requirement may be reduced or waived by the planning commission if it is determined that the property on which a senior citizen housing option is proposed is within one-quarter mile walking distance of a public park which offers pedestrian amenities and appropriate recreation opportunities for senior citizens.

24.62*Buffers.* Buffers shall be required to provide transition between planned residential development and adjacent properties. No building shall be constructed less than 40 feet from the perimeter property line of the development. This buffer may consist of either common open space or private yards or a combination of both; however, no more than 30 percent of the required buffer area may be counted toward the minimum common open area requirement.

24.63*Disruption of natural environment.* The planned neighborhood design development shall be designed and scheduled so as to minimize earthmoving, erosion, tree clearance and other disruption of the natural environment. Existing

DRAFT

vegetation shall be preserved wherever possible. Where extensive natural tree cover and vegetation do not exist or cannot be preserved on the site, landscaping shall be undertaken in order to enhance the appearance of the development and screen streets and parking areas, and enhance privacy of private dwelling. Natural drainage systems shall be preserved wherever possible, and, to this end, the planning commission may waive requirements for curbs and gutters if such action is deemed desirable.

24.64*Privacy.* Dwelling unit structures shall be located and arranged so as to promote privacy for residents within the development and maintain privacy for residents adjacent to the development. Recreational and nonresidential uses shall be located and designed so as not to interfere with nearby residential areas. All structures and activities located near the periphery of the site shall be designed so as to harmonize with neighboring areas.

24.7*Density bonus.* A density bonus of up to 20 percent of the maximum density specified in article 3, section 24.4 may be granted if the developer furnishes improvements that significantly demonstrate to the planning commission that the improvements contribute to superior design and which exceed the standard requirements of the city ordinances in accordance with the following schedule:

24.71*Open space.* For each ten percent increase in common open space over the minimum 25 percent requirement, a density bonus of five percent shall be granted.

24.72*Housing types.* Neighborhood design which integrates a variety of housing types to provide architectural diversity and which avoids monotony and segregation by dwelling type in order that single housing type does not dominate the planned neighborhood or section thereof shall be awarded a density bonus of ten percent. The term "housing type" refers to each of the following dwelling

DRAFT

types: single-family detached houses, semi-detached and duplex houses, multiplexes, townhouses, and garden apartments.

24.73*Public buildings.* The construction and leasing of a public building, including a school, a firehouse, or a library, which is necessitated, either wholly or partially, by the development, may increase the permitted density by ten percent, if approved by the city, the planning commission and the agency to whom the building is to be leased.

24.74*School sites.* The donation of a school site may increase the permitted density by ten percent, if approved by the city, the planning commission and the local school board.

24.75*Recreation facilities.* Where the developer provides recreation facilities in accordance with recommendations from the city, the planning commission, and the parks, recreation, and community enhancement committee of the city council, where the facilities are in excess of those required by city ordinances, a density bonus of five percent shall be given. Such facilities may include, but are not limited to, bike paths, tennis courts, and boating access areas.

24.76*Community gardens.* The reservation of additional common land for the establishment of community gardening space for the raising of flowers, fruits and vegetables shall be awarded a five percent density bonus.

24.77*Community day care facilities.* The construction of a building to house a day care center for use primarily by residents of the community shall be awarded a ten percent density bonus.

24.78*Community buildings.* The construction of a community building to serve as a meeting hall for various community functions, including but not limited to civic meetings, recreational purposes, receptions and special events, shall be awarded a ten percent density bonus.

DRAFT

24.79*Conservation easements.* The establishment of a permanent easement for the purpose of conserving and protecting a woodland area, a wetland area, and/or a stream corridor from removal of existing natural vegetation, and/or encroachment by future development shall be awarded a five percent density bonus.

24.8*Conditional use plan approval.* In addition to the minimum conditional use plan requirements listed in article 10, section 1 of this ordinance and the minimum conceptual subdivision plan requirements listed in article IV, section A of the land subdivision regulations [appendix A to this Code], the following additional items shall be reflected on or shall accompany the conditional use plan:

(i) Architectural drawings illustrating exterior elevations of typical dwelling units and nonresidential structures to be constructed.

(ii) Statements and illustrations of the materials to be used in construction and their compatibility with the city building and other codes relating to construction.

(iii) Total acreage of development, land uses in each area, total number of dwelling units, average gross residential density, average lot area and lot width by unit type, and gross residential density in each section.

(iv) Building coverage lines accurately locating all types of dwelling units, and nonresidential structures, giving dimensions of the structures, distances between the structures, distances to street rights-of-way and parking areas, with distances accurate to the nearest hundredth of a foot, [and] total amount and percentage of impervious area.

(v) Accurate dimensions of common open space areas specifically indicating those areas to be developed for active recreation. Where

DRAFT

common space areas are to be developed, the exact location of the structures in common open space will be illustrated.

(vi) Locations and dimensions of parking areas and pedestrian walkways.

(vii) For senior citizen housing option proposals, a draft copy of the deed restrictions and covenants document which would set forth the minimum age requirement of 55 years of age for heads of household of each housing unit within the senior housing development.

24.81 Each application for a conditional use plan approval shall be accompanied by a fee ~~of $200.00, plus $10.00 per acre~~ as provided for in Appendix F.

24.9 *Site development preliminary subdivision plan review.* Application for site development plan approval shall be made to the planning commission in accordance with article 10, section 2 of the zoning ordinance [this appendix], and article IV, section B of the land subdivision regulations [appendix A to this Code]. Such application may be requested in stages, as set forth in article 5, section 9, with the additional requirement that at least 33 percent of the dwelling units must be rented or sold before any commercial development may be completed. The following additional requirements shall be included for review along with the site development plan submission:

(i) A development phasing plan if proposed, which clearly defines the boundaries of each phase of the development and indicates the number of dwelling units to be constructed in each phase. Each phase shall be assigned a number which represents that phase's order in the construction sequence of the development.

(ii) Preliminary drawings for the installation of all improvements. Profiles and cross sections for street, sanitary

DRAFT

sewer, water supply, and storm drainage system improvements shall be presented. Each system shall be illustrated on one or more separate sheets.

(iii) Architectural drawings illustrating exterior and interior designs of typical dwelling units or each type and nonresidential structures to be constructed.

(iv) Statements and illustrations of the materials to be used in construction and their compatibility with the city building and other codes relating to construction.

(v) A proposed stormwater drainage system, showing culverts, ditches, and curbs and gutters as required; [and] all inlets, manholes, and pipes for storm drainage shall be shown, [and] this shall be accompanied by computations prepared by a registered professional engineer, to the satisfaction of the city, demonstrating that the stormwater drainage system will be adequate for the planned residential development. Special emphasis will be directed to flood control prevention plans, materials and structures.

(vi) Detailed plans for a sewerage system, together with provision for placing all utilities underground.

(vii) A detailed erosion and sediment control plan and program.

(viii) All covenants running with the land governing the reservation and maintenance of dedicated or undedicated open space land. These shall bear the certificate of approval of the city solicitor as to their legal sufficiency.

DRAFT

(ix) Restrictions of all types which will run with the land and become covenants in this ordinance or in the land subdivision regulations [appendix A to this Code].

(x) In the case of a planned neighborhood design which is proposed to be developed over a period of years in specific phases, the site development/preliminary subdivision plan requirements as listed in this section shall apply to the phase or phases for which approval is being sought. The site development plan for each phase must demonstrate compliance with minimum plan requirements and shall provide phase specific information regarding proposed development density and dwelling types, locations of common open space, sanitary sewer and water distribution systems, and street systems consistent with the approved conditional use conceptual plan developed for the entire neighborhood.

24.91 Each application for a preliminary plan approval shall be accompanied by a fee of ~~$325.00, plus $20.00 per acre~~ as provided for in Appendix F.

24.10*Final subdivision plat approval.* Final subdivision plat review and approval for planned neighborhood design projects involving subdivision of land shall follow the requirements pertaining to the review and recordation of final subdivision plats as set forth in article IV, section C of the land subdivision regulations [appendix A to this Code].

In the case of projects [for] which a phasing plan has been approved, the final subdivision plat for each phase shall demonstrate compliance with minimum plan requirements and shall provide phase specific information regarding proposed development density and dwelling types, locations of common open space, sanitary sewer and water distribution

DRAFT

systems, and street systems consistent with the approved conditional use conceptual plan developed for the entire neighborhood.

24.101 Each application for a preliminary plan approval shall be accompanied by a fee ~~of $250.00~~ as provided for in Appendix F.

24.11 [*Signs.*] Signs shall meet the regulations found in article 5, section 4, supplementary sign regulations.

(Ord. of 6-10-1996; Ord. of 7-14-1997; Ord. of 2-12-2001; Ord. of 7-12-2004(2))

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 3 – District Regulations, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 28. Traditional Neighborhood Design Option (TND)

28.1 *Purpose and intent*. The intent of the Traditional Neighborhood Design (TND) zone is to create a walkable and pedestrian-friendly, economically viable professional, commercial and mixed use residential neighborhood for people of different ages and incomes that draw from the best architectural and community design features of Delaware and the Delmarva Peninsula from its colonial past to the mid 20th century. Its intent is also to preserve and enhance the natural landscape, celebrate the history of the site, and buffer the development from adverse external influences. The provisions of this section are intended to encourage greater integration of land-uses and diversity of lot sizes than is permitted under other provisions of the Land Subdivision Regulations and Zoning Ordinance of the City of Dover. Lastly, it may provide locations for other uses that will aid in the fulfillment of the City of Dover's Comprehensive Plan and allow people to live near their work.

28.2 *Definitions*.

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a) Comprehensive development standards manual, master: A document prepared in narrative and graphic form that explains the concepts behind the implementation of the proposed Traditional Neighborhood Development on the parcel and in the community. It should contain a full explanation of the historic precedents and how they influence the proposal (Section 28.84) and identify the concepts and approaches to each of the elements identified in Section 28.8 and for each of the use types of Section 28.5.

b) Comprehensive development standards manual, implementation: A document prepared in narrative and graphic form that describes all details of the development relative to the elements reflective of the design principles of 28.7 and the specific requirements of Section 28.8. All subsequent plan review and construction activities shall be governed by the Implementation Comprehensive Development Standards Manual.

c) General overall master plan: A document composed of a set of maps of a subject property and a Master Comprehensive Development Standards Manual that reflects a Traditional Neighborhood Design. The general overall master plan is to be submitted to the Planning Commission and city council as materials to support the rezoning of a land area for development as a TND.

d) Implementation plan: A document composed of a set of maps and a Comprehensive Development Standards Manual that describes the anticipated physical development of a property. The document should reflect the design principles of Section 28.7 and the Implementation Comprehensive Development Standards Manual described in Section 28.8.

28.3 *Eligibility requirements*. No land area shall be zoned TND unless the following conditions are met:

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a) The land area shall have access to an existing or planned arterial or collector road;

b) The land area shall be served by adequate existing or planned infrastructure;

c) The land area may contain a single or multiple parcels. The rezoning application for the land area shall be filed jointly by all owners of the involved land area;

d) Finding by the Planning Commission and city council that the proposed TND location is generally consistent with the Comprehensive Plan.

28.4 *Procedure.* An application for rezoning of a land area to a TND Zone shall be required to obtain approvals as follows:

28.41 *Application for rezoning and general overall master plan review.* The requirements of Article 10, Section 5 shall be followed except as noted below. The application for rezoning to a TND shall include, in addition to the requirements of Article 10, Section 5.18, the following:

a) A narrative on the nature of the applicant's interest in the development;

b) The development team involved in the proposed development;

c) A general overall master plan which is composed of plans and a narrative Master Comprehensive Development Standards Manual that includes:

(i) Plans of existing natural features showing topography, soils, drainage vegetation and potential limitations to development;

(ii) Plans of the proposed building areas, streets, roads, parking, open space and storm water management;

(iii) Overall program of uses including showing general use location, proposed building height, and total gross square feet by use;

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(iv) Master comprehensive development standards manual, as set forth in subsection 28.8 of this section and as defined in subsection 28.2, for purpose of showing that the proposed development meets the purpose and intent of the TND.

28.411 Each petition for a rezoning amendment shall be accompanied by a minimum fee ~~of $325.00~~ as provided for in Appendix F.

28.412 Each petition for a rezoning amendment shall be heard by the City of Dover Planning Commission for a recommendation to the city council, which will make the final action on the petition. Public hearings will be required for both bodies.

28.42 Application for implementation plan review: The planning commission shall review the TND implementation plan following rezoning. The implementation plan shall abide by and match the general overall master plan. The submission for the individual use districts (Residential, Commercial or Office) may be submitted separately for planning commission consideration. To request such consideration, the submission of the general overall master plan shall include more detail of the design elements of the project, including, but not limited to, architectural standards, design relationships between uses and different scales of buildings, parking and open spaces, and an explanation of how the segregated implementation plan conforms to the intent of the approved general overall master plan. All elements of any implementation plan shall include the following:

a) Detailed plans of existing natural features showing topography, soils, drainage and vegetation;

b) Detailed plans of the proposed building locations, actual street networks, parking areas with counts, recreation and open space with calculations, stormwater management and a phasing plan;

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c) Final program of uses including building footprints for commercial/office uses and buildable envelope for residential portions, building height, and total square feet by use and housing type;

d) The implementation comprehensive development standards manual, as set forth in subsection 28.8 of this section and as defined in subsection 28.2, for purpose of showing the proposed development pattern, materials, dimensions and architectural styles.

28.421 Each application for implementation plan review shall be heard by the City of Dover planning commission for final action on the application. A public hearing will be required.

28.422 Each application for implementation plan approval must be accompanied by a fee ~~of $325.00 plus $10.00 per acre~~ as provided in Appendix F.

28.423 The planning commission may act to approve the implementation plan once it has determined that the implementation plan meets the purpose and intent of this ordinance, as well as the objectives found in article 10, section 2.2 of the zoning ordinance.

28.424 The approved implementation plan shall remain in effect until amended with approval of the planning commission. After five years of inactivity, the implementation plan may be considered by the Planning Commission for a new implementation plan or rezoning for the undeveloped portions of the original plan only.

28.43 Following implementation plan approval, the city planner shall perform an administrative review of subsequent site development plans or subdivision Plans for compliance with the approved implementation plan in accordance with the following:

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28.431Site development plan: The application for neighborhood commercial districts, professional office districts, condominium complexes, and apartment buildings shall adhere to the site development plan submission materials identified in article 10, section 2 of the zoning ordinance.

28.432Subdivision plat: The application for subdivision of residential parcels shall adhere to the City of Dover land subdivision regulations submission requirements and the approved implementation plan shall be considered as the approved preliminary plan required in the subdivision regulations.

28.433Implementation plan amendments: The city planner will entertain only minor, clarifying amendments to the plans or the Comprehensive Development Standards Manual in considering the Site Development Plan or Subdivision Plat for final approval. Minor amendments may include, but are not limited to, the addition of a material for buildings or landscaping, adjustments to the specific street or alley placement of less than 50 feet, or change in location of structures in an active recreation space. Any major amendments, as determined by the city planner, will be required to be approved by the Planning Commission.

28.434Fee: Each application for Site Development Plan or Subdivision Plat to be approved under this section shall be accompanied by a fee ~~of $250.00~~ as provided for in Appendix F.

28.44 The city planner shall determine whether any application submitted under section 28 meets the minimum requirements of the section, including but not limited to the general overall master plan, the implementation plan, site design, subdivision design and the elements of the comprehensive development standards manual, prior to submitting the application to the planning commission for review.

28.5Uses permitted: In a TND zone, no buildings or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

28.51 Uses allowed in all areas of the TND:

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28.511 All residential uses, accessory uses, and conditional uses currently permitted in the residential zones of the city identified in article 3, sections 1, 2, 3, 4, 5, 6, 7 and 9. Proposed conditional uses shall be identified in the application to the planning commission.

28.512 Accessory dwelling units in conjunction with detached single family houses. A maximum of one accessory dwelling unit shall be permitted in conjunction with a detached single-family house.

28.513 Open space.

28.514 Civic uses including, but not necessarily limited to:

a) Government buildings;

b) Education buildings;

c) Libraries;

d) Meeting halls;

e) Museums;

f) Recreational facilities;

g) Places of Worship;

h) Other cultural, civic or social use as designated on the approved implementation plan.

28.52Neighborhood commercial district: Additional uses permitted in this district include the following subject to the requirements set forth in subsection 28.7:

28.521 Convenience retail stores such as, but not limited to, drug stores, grocery stores, restaurants, variety stores, or combinations thereof. Drive through drug stores shall be allowed if they are of superior design and screening consistent with the intent of the TND zone. There shall be no drive-through restaurants.

28.522 Personal service stores such as, but not limited to, barber shops, beauty parlors, and laundry/dry cleaning establishments.

28.523 Service establishments furnishing services other than of a personal nature, but excluding gasoline filling stations and motor vehicle storage, repair, or service.

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28.524Business, professional, and government offices, banks, philanthropic or not-for-profit offices, and financial institutions. Drive through banks shall be allowed if they are of superior design and screening consistent with the intent of the TND zone.

28.525 Any of these uses mixed with residential uses in the same building.

28.53Professional office, medical, and financial district: Additional uses permitted in this district include the following, subject to the requirements set forth in subsection 28.7:

28.531Business, professional, and government offices, banks, philanthropic or not-for-profit offices, and financial institutions. Drive through banks shall be allowed if they are of superior design and screening consistent with the intent of the TND zone.

28.532Medical and dental offices including clinics, laboratories, and hospital services. Drug stores, eye wear sales, and similar medical related retail uses, along with luncheonettes or delicatessens shall be allowed if designed as an accessory use or tenant space in a medical office building.

28.533 Nursing or extended care facilities offering overnight accommodations.

28.6Performance standards: All uses are subject to performance standards as set forth in article 5, section 8.1 of the zoning ordinance.

28.7Design and development principles and standards: The following standards and principles of design and development shall apply to the TND and be reflected in the implementation plan:

28.71 Street, sidewalk, blocks, and lot design standards shall be governed by the approved comprehensive development standards manual and shall supercede standards found in Appendix A, Land Subdivision Regulations, of [to] the Code of Ordinances.

28.72 The bulk standards including setback, lot area, height, impervious surface, floor area ratio (FAR), lot coverage, parking, signs, landscaping shall be governed by the approved comprehensive development standards manual and shall supersede standards found in Appendix B, Zoning ordinance, of [to] the Code of Ordinances of the City of Dover.

28.73 The following sections of the zoning ordinance shall be adhered to in the approved implementation plan at a minimum:

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28.731 Article 5, section 10, Open space, recreation, and other public facilities;

28.732 Article 5, section 11, Environmental protection;

28.733 Article 5, section 15, Landscape guidelines;

28.734 Article 5, section 16, Tree planting and preservation

28.735 Article 5, section 17, Emergency access requirements;

28.74 The TND design principles below shall be reflected in the implementation plan, consistent with the purpose and intent section of this ordinance.

28.741 The design for the entire zone shall follow an environmentally sustainable approach to development. To accomplish this, the design shall take advantage of natural drainage patterns on site and minimize earthmoving, erosion, tree clearance and other disruption of the natural environment. Existing vegetation and habitats shall be preserved wherever possible. Where extensive natural tree cover and vegetation do not exist or cannot be preserved on the site, landscaping shall be undertaken in order to enhance the appearance of the development, screen streets and parking areas, and enhance the privacy of private dwellings. Native plant species shall be used whenever possible and practical. Natural drainage systems shall be preserved wherever possible. Where natural drainage systems do not exist, drainage patterns shall be developed similar to the natural pattern to the extent practical.

28.742 Development shall be compatible with existing historic buildings, landscapes and urban design within or adjacent to the zone. Any existing cultural resources shall be analyzed for creative preservation and/or adaptive reuse in the new development.

28.743 Permanent, publicly accessible open space outside of individual lots comprising a minimum of 25 percent of the land area shall be provided in the TND. Land owned by government or non-profit entities that is included in the approved Implementation Plan and is open to the public may count toward this requirement. At least one-half of the minimum required open space land must be

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free of wetlands or storm water management areas containing permanently standing water, in order to be readily accessible and usable for active and passive recreation. Significant natural features shall be incorporated into permanent public open space whenever possible. A portion of the permanent public open space shall be designed as a contiguous area to provide access throughout the full project site as described in [subsection] 28.746 and a portion shall be interspersed within all areas so as to provide access from the surrounding neighborhood, active recreation space and/or a visual amenity.

28.744 Open space within residential areas shall be oriented to the fronts of the buildings. Isolated open spaces in the rear of properties are discouraged.

28.745 Landscape plantings in parks, greens or significant open spaces shall be of a size larger than required in the landscape guidelines to create an immediate positive visual impact on the community.

28.746 The TND shall have a pedestrian walkway and/or bicycle system through the open spaces that connects to the street system or connects a series of open spaces. Bicycle parking/locking facilities should be provided in public spaces as appropriate.

28.747 The design of streets shall form a connected system with dimensions and speed reasonable to serve the development, but also to create an environment that is friendly to pedestrians and bicycle riders.

28.748 All streets shall have sidewalks on both sides. Sidewalks shall be at minimum, five feet wide. The planning commission may waive the requirement for sidewalks in limited areas for infeasibility or drainage issues only.

28.749 Service alleys shall be used throughout the development whenever practical, particularly in areas with attached and multiple family dwellings. Garbage storage and pick up areas shall be located along alleys. Driveway access may be from the street or an alley, if an alley is provided. All residential uses shall have off street parking.

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28.7410 Residential neighborhoods and their individual blocks, to the extent possible, shall contain a mixture of a variety of house and lot types and sizes to strengthen community interactions.

28.7411 Different architectural styles shall be mixed to the extent practical and appropriate within any given block.

28.7412 Porches are encouraged as an architectural feature, and, if provided, shall be sized to be functional social spaces with sufficient room to comfortably accommodate chairs and area for movement.

28.7413 Nonresidential uses in a primarily residential area shall be of a character, size, scale and design to compliment a mixed traditional community.

28.75Neighborhood commercial district: A neighborhood commercial district is optional in the TND, subject to the additional requirements below. Its purpose is to provide a range of commercial/retail, business/office and other non-residential services supportive of the residential character of the TND. Residential use in the district, including that of upper floors, is encouraged. The following design principles shall be reflected in the implementation comprehensive development standards manual for the neighborhood commercial district.

28.751 The TND may have one or more neighborhood commercial districts, but the total acreage dedicated to neighborhood commercial districts shall not exceed ten percent of the total TND area. If these allowed uses are primarily developed to create residential uses above the first floor, the proportion may increase to 15 percent of the total TND area.

28.752 The footprint of a single building may be no more than 60,000 gross square feet. Any other building may have a footprint of up to 20,000 gross square feet. Building height shall be no greater than three stories or 40 feet. Buildings may be connected but must retain fire separation. Mixed-use buildings are encouraged.

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28.753 The neighborhood commercial district shall be designed around and shall have frontage on an internal main street that connects to the street system outside the district. Buildings within the district shall be organized in relation to this internal main street, to create a walkable connection among the different uses and buildings.

28.754 Off-street parking shall be provided in a manner so that it is screened from the right of way by buildings, landscaping or other means. Off-street parking shall be screened from adjacent non-commercial uses and consideration should be given to locating parking to the side or rear of the building. Off-street parking shall be shared by adjacent uses.

28.755 Service drives shall be designed and used for loading and trash collection.

28.756 Public areas for seating, gathering, and public amenities such as fountains, amphitheaters, display areas, public art, kiosks, and recreational activity shall be integrated into the district.

28.76Professional office, medical, and financial district: A professional office, medical, and financial district is optional in the TND, subject to the additional requirements below. Its purpose is to provide a range of professional, medical, and financial office space with the opportunity to incorporate a variety of residential uses. Residential use of part of such areas is encouraged to make them more active and secure after the workday is over.

28.761 The TND may have one or more professional office, medical, and financial districts, but the total acreage dedicated to the districts shall not exceed 15 percent of the total TND area. If these allowed uses are primarily developed to create residential uses above the first floor, the proportion may increase to 20 percent of the total TND area.

28.762 Building footprint size is limited to 40,000 gross square feet per building. Building height shall be no greater than three stories or 40 feet. Buildings may be connected but must retain fire separation and have a distinct connection. Mixed-use buildings are encouraged.

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28.763 The professional office, medical, and financial district shall be designed around a through street or streets which connect to the street system outside the district and also make good connections within the overall plan. Buildings within the district shall be organized in relation to this internal main street, to create a walkable connection among the different uses and buildings.

28.764 Off street parking shall be provided in a manner so that it is screened from the right of way by buildings, landscaping or other means. Off street parking shall be screened from adjacent noncommercial uses and consideration should be given to locating parking to the side or rear of the building. Off street parking shall be shared among the adjacent uses.

28.765 Service drives for loading and trash collection are encouraged.

28.766 Public areas for seating, gathering, and public amenities, such as fountains, amphitheaters, display areas, public art, kiosks, and recreational activity, shall be integrated into the district.

28.8Comprehensive development standards manual:

28.81 The implementation comprehensive development standards manual, once approved by the planning commission, shall constitute an agreement by the land owner/developer to follow the standards and guidelines contained therein during the design, construction and maintenance of land developed according to the TND District regulations. It is a formal acknowledgement of the land owner/developer's commitment to heed the purpose and intent of the TND regulations. The comprehensive development standards manual also establishes the nature and identity of the community for potential residents prior to its completion. The comprehensive development standards manual addresses a series of items pertaining to the physical character of the TND development.

28.82 The master comprehensive development standards manual shall consist of a brief written and graphic description of the owner/developer's proposed approach to each of the items listed in section 28.84. The architectural, lighting, signage and landscape examples may be vignettes of styles with graphic and narrative descriptions for this submission. The

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purpose of the master comprehensive development standards manual is to insure that the owner/developer gives adequate thought to the nature of a TND designation and understands the impacts of such a designation on site development; and it provides a way for the City to be involved early in the planning process to confirm that the Purpose and Intent of the ordinance will be addressed.

28.83 The implementation comprehensive development standards manual shall address the items listed in subsection 28.84 through evidence of substantive research and physical guidelines. The extensive use of photographs, drawings and other graphic methods is strongly encouraged. The results of this work may be organized in a manner that best represents the owner/developer's intent as long as all the items are substantively addressed.

28.84 The following items are required to be included in the comprehensive development standards manual:

a) Historical precedents - a discussion and illustration of local and regional precedents in the design of the City of Dover's traditional neighborhoods, communities, buildings, and landscape and how they will be reflected in the proposed development.

b) Circulation - classification and illustration of a system of streets, alleys, and pedestrian and bicycle routes that creates an integrated network serving the TND development and links it to adjacent areas. Detailed design standards and illustrations for each component of the system are required. A plan of the circulation systems shall be included.

c) Building lots - a classification and illustration of the full range of proposed lot types, sizes and setbacks, locations of potential accessory buildings, and access by auto and foot. A plan of their location throughout the development shall be included.

d) Buildings - a classification of the full range of buildings, residential, commercial, office or mixed, to be constructed including detailed

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guidelines addressing their architectural character and essential required elements, such as size, composition and massing, windows, doors, porches, roof design, fenestration, and all materials. A plan of their location by use type throughout the development shall be included.

e) Accessory structures - detailed design guidelines for accessory structures including, but not limited to, fences, sheds, pools, garages, gazebos shall be included and compatible with the TND design principles.

f) Open spaces - a classification of a system of landscaped open spaces (in addition to private yards) with a plan of the network created by the open spaces and pedestrian and bicycle circulation systems.

g) Landscape design - a palette of hard (paving) and plant materials along with street furniture, major focal elements and ornamentation shall be provided. These shall be located on a plan of the development. Details of plant species and hard materials shall be included.

h) Lighting design - placement of public and private lighting throughout the development and design of the lighting fixtures, globes, illumination patterns and intensities.

i) Signage - provide the design, size, height and placement of all signs for public and private uses in the neighborhood. Include standards for street signs, parking signs, fire lanes, and signs for businesses in residential, office and commercial districts.

j) Application and administration - a presentation of the manner in which the comprehensive development standards manual requirements and guidelines will be administered and enforced on behalf of the developer. The roles and responsibilities of the developer, builders and homeowners and/or homeowners' association in overall administration of comprehensive development standards manual requirements shall be addressed.

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(Ord. of 11-8-2004)

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 5 – Supplementary Regulations, be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 4. Supplementary Sign Regulations.

4.1 *Purpose statement.* The purpose of this ordinance [section] is to create a legal framework for a comprehensive and balanced system of signs and other street graphics to facilitate an easy and pleasant communication between people and their environment. This ordinance [The ordinance from which this section is derived] is enacted to avoid the visual clutter that is potentially harmful to vehicular and pedestrian safety, property values, business environment and opportunities, and community appearance. With these purposes in mind, it is the intent of this ordinance [section] to authorize the use of signs which are compatible with their surroundings, appropriate to the activity that displays them, expressive of the identity of individual activities and the community as a whole, and legible in the circumstances in which they are seen, understanding that it is important for the economic vitality of the community as well as individual businesses and institutions that they are clearly identified and their services are understood by the traveling public.

All signs, which are regulated by this ordinance, shall conform to the following general guidelines:

A. *The legibility of signs.* Signs shall be legible under the circumstances in which they are primarily seen. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. The legibility of signs is related to the speeds at which they are viewed; the context and surroundings in which they are seen; [and] the design, colors, and contrasts of the sign copy and sign face.

B. *The relationship of signs to the buildings and sites they identify.* Signs shall be an integral architectural element of the buildings and sites that they identify and their design shall be consistent with, and not detract from, the overall architectural concept of the site. Signs must be of an appropriate size and scale in relation to the buildings on the lot.

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4.2 *General provisions.*

A. *Permitting.* No sign, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except in accordance with this ordinance. All signs, except exempt signs, shall require a permit and fee as prescribed in the building code.

B. *Administration.* Administration, interpretation, and enforcement of the provisions of this section shall be under the authority of the city planner or authorized designee. In administering the provisions of this ordinance, the city planner shall evaluate signs and applications for sign permits for conformity with the design guidelines, standards, and specifications contained herein. Appeals from the application or interpretation of any provision of this ordinance may be processed in accordance with the provisions of article 9 (board of adjustment) of this ordinance.

C. *Unsafe, dilapidated and illegal signs.* If it is determined by the city planner, or [his] authorized designee, that any sign is unsafe, presents a hazard to the safe operation and movement of motorized or non-motorized vehicular traffic, or to pedestrians, or is in a dilapidated condition, or is in a state of disrepair, or is otherwise in violation of any provision of this ordinance, the owner of such sign shall be responsible for removal of such sign and supporting structure within 14 days of receipt of written notification by the city planner. In cases where signs are determined to be unsafe or present a hazard, the city planner may order their removal in a shorter period of time. Responsibility for removal shall be in accordance with § [subsection] 4.10B, and § [subsection] 4.11 of this section.

4.3 *Sign definitions.*

Abandoned sign: A sign relating to or identifying a business or activity, which has not been conducted on the premises for 60 days, or seven days after an election or event.

Adjacent to residential: Property lines which are situated within 200 feet and which front on the same street as a parcel, or group of parcels containing residential uses, or that are zoned for residential uses, excluding residential uses and districts fronting on principal arterial roads.

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Architectural feature: An exterior component of the architecture of a building, which has a structural, functional or decorative purpose. This term shall apply to elements such as windows, doors, entry porticos, porte-cocheres, colonnades, cornices, porch columns, railings and balusters, band courses, coins, water tables, exterior vents and louvers, moldings and other trim.

Awning sign: A wall sign that is a part of a fabric or other non-structural awning.

Banner: A lightweight fabric or similar material which is mounted to a pole or structure, either enclosed in a frame or mounted to allow movement caused by the atmosphere.

Canopy sign: A type of wall sign attached to a permanent, decorative porch or walkway cover, other than an awning, which is attached to a building or supported by columns, extending to the ground.

Changeable copy sign: Any sign involving mechanical or electronic systems which enable such signs, letters, numbers, or graphics to be changed periodically to display different text messages or graphics.

Collector and local streets: All streets within the corporate limits of the City of Dover which are not specifically classified as principal arterials or minor arterials under the provisions of this ordinance.

Comprehensive signage plan: A plan for all signs associated with a unified campus or complex.

Conforming sign: Any sign that conforms to the provisions of this ordinance.

Construction sign: A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date.

Directional sign: A freestanding sign whose primary function is to give aid to motorists or pedestrians in locating buildings or roads.

Exclusion zone: The area adjacent to an existing or proposed freestanding sign within which no other freestanding sign of a similar sign type shall exist or be placed. The exclusion zone shall be measured outward in all directions from the extreme limits of the sign structure a prescribed distance.

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Freestanding sign: A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Freestanding signs include monument, pylon, and post signs.

Frontage: For the purposes of this section, the term "frontage" refers to a lot's frontage along a right-of-way, be it public or private, excluding alleys and service drives that are abutting residential properties. The parcel must be directly adjacent to the right-of-way for it to be considered to have frontage.

Historical or memorial sign: A sign or tablet attached to a building indicating the date of construction and/or the names of the building, the principals involved in its construction, or the history of the building or the site.

Inflatable sign: A sign that is designed to be filled with air to form a three-dimensional shape which is designed to be anchored to the ground.

Minor arterials: DE Route 8 (Forrest Street); McKee Road; Saulsbury Road; College Road; North Street (Saulsbury Road to the western city limits); Kenton Road (College Road to DE Route 8); State Street (from Walker Road north to US Route 13 and Wyoming Avenue south to the southern city limits); Loockerman Street; Leipsic Road; and Governors Avenue (Division Street to the southern city limits) are considered to be minor arterials under the provisions of this ordinance.

Monument sign: A freestanding sign that is affixed to a base that is equal to or wider than the sign itself. The height of the sign is to be measured from the finished grade to the top of the sign. (See figure 5-3.) Such signs shall be situated so as to have the longer dimension oriented horizontal, and to have the shorter dimension oriented vertical.

Mountable wall area: The area of [a] wall where a wall sign is to be physically mounted. The area of the wall must be a regular geometric shape (square, rectangle, triangle, or circle), and be uninterrupted by windows, doors, or other architectural features. (See figure 5-4.)

Nonconforming sign: Any sign which does not conform to the regulations of this ordinance, including any signs granted by variance where it can be demonstrated that the original hardship on which the variance was based no longer exists. This definition also includes the

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structure upon which the sign is erected, or the mounting hardware in the case of wall mounted signs.

Off-premises sign (billboard): A sign, other than a shared freestanding sign as defined by this ordinance [section], which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located, or which business, commodity, service or entertainment forms only minor or incidental activity upon the premises where the sign is displayed. The sale of a commodity is considered a minor activity if the commodity advertised is a specific brand or if the operator of the on-premises business does not directly control the advertising content. These product-oriented signs shall be considered on-premises signs if they comply with on-premises sign requirements.

On-premises sign: A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

Portable sign: Any sign not permanently attached to the ground or other permanent structure, including but not limited to signs with attached wheels; A- or T-frame signs; [and] menu and sandwich board signs.

Post sign: A freestanding sign that is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane. (See figure 5-5.)

Principal arterial: US Route 13, US Route 113 and Court Street between 13 and 113 are considered to be principal arterials under the provisions of this ordinance.

Projecting sign: A wall sign attached to a building with a bracket or other support projecting at a right angle from the building face. (See figure 5-6.)

Public sign: A sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

Pylon sign: A sign that is held up by a pole or poles. The supporting structure must be narrower than the sign itself. (See figure 5-7.)

DRAFT

Race weekend sign: Any sign erected seven days prior to or after a sanctioned automobile race for the purpose of advertising products and services to race fans.

Real estate sign: A sign advertising the premises for sale, rent or lease.

Roof sign: A sign that is attached or painted on the roof, including porch roofs, dormer roofs, overhang roofs, canopy roofs or roofs of another architectural feature. Signs on the lower portion of a mansard or canopy are considered wall signs.

Shared freestanding sign: A sign structure which is shared among not more than two nonresidential properties or business interests for the purpose of displaying the name, logo type or other commercial message of not more than two non-residential occupants of said adjoining properties.

Sign: Any letter, word, model, banner, pennant, insignia, trade flag, device or representation used as, or which is in the nature of, an advertisement, attraction, or directive.

Sign area: Sign area is determined by calculating the area of an imaginary rectangle, circle or triangle which fully encloses the sign face, including background and logos, but not including supports or braces. For sign structures limited to two sign faces of identical dimensions oriented parallel to one another and not more than 24 inches apart, sign area shall be determined by calculating the area of one of the sign faces. For all other multi-faced signs, the sign area shall be determined by calculating the sum of all sign faces in aggregate.

Sign face: The outwardly visible portion of the sign upon which a name or names, logo types or other commercial message, or combination thereof, is displayed.

Sign height: The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any berming, filling or excavating solely for the purpose of locating the sign shall be computed as a part of the sign height.

Sign setback: The straight line distance measured in linear feet between the street right-of-way line and the nearest element of a sign.

Temporary sign: Any sign which is intended for temporary use or which is not permanently mounted and intended for a designated period in time not to exceed 30 days.

Unified campuses and complexes: The term "unified campuses and complexes" means:

DRAFT

(1) Any "shopping center" as the term is defined in this ordinance;

(2) Or, any group of three or more principal structures under common management and operation, located on one or more contiguous properties;

(3) Or, any single commercial or institutional parcel which has more than 400 linear feet of frontage on a principal arterial roadway which is occupied by a conforming commercial or institutional use. Unified campuses and complexes include, but are not limited to, shopping centers; entertainment, educational, medical, governmental, or religious campuses; office complexes; and industrial parks.

Vehicle sign: A sign displaying a name or names, logo types, graphics, commercial messages or any combination thereof, which is attached to, painted on, or otherwise applied to a motor vehicle.

Wall area: For purposes of calculating wall area, the calculations shall include the height of the wall from ground level to the roofline (mansard roofs also count as wall area), multiplied by the width of the wall (including all architectural features). (See figure 5-4.)

Wall sign: Any sign, other than a projecting sign, which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches. A sign attached to the lower slope or face of a mansard roof, canopy, or awning shall be considered a wall sign for purposes of this ordinance. For purposes of this section only, a "wall" shall include any permanent architectural extension of a wall, including parapets, even if such extension projects beyond or above the enclosed portions of the building. Canopy, marquee, and awning signs are all types of wall signs. (See figure 5-8).

Window sign: A wall sign which is attached to, painted on or etched into a window or door, or which is displayed within 12 inches of the window and is legible from outside the window.

4.4 *Design requirements.*

A. *Freestanding signs.*

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1. Freestanding signs, and attendant structures and bases shall be designed as an integral part of the site development and shall be coordinated and compatible with site grading, utility placements, landscaping and architectural elements.

2. Freestanding signs and associated landscaping shall be situated and maintained so as not to impair or block visibility of motorists and/or pedestrians traveling within the public street right-of-way or entering, existing or crossing vehicular site entrances.

3. Freestanding signs shall be situated on the site and dimensioned so as not to substantially impair or block the visibility of adjacent buildings and/or existing signs.

4. All freestanding signs shall respect the exclusion zone. When a sign is not permitted within the exclusion zone, a second wall sign may be permitted in accordance with the wall sign regulations.

5. When the presence of an existing freestanding sign on an adjoining property precludes a property from placing a freestanding sign due to exclusion zone provisions, the two adjoining property owners and/or business interests may share a single freestanding sign structure in accordance with the provisions of [sub]sec. 4.9G.

B. *Materials and craftsmanship of signs.* Signs shall be carefully crafted, durable, and consistent with the quality and permanence of the buildings and sites that they identify. Lettering shall be of a professional quality.

C. *Wall sign placement.*

1. When wall signs are planned, such signs shall be designed as an integral component of the building facade architectural composition.

2. Wall signs shall be limited in area and number in accordance with the provisions of [sub]sec. 4.7, except that the aggregate area of a wall sign on a building shall not exceed 50 percent of the mountable wall area of the building.

DRAFT

3. Wall signs shall be situated so as not to cover or overlap decorative architectural elements such as cornices, belt courses, and window and doorframe moldings. Wall signs shall not project beyond the exterior wall corners of a building.

4. In cases where only one wall sign is permitted because the lot has one frontage, the owner may choose to locate the sign on any exterior wall of the building to afford the best possible visibility for the traveling public.

D. *Illumination.* Sign lighting is one of the greatest sources of light in commercial districts. The glare and aesthetic impacts of signage depend strongly on the design of the sign and its lighting. Proper illumination affects the legibility of signs. This [sub]section discourages excessive lighting by favoring darker backgrounds for internally illuminated signs, and the lighting of only the sign faces for externally illuminated signs to reduce light pollution, while increasing legibility.

1. Signs that are equipped with illumination sources shall be designed to be equally legible during the day and at night.

2. The intensity of illumination for the sign shall not be excessively bright and shall be evenly illuminated over the face of the sign, with no bright spots, in order to prevent direct glare.

3. Exterior illumination shall be shielded so that its direct light is confined to the surface of the sign.

4. Internally illuminated signs, except changeable copy signs, not in or not adjacent to residential areas must conform to one of the following styles:

(a) Illuminated with an opaque background and translucent text or symbols.

(b) Illuminated with a colored (not pure white, off-white, light gray, cream, or yellow) background and lighter text or symbols.

DRAFT

(c) Illuminated with a background that is white, yellow, off-white, light gray, [or] cream, consisting of no more than 40 percent of the sign area and not less than 60 percent is text or symbols of a dark color.

5. Internally illuminated signs in or adjacent to a residential use must conform to one of the following styles:

(a) Illuminated with an opaque background and translucent text or symbols.

(b) Illuminated with a colored (not pure white, off-white, light gray, cream, or yellow) background and lighter text or symbols.

E. *Changeable copy signs.*

1. Changeable copy signs may be incorporated into a sign face when the changeable component of the sign face occupies less than 70 percent of the total area of that sign face.

2. Changeable copy sign area shall be integrated into the sign face and shall be enclosed by a border or similar enclosure so as to form one sign panel.

3. The changeable copy sign area text message and/or graphics shall not change any more than one time in any given 30-second period, except for time and temperature displays which may change more frequently than every 30 seconds.

4. The colors, text styles, graphic patterns, and brightness of the changeable copy sign area shall be compatible with and complimentary to the colors, text styles, graphic patterns and brightness of other signs on the premises, and signs on other properties in the immediate vicinity.

5. Changeable copy signs shall comply with the provisions of [sub]sec. 4.4.D of this ordinance [section] pertaining to sign illumination.

F. *Sign lettering size for freestanding signs.* The lettering of numeric and alphanumeric text messages on signs shall be sized to comply with the following minimum specifications:

TABLE INSET:

DRAFT

Minimum Letter Height for Freestanding Signs		
Road Type	*Primary Message*	*Secondary Message*
Principal arterial	16 inches	8 inches
Minor arterial	10 inches	5 inches
Collector and local	8 inches	4 inches

4.5 *Signs permitted in all districts and not requiring permits.*

A. Signs advertising the sale, lease, or rental of the premises upon which the sign is located, which sign shall not exceed 6 1/4 square feet in residential districts and 32 square feet in all other districts, and shall be located behind the property line. One such sign shall be permitted for each 200 linear feet of street frontage for the parcel.

B. Signs designating the name and address of the occupants, hours of operation, security notices, and business policy statements, [and] may not exceed four square feet.

C. Signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress, which signs shall not exceed 32 square feet in area. No more than two such signs are permitted for any one property or building project.

D. Directional signs limited in area to no more than three square feet per sign, plus one square foot for each additional tenant.

E. Public signs.

F. Historical and memorial signs.

G. Any sign located in an internal location on a site, campus, or complex and that cannot be seen from any public right-of-way or adjacent property.

H. Window signs made of paper, cardboard, plastic or similar material, provided such signs are in compliance with all provisions of [sub]sec. 4.9.A.

4.6 *Signs prohibited in all districts.*

A. Any sign which emits a sound, odor or visible matter.

DRAFT

B. Any sign which competes for attention with, or may be mistaken for, traffic signals. Also, any sign that is determined by the city planner to constitute a traffic hazard by reason of size, location, content, color, or type of illumination.

C. Off-premises signs (billboards), except for shared freestanding signs as provided in [sub]sec. 4.4.A.5 and [sub]sec. 4.9.G of this ordinance [section].

D. Inflatable signs, except as specifically permitted in [sub]sec. 4.9.D.3.

E. Portable signs designed to be transported, including, but not limited to, signs designed to be transported by means of wheels, signs converted to A-frames or T-frames, and umbrellas used for advertising, except those associated with a cafe or outdoor eating establishments.

F. Signs attached to or painted on vehicles parked so as to be visible from the public right-of-way, unless no other parking spaces out of the public view are available on the lot.

G. Roof signs, except where it has been determined that the building's mountable wall area would permit less than one-half of the permitted maximum wall signage, in which case, a roof sign is permitted under the following conditions:

(1) [The] sign must be mounted within three feet of the eave.

(2) The sign cannot exceed one-half of the maximum permitted wall sign area.

(3) The sign may not be higher than it is wide.

(4) The sign may not be higher than the roof ridge.

(5) [The] sign must meet the same design standards as wall signs.

H. Signs painted on or attached to trees, fence posts, natural features, [or] telephone or utility poles.

I. Signs that are flashing, rotating, or fluttering material or that give the appearance of movement, or are illuminated by flashing or intermittent lights, or lights of changing degrees or intensity, except as permitted under [sub]sec. 4.4 below.

J. Statuary bearing the likeness or suggestion of any product or logo.

DRAFT

K. Temporary signs made of cardboard, paper, canvas or similar impermanent material, except those permitted in [sub]sec. 4.9.

L. Window signs covering more than 20 percent of a window or a door, or mounted above the first floor.

M. Window signs in or adjacent to residential properties or districts.

4.7 *Permitted signs.* Signs are permitted in all zones in accordance with the following table, which is a list of permitted sign types by use, proximity to residential uses and road classification.

TABLE INSET:

SIGN TABLE

Use		Road Type	Permitted Signs						
	Specific		Sign Type	# Permitted	Max Size	Max Height	% of Wall**	Setback (R.O.W.)	Exclusion Zone
Residential Uses	Single-Family Detached/ Semi-detached	All Streets	Signs permitted in § 4.5 only						
	Professional Office Family Daycare	All Streets	Post	1	4 S.F.	5'	N/A	5'	N/A
		All Streets	Monument	1/entrance	12 S.F.	4'	N/A	5'	50'
	Subdivisions Multi-family residential uses Manufactured home parks	All Streets	Wall &	1/frontage	24 S.F.	20'	<=15%	N/A	N/A
			Monument	1/entrance	24 S.F.	5'	N/A	5'	50'
Non-Residential uses adjacent to Residential Districts or uses	Places of Worship Daycare Centers Approved Conditional Uses Educational/Institutional All other approved Non-residential Uses	Principal Arterial	Wall &	1/frontage	32 S.F.	30'	<=15%	N/A	N/A
			Monument	1/entrance	32 S.F.	10'	N/A	10'	50'
			Pylon*	1/frontage	32 S.F.	30'	N/A	30'	200'
		Minor Arterial	Wall &	1/frontage	24 S.F.	30'	<=10%	N/A	N/A
			Monument	1/entrance	16 S.F.	7'	N/A	10'	50'
		Local/ Collector	Wall &	1/frontage	16 S.F.	20'	<=5%	N/A	N/A
			Monument	1/entrance	16 S.F.	10'	N/A	10'	50'
Non-Residential Uses in Non-Residential Districts	Non-Residential Uses	Principal Arterial	Wall &	1/frontage	No max	30'	<=15%	N/A	N/A
			Monument	1/entrance	63 S.F.	10'	N/A	5'	50'
			Pylon OR*	1/frontage	75 S.F.	30'	N/A	15'	150'
			Pylon*	1/frontage	100	30'	N/A	31'	150'
		Minor Arterial	Wall &	1/frontage	32 S.F.	30'	<=15%	N/A	N/A
			Monument	1/entrance	32 S.F.	7'	N/A	10'	50'
		Local/ Collector	Wall &	1/frontage	32 S.F.	30'	<=15%	N/A	N/A
			Monument	1/entrance	32 S.F.	10'	N/A	10'	50'

DRAFT

* Denotes that an additional wall sign may be permitted/added in lieu of a freestanding pole sign.

** No wall mounted sign shall exceed more than 50 percent of the mountable wall area as defined in [sub]sec. 4.4.C.2.

4.8 *Unified campuses and complexes.*

A. *Purpose statement.* Recognizing that large campuses and complexes have signage needs that may not be adequately addressed by traditional sign regulations, this [sub]section of the ordinance is intended to allow a procedure for approval of a comprehensive signage plan for these sites.

1. Campuses and complexes are required to follow all standard signage requirements, as embodied elsewhere in this ordinance, unless they choose to apply to the planning commission for comprehensive signage plan approval. All such plans must embody a thorough review of all existing signs.

2. Any proposed shopping center or group of three or more principal structures under common management and operation located on one or more contiguous properties is required to submit an application for comprehensive signage plan approval to the planning commission, concurrently with their site plan application.

3. Any business or institution which has more than 400 linear feet of frontage on a principal arterial may submit an application for comprehensive signage plan approval.

B. *Design guidelines for comprehensive signage plans.*

1. Unified campuses and complexes applying for a comprehensive signage plan may not be held to the height, size, number and area regulations for signs found in other sections of this ordinance. However, the number, type and size of signs proposed may not be excessive, and must be in proportion to the scale of the buildings and the uses on the site.

DRAFT

2. All comprehensive signage plans must comply with all design guidelines found in [sub]sec. 4.4 of this ordinance, as well as all specific design guidelines found in this section.

3. Building signs shall be in harmony with the overall architectural concept for the site, and be compatible with each other and the building facades.

4. The freestanding signs identifying shopping centers and other unified campuses and complexes shall identify the name of the campus or complex and no more than three separate tenants within the campus or complex.

5. There shall be architectural harmony and unity of signs within a united campus or complex. Sign type, color scheme, size, and illumination within the site shall be coordinated and shall be compatible with the architecture of the center and the surrounding area.

C. *Planning commission duties.* In reviewing and approving comprehensive signage plans, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents, businesses, and property owners of the immediate neighborhood in particular, and shall ensure that united campuses and complexes have adequate, but not excessive, signage. Specifically, the following objectives shall guide the commission when reviewing such plans:

1. That the size and complexity of the campus or complex warrants the need for extra signage under the provisions of this ordinance;

2. That, in respect to the number and type of entrances, the placement of signage at or near those entrances provides superior visibility in order to ensure the safety of the driving public;

3. That the proposed signs are adequate in number to safely direct the public to the use or uses on the site;

DRAFT

4. The proposed signs must not have an adverse impact on the visibility of adjacent signs, and shall be consistent with, or an improvement over, the prevailing type and style of signage in the general area;

5. That the proposed signs will be of a style and color which will complement the architecture of the site, and the area in general.

D. *Submission requirements.*

1. A pre-application meeting is required. No application will be accepted without a pre-application meeting.

2. Twelve copies of a sign plan, which details the signage proposal, including relevant application forms, will be due on the regularly scheduled submission deadline for planning commission review. The sign plan shall illustrate the physical location of all existing and proposed signs on the subject property and their relationship to existing and/or proposed buildings on the site. The submission plan shall include color renderings of each proposed sign (drawn to scale), along with architectural elevation drawings of the building depicting the placement of all wall mounted signs existing and proposed.

3. Public notice is required, following the procedures set forth in article 10, sec. 2.47.

4. The application fee ~~shall be $200.00~~ as provided for in Appendix F, ~~and~~ is due at time of application.

5. Comprehensive sign plans which are submitted as part of a site plan or conditional use site plan application under the provisions of article 10 shall be reviewed as part of the site plan and shall not be assessed the review fee prescribed in [sub]section D.4. above.

E. *Amendments to approved comprehensive signage plans.* Any new or revised signs to be placed on a property with an approved comprehensive signage plan need not go back to the planning commission for re-approval if the sign area is not increased more than five percent, and the proposed signs conform to the overall design concept and colors as

DRAFT

approved. The five percent increase shall be calculated cumulatively over the life of the project, based upon the originally approved sign area.

4.9 *Supplementary sign provisions.*

A. *Window signs.*

1. Three window signs shall be permitted as additional signage on walls fronting on the public right-of-way. Text, including lettering and numbers, shall not exceed a height of 12 inches.

2. Window signs shall not cover more than 20 [percent] of any window pane or glass door panel, exclusive of window and/or door frame.

3. Windows principally viewed from drive aisles and parking lots and not prominently visible from the public right-of-way shall be exempt from restrictions on the number of signs, and may be approved by the city planner for a window coverage area greater than 20 percent, and/or lettering height taller than 12 inches, when the business elects to have less window signage than permitted on the windows fronting on, or prominently visible from, the public right-of-way.

4. Window signs shall be permitted on windows on the first floor of a building only.

5. The city planner may waive the provisions of this section when it has been demonstrated that the proposed window signs are of a unique or superior quality and style, and are intended to compliment the architectural design of the building, or when the business elects to use less wall signs than permit[ted] for the purpose of complimenting the architectural design of the building. Signs granted this waiver are not exempt from the requirement to obtain a sign permit.

B. *Historic district signs.*

1. All signs in the historic district must meet the standards laid out in the design standards and guidelines for the City of Dover historic district zone. Any and all standards found elsewhere in this ordinance may be waived as part of the

DRAFT

architectural review approval when proposed signs are determined to contribute to or improve the historic context of the building.

C. *Gas station signage.*

1. *Canopy signs.*

(a) Canopy sign height shall not exceed 30 feet.

(b) Canopy sign copy shall be directed toward a public street.

(c) Canopy sign area shall be limited to no greater than ten percent of the area of the canopy face to which the sign is applied.

2. *Exempt signs.*

(a) State or federal required price per gallon signage shall not count towards overall sign area for the site, unless they exceed 20 square feet in size.

(b) Price per gallon signs not exceeding two square feet, located on the pump itself.

D. *Temporary signs.*

1. [*Special event signs.*] Temporary signs for special events, including inflatable signs with a surface area of less than 100 square feet, may be erected on the premises of any establishment conducting a special event, provided that such signs do not exceed 100 square feet in sign area, and provided that such temporary signs shall not be displayed for a continuous period in excess of 30 days in any given three-month period. For grand openings, the maximum number, sign type, and allowable area may be waived by the city planner and inspections. Permits for such signs are required and shall be accompanied by a fee of $15.00.

2. *Race weekend signs.* During any seven-day period prior to or seven-day period following the Saturday or Sunday that auto racing is occurring, temporary signs may be erected without a permit and with no restrictions on the number or size of the signs.

DRAFT

3. *Inflatable signs.* Inflatable signs greater than 100 square feet are permitted only during grand opening events, community festivals and during race weekends, and must meet the following requirements:

(a) A special permit is required to ensure that adequate anchoring will be provided for the sign.

(b) A plot plan is required showing the placement of [the] inflatable in respect to utility lines and traffic patterns.

(c) No inflatable shall be placed any closer to the right-of-way than the height of the inflatable itself.

(d) Inflatable signs shall be securely anchored to the ground or securely fastened to a building for the purpose of maintaining such devices in a stationary location while on display.

E. *Motor vehicle sales lots.* This [sub]section allows motor vehicle sales lots to compensate for their likelihood to be mistaken for ordinary parking lots unless additional signs or other attention getting devices are placed in the sales area. It has also been demonstrated that these businesses tend to have smaller buildings relative to their land area diminishing their ability to effectively use wall signs.

1. Banners are permitted on motor vehicle sales lots. Such banners may be permitted at a rate not to exceed one banner for each ten motor vehicle parking/storage spaces on the premises, and any such banner shall not be situated closer than 50 Feet of any other banner on the premises. Parking spaces required for employees, customers, and service department uses shall not be counted to calculate the number of banners. The term "banner" does not include pennants, streamers, or other temporary or permanent signs.

2. Banners shall not exceed a width of three feet.

3. All banners must be securely attached to light standards, poles, or other substantial mounting hardware. Except for temporary signs permitted under the

DRAFT

provisions of [subsection] 4.9.D of this ordinance [section], all banners must be constructed of a permanent, weather resistant material.

F. *Window and wall signs located 100 feet or more from the roadway.*

1. Any window or wall sign associated with an approved nonresidential use, and which is not adjacent to a residential use, is eligible for sign area bonuses when located at least 100 feet from the public right-of-way. To qualify for the bonus, the sign must be placed on an exterior building wall which is set back at least 100 feet from the right-of-way line, and shall face the public right-of-way line from which the setback distance is measured. Sign area bonuses are authorized according to the following schedule:

TABLE INSET:

Distance from Right-of-Way	Bonus Sign Area (Allowable Area × % Bonus)	Mountable Wall Area Bonus (Mountable Wall Area × % Bonus)	Window Coverage Bonus (Allowable Area × % Bonus)
100 feet	17%	55%	30%
150 feet	18%	60%	40%
200 feet	19%	65%	50%
300 feet or more	21%	75%	60%

G. *Shared freestanding signs.*

1. For adjoining non-residential properties, a freestanding sign structure may be shared among adjoining property owners or businesses solely for the purpose of identification of the adjoining premises or businesses.

2. Where two property owners have agreed to share a freestanding sign as referenced in [sub]sec. 4.4, the shared freestanding sign shall be entitled to a combined sign area bonus of not more than 50 percent over the freestanding sign area otherwise permitted for the property on which the shared freestanding sign would be placed.

3. The permit application for a shared freestanding sign shall be accompanied by a binding legal agreement between the two adjoining property owners and/or

DRAFT

businesses which describes the ownership and maintenance obligations for such shared sign.

H. *Single buildings with multiple commercial tenant spaces or facades.*

1. Structures, such as shopping centers, which contain multiple commercial tenant spaces are permitted to have at least one wall sign on each unit. This provision shall only apply to units on the first floor of the structure.

2. When a structure is designed so that there are distinctly different facades or sections of the building along a single frontage, at least one wall sign is permitted on each facade or section of the building.

4.10 *Nonconforming signs.*

A. *Exclusions.* Non-conforming signs which are within ten percent of compliance of any height, area or location requirement and which conform to all other provisions of this ordinance shall be considered legal signs for the purposes of these regulations, except as provided in [sub]sec. 4.10.B.5 below.

B. *Removal or compliance required.* Nonconforming signs shall be removed from the premises or otherwise made to comply with these regulations in the following instances:

1. When there is renovation to more than 75 percent of the exterior of the principal building measured in square feet of exterior wall surface area, or expansion of more than 20 percent of the floor area of the principal building measured in square feet of floor area on the premises on which such nonconforming signs are present, except that freestanding signs that are nonconforming with respect to front setback requirements shall not be made to be set back further than the front of the principal structure. When, within any given two-year period, individual renovation projects involving less than 75 percent of the building exterior and/or individual building additions involving less than 20 percent of the floor area of the principal building on the premises would in aggregate exceed the 75 percent renovation and/or 20 percent expansion

DRAFT

thresholds set forth herein, all such non-conforming signs shall be brought into conformity with these regulations or shall be removed from the premises.

2. Prior to the issuance of any permit for the placement of any additional signage on the property. No new signs of any type shall be added to the property until the nonconforming sign is removed.

3. Nonconforming signs (including all supporting structures and mounting hardware) which have been abandoned shall be removed from the premises or otherwise made to conform within one year from the date of abandonment. Refacing the sign in accordance with other requirements of this ordinance does not absolve an owner from complying with this [sub]section. In certain instances where it is evident that the reoccupation or reuse of a premises which contains an abandoned non-conforming sign is imminent, the city planner may grant an extension of time within which to reestablish the use of such nonconforming sign.

4. When there is a change of use to a property where nonconforming signs exist, such signs shall be brought into conformity with these regulations or shall be removed from the premises.

5. Any nonconforming sign which has been removed from the premises shall be considered discarded, and replacement shall constitute a new sign, and require new permits.

C. *Notification and responsibility.* It shall be the responsibility of the owner of record of such property to cause the removal of such nonconforming signs in accordance with these provisions. When any of the above-listed conditions exist, the city planner is authorized to issue written notice by certified mail to the owner of record of such property, stating that such signs shall be removed within two calendar weeks of the date of receipt of the written notice. In cases where signs are determined to be unsafe or present a hazard, the city planner may order their removal in a shorter period of time. Failure to comply with these regulations, after due notice, shall be deemed a violation of this ordinance and [is] punishable in accordance with the provisions of article 8, section 4 of this ordinance. In

DRAFT

addition, in the event that compliance is not achieved within the stated period, the city planner may remove or cause to be removed from the premises any such signs in violation of this ordinance. All expenses incidental to such removal shall be charged to the owner of record of such property and shall constitute a lien upon such property.

4.11 *Abandoned signs.*

A. *Refacing.* All signs that conform to the current regulations which are deemed abandoned shall either be refaced with a blank or blacked out face or removed totally (including the supporting structure and/or mounting hardware) within 60 days of abandonment. Covering sign copy with tarps, paper, tape, cardboard or other nonpermanent materials is not an acceptable method of refacing.

B. *Removal.* Any conforming sign, which has been removed from the premises, shall be considered discarded, and replacement shall constitute a new sign, and require new permits.

(Ord. of 2-12-2001)

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 8 – Enforcement and Penalties be amended by inserting the blue text and deleting the text in red strikeout as follows:

Section 2. Certificates of Occupancy.

The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the building inspector:

a. Occupancy and use of a building hereafter erected, structurally altered or moved, or any change in the use of an existing building;

b. Occupancy, use or any change in the use of any land; and

c. Any change in use of a nonconforming use.

2.1 No certificate of occupancy shall be issued for any conditional use of a building or of land requiring approval of the planning commission as specified in article 10, section 1 of this ordinance, unless and until such conditional use has been duly approved by said

DRAFT

commission. Every certificate of occupancy for a conditional use or in conformance with a duly granted variance granted by the board of adjustment shall contain a detailed statement of such conditional use or variance and of any conditions to which the same is subject.

2.2 Application for [a] certificate of occupancy, on a form furnished by the building inspector, of a new building or for an existing building which has been altered, shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this ordinance and, in the case of a new building, shall be accompanied by an accurate survey, prepared by a licensed land surveyor, showing the location of all buildings as built. Such certificate shall be issued within ten days after receipt of said application, but only provided all requirements of this ordinance and of all other applicable codes and ordinances in effect are complied with.

2.3 If the proposed use is in conformity with the provisions of this ordinance and of all other applicable laws and ordinances, a certificate of occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the building inspector within ten days after receipt of a written application therefore. If the certificate of occupancy is denied, the building inspector shall state the reasons therefore [therefor] in writing.

2.4 Every application for a certificate of occupancy or a temporary certificate of occupancy shall be accompanied by a fee~~, payable to the City of Dover, computed as follows: For all properties zoned single family residential, the fee shall be $40.00; for all other property in other zoning classifications, other than single family residential, the fee shall be $40.00 for the first 20,000 square feet of building area, plus the sum of $10.00 for each additional 10,000 square feet of building area in excess of the first 20,000 square feet or multiple thereof~~ as provided for in Appendix F.

2.5 Every application for a certificate of occupancy shall state that the building or the proposed use of a building or land complies with all applicable provisions of this ordinance.

DRAFT

2.6 A certificate of occupancy shall be required for both initial and continued occupancy and use of the building or land to which it applies, as certified.

2.7 A certificate of occupancy shall be required of all nonconforming uses.

2.71 Such certificate shall specify each condition or use not conforming with this ordinance.

2.72 Such a certificate shall expire after 12 months, unless renewed.

2.73 A new certificate shall be required if there is any change in use or ownership from that specified.

2.74 The building inspector shall renew or reissue such a certificate if inspection establishes that no provision of this ordinance has been violated.

2.8 A record of all certificates of occupancy shall be kept in the office of the building inspector and copies shall be furnished, [up]on request, to any agency of the city or to any persons having a proprietary or tenancy interest in the building or land affected.

(Ord. of 7-12-1982, § 6; Ord. of 5-11-1987)

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 9 – Board of Adjustments be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 3. Procedure.

The powers and duties of the board of adjustment shall be exercised in accordance with the following procedure:

3.1 The board of adjustment shall not decide upon any appeal for interpretation or variance without first holding a public hearing, notice of which hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the city at least ten days before the date of such hearing. In addition to such published notice, the board of adjustment shall cause notice to be given of the substance of every appeal for a variance, together with notice of the hearing thereon, by causing notices thereof to be mailed by postal card or other means at least ten days before the date of said

DRAFT

hearing to the owners of all property abutting that held by the applicant in the immediate area (whether or not involved in such appeal) and all other owners within 200 feet, or such additional distance as the board of adjustment may deem advisable, from the exterior boundaries of the land involved in such appeal, as the names of said owners appear on the last completed assessment roll of the city. Any or all of the notices required by this [sub]section shall be issued by the office of the city clerk on order of the board of adjustment or upon order of the chairperson of said board if the appeal is received when the board is not in session and the chairperson deems it necessary or desirable to expedite the public hearing on such appeal. Provided that due notice shall have been published as above provided and that there shall have been substantial compliance with the remaining provisions of the paragraph [subsection], the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the board of adjustment in connection with the granting of any appeal or variance.

3.2 If the land involved in an appeal or application lies within 500 feet of the boundary of any other incorporated municipality, the city clerk shall also transmit to the municipal clerk of such other municipality a copy of the official notice of the public hearing thereon not later than the day after such notice appears in the official newspaper of the city.

3.3 At least ten days before the date of any public hearing, the secretary of the board of adjustment shall transmit to the secretary of the planning commission a copy of any appeal or application, together with a copy of the notice of such hearing. The planning commission may submit to the board of adjustment an advisory opinion on said appeal or application at any time prior to the rendering of a decision.

3.4 Unless work is commenced and diligently prosecuted within one year of the date of the granting of a variance, such variance shall become null and void.

3.5 All appeals and applications made to the board of adjustment shall be in writing, on forms prescribed by the board and approved by the planning commission. All variance requests for residential uses shall be accompanied by a fee ~~of $200.00~~ as provided for in Appendix F. All variance requests for nonresidential uses shall be accompanied by a fee

DRAFT

~~of $300.00~~ as provided for in Appendix F. All appeals from an order, requirement, decision or determination made by an administrative official, board or agency of the city shall be accompanied by a fee ~~of $200.00~~ as provided for in Appendix F.The board of adjustment may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal under section 2.1 (interpretation) hereof is partially or wholly successful. The fees filed in connection with applications under section 2.2 (variances) shall not be returnable, regardless of disposition of the case by the board.

3.6 Each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

3.7 Every decision of the board of adjustment shall be recorded in accordance with standard forms adopted by the board, and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the board shall be by resolution and each such resolution shall be filed by case number, together with all documents pertaining thereto. The board of adjustment shall notify the city planner, each member of the city council, and the chairperson of the planning commission in Dover, and the municipal clerk of any affected municipality given notice of hearings as set forth in [sub]section 3.2 of its decision in each case.

3.8 All the provisions of this ordinance relating to the board of adjustment shall be strictly construed. The board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this ordinance and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this ordinance have been substantially observed, no applicant or appellant shall be deprived of the right of application or appeal.

(Ord. of 7-12-1982, § 4; Ord. of 6-24-1991; Ord. of 7-12-2004(2) ; Ord. of 4-28-2008(2))

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BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 10 – Planning Commission be amended by inserting the blue text and deleting the text in red strikeout:

Section 1. Approval of conditional uses.

On application and after public notice and hearing, the commission may authorize the issuance by the city planner of permits for any of the conditional uses for which this ordinance requires, in the district in which such use is proposed to be located, the approval of such use by the planning commission. In approving any such use, the planning commission shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may prescribe appropriate conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

1.1*[Accessibility for fire and police protection.]* That all proposed structures, equipment or material shall be readily accessible for fire and police protection;

1.2*[Harmony of location, size and character.]* That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the zone in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties;

1.3*[Residential zones.]* That, in addition to the above, in the case of any use located in, or indirectly adjacent to, a residential zone:

a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or

DRAFT

incongruous with, the said residential district or conflict with the normal traffic of the neighborhood; and

b. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

1.4*[Permits.]* The commission may require that conditional use permits be periodically renewed. Such renewal shall be granted following due public notice and hearing, and may be withheld only upon a determination by the city planner to the effect that such conditions as may have been prescribed by the commission in conjunction with the issuance of the original permit have not been, or are being no longer, complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of the said permit. Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:

a. The provision in this ordinance under which such permit was issued is still in effect;

b. Such permit was issued in conformity with the provisions of this ordinance; and

c. Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

1.5*[Application] procedure:*

1.51 Application for a conditional use permit shall be submitted in triplicate to the city planner, on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval of the permit is to be requested.

DRAFT

1.52 Each application for a conditional use permit shall be accompanied by a fee ~~of $325.00, plus $15.00 per acre of the area or multiple thereof involved in the application~~ as provided for in Appendix F.

1.53 Prior to the review and action on the conditional use application, the commission shall hold a public hearing to be advertised by the applicant in a newspaper of general circulation at least ten days prior thereto. The applicant shall notify by mail all property owners within 200 feet of the extreme limits of the site plan property as their names appear on the municipal tax record at least ten days prior thereto. The applicant shall provide the commission with a copy of the notice, verification of newspaper publication, and post office return receipts for all letters on or before the meeting date. Said notices shall state the time and place of the hearing, a brief description of the site plan and shall state that a copy of the conditional use application and plan is filed with the planning department for public review.

1.54 The city planner shall certify on each application for a conditional use permit whether or not the application meets the requirements of all zoning ordinance provisions other than those of this section regarding conditional use permit approval.

1.55 The city planner shall retain one copy and transmit two copies of the certified conditional use permit application to the planning commission or its representative at least seven days prior to the date of the meeting at which approval of the permit is to be requested.

1.56 The planning commission shall act to approve or disapprove any such request for a conditional use permit within 45 days after the meeting at which approval is requested or within such additional time as may be consented to by the applicant. Failure to act within 45 days or the additional time consented shall be deemed approval. Planning commission disapproval shall include written findings

DRAFT

upon any element found contrary to the provisions or intent of this zoning code ordinance.

1.57 Amendments to or renewals of conditional use permits shall be acted upon in the same manner as the original request for a conditional use permit.

1.58 If the property is sold by the applicant or by any affiliated member of a single corporate family of which [the] applicant or its parent company is a member, after approval of the conditional use but before the proposed use or construction of the proposed use is started, or if, within one year of the approval, the proposed use or construction of the proposed use is not undertaken by or for the applicant or any affiliated member of a single corporate family of which [the] applicant or its parent company is a member, the conditional use approval shall be null and void, unless an extension of time is granted by the planning commission.

1.59 Whenever the planning commission denies an application for conditional use, such application for conditional use, or an application on the same property which is substantially similar, shall not be accepted for reconsideration by the planning commission sooner than one year from the date of denial.

1.60 Expiration of planning commission approval.

(a) Conditional use approval shall expire on the last day of the 12th month after the date of final or conditional approval of the planning commission, if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year, unless an extension of time is applied for 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

DRAFT

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 been any significant changes in the surrounding neighborhood.

4. Whether there has 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 extensions shall be submitted to the city by completing an application for extension approval form, which may be obtained in city hall.

(e) Under no circumstances shall the planning commission grant extensions beyond 24 months from the date of first approval.

1.6*Submission requirements accompany applications for conditional use permits.* The applicant shall cause a site map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The applicant shall submit 15 copies of the site map to the building inspector, who shall retain one copy and transmit nine copies to the planning commission or its representative at least seven days prior to the meeting at which approval of the permit is to be requested. Elements to be included on the site map are listed below:

1.61*Scale and dimensions.* The map shall be at least 18 [inches] by 26 inches, but not more than 24 [inches] by 36 inches and at a scale of ten, 20 or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

DRAFT

1.62*Legal data:*

(a) Lot, block, and section number of the property.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of [the] person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

(f) Sufficient description of information to define precisely the boundaries of the property and that portion of the property for which a conditional use permit is requested, and the approximate total acreage of that portion of the property for which a conditional use permit is requested. All distances shall be given in feet and tenths of a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

(h) The locations and owners of record of all adjoining lands.

(i) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.

(j) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.

(k) Existing zoning, [including] two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersection.

DRAFT

1.63*Existing structures.*

(a) Location of uses and outlines of structures, drawn to scale on or within 100 feet of the property.

(b) Paved areas, sidewalks and vehicular access between the site and public streets.

(c) Other existing development, including fences and landscape screening.

1.64*Proposed use:*

(a) A designation of that portion of the existing structures to be devoted to the proposed use and for which a conditional use permit has been requested.

(b) A designation of that portion of the property to be devoted to the proposed use, not requiring structures and for which a conditional use permit has been requested.

(c) A designation of the parking area and indication of the number of off-street parking spaces.

(d) Indication of on-site circulation pattern and access to the property from adjacent roads.

1.65*Proposed development:*

(a) Conditional use applications involving construction of new buildings and structures shall include a site plan which reflects compliance with the minimum requirements of article 10, section 2.54 of this ordinance.

1.66*Natural features:*

(a) Topography of the site.

(b) Location of different soil types, as indicated by the Soil Survey of Kent County prepared by the Natural Resources Conservation Service. The soils information shall be supplemented by soil boring and percolation test data requested by the city.

(c) Location of flood hazard areas.

DRAFT

1.67 [*Requested information:*] Full and complete information requested by the planner in accordance with the development information requirements set forth in article 10, section 4.

1.68*[Miscellaneous information:]* ther information deemed by the planning commission [to be] necessary to determine conformity with the intent of this ordinance.

(Ord. of 2-28-1977; Ord. of 7-12-1982, § 2; Ord. of 5-11-1987; Ord. of 6-24-1991; Ord. of 10-13-1992; Ord. of 12-14-1992; Ord. of 1-10-1996; Ord. of 9-25-2000; Ord. of 7-12-2004(2) ; Ord. of 4-28-2008(2))

BE IT FURTHER ORDAINED THAT:

Appendix B – Zoning, Article 10 – Planning Commission be amended by inserting the blue text and deleting the text in red strikeout, as follows:

Section 2. Site development plan approval.

2.1 *[Required.]* Site development plan approval shall be required for the erection or enlargement of all structures and the establishment of any use for which site development plan approval is required by this ordinance.

2.2 *Objectives.* In considering and acting upon site development plans, the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular shall be taken into consideration and appropriate conditions and safeguards may be prescribed as may be required that the results of its action may, to the maximum extent possible, further the expressed intent of this ordinance and the accomplishment of the following objectives in particular:

2.21 Maximum safety and convenience of vehicular and pedestrian traffic by ensuring that all proposed and impacted streets, driveways and walkways are adequate, but not excessive in number, adequate in width, grade, alignment, capacity, and visibility, and suitably located, particularly with respect to their connections with public streets.

2.22 The provision of adequate access to all proposed structures, equipment, or material on the site for fire and police protection.

DRAFT

2.23 The provision of adequate off-street parking to accommodate the vehicles of persons connected with or visiting the use and to obviate the parking of such vehicles in public streets.

2.24 A site layout (including the location, power, direction, and time of any outdoor lighting of the site) which would have no adverse effect upon adjacent properties.

2.25 Landscaping of the site in a manner which is in character with that generally prevailing in the neighborhood and which provides reasonable screening, at all seasons of the year, of all playgrounds, parking areas, and service areas from the view of adjacent residential properties and streets.

2.26 In applicable cases, a drainage system and layout which would afford the best solution to any drainage problems.

2.27 Ensure that large scale development projects involving extended construction periods are planned and implemented in accordance with an approved site development master plan.

2.28 Consideration shall be given to the physical orientation and architectural characteristics of proposed buildings, the relationship of proposed buildings to existing buildings and to other proposed buildings, and their contributions to the overall image of the immediate vicinity by considering the building and architectural design guidelines as set forth in article 5, section 19. Design characteristics of proposed buildings and building additions shall not detract or devalue existing buildings in the immediate vicinity. If the planning commission determines that the proposed physical orientation and architectural characteristics of the proposed buildings do not meet the intent and objectives of this section, then the planning commission shall refer the proposal to the architectural review oversight subcommittee for review and comment. The subcommittee shall meet and review the proposal with the applicant, and return its comments to the planning commission by the next regularly scheduled meeting. The architectural review oversight subcommittee shall be appointed by the commission at its annual meeting, [and] membership shall consist of two planning commission members, and two design

DRAFT

professionals with experience in construction, and the mayor or the mayor's designee. Two alternate design professionals with experience in construction shall also be appointed.

2.3 *Effect of site development plan approval.* No building permit will be issued for any structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant. No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.

2.4 *Procedure.*

2.41*Presubmission conference.* Prior to the submission of a site development plan, the applicant or his representative shall meet in person with the planning office and the city planner with a sketch plan. The purpose of this conference shall be to discuss proposed uses or developments in order to determine, first, whether the site development plan application shall be submitted to the city planner for consideration and review as an administrative site plan or shall be referred to the planning commission. Site development plans that shall be referred to the planning commission for consideration and review include any of the following:

(a) Site plans for new structures and building additions of 3,000 square feet or greater in floor area; or

(b) Site plans with a total of 5,000 square feet or greater of new or added impervious surface, including new structures, or building additions; or

(c) Nonresidential site plans with site disturbance greater than 500 square feet and adjacent to residential properties.

If the application is to be referred to the planning commission, the applicant shall be informed at the presubmission conference meeting which elements listed in subsection 2.5 below will be useful in determination of conformity with the provisions and intent of this section, along with any other comments and

DRAFT

suggestions intended to bring about conformity with the provisions and intent of this section.

2.42*[Decision.]* If, as a result of the presubmission conference as described in [sub]section 2.41 of this ordinance, it is determined that the proposed uses or development is of a type that may be approved by the building inspector, the applicant shall submit the application for site development plan approval, in triplicate, on forms approved for that purpose, to the building inspector with the required documentation under the provisions of [sub]section 2.5 of this article. The building inspector shall coordinate the reviews of the various administrative departments of the City of Dover and approve or disapprove the application within ten days of the date of submission.

2.43*[Disapproval.]* In the event that the building inspector disapproves an application for site development plan approval, his disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of this ordinance. If an applicant feels aggrieved by the disapproval of an application for site development plan approval by the building inspector, the applicant may request a review and consideration by the planning commission at the next regularly scheduled business meeting and the building inspector shall forward the application, all pertinent material submitted by the applicant and a copy of his written findings and reasons for denial of the application to the planning commission or its authorized representative.

2.44*[Submission to planning commission.]* At each regularly scheduled business meeting of the planning commission, the building inspector shall submit to the planning commission a list of all applications for site development plan approval and a copy of the site development plans that he has approved since the last regularly scheduled business meeting of the planning commission.

2.441 If a proposed use or development requires planning commission review under the land subdivision regulations of the City of Dover [as set forth in appendix A], the application for conditional approval of the preliminary layout, under article IV, section B of that ordinance [appendix A], and the application for

DRAFT

site development plan approval under this ordinance shall be submitted and reviewed concurrently. The application for site development plan approval shall be revised and all changed elements resubmitted and reviewed concurrently with the application for plan approval under article IV, section C of the land subdivision regulations [set forth in appendix A].

2.45*[Fees.]* If, as a result of the presubmission conference as described in [sub]section 2.41 of this ordinance, it is determined that the proposed uses or development is of a type that would be reviewed by the planning commission and approval or disapproval of the application given by that body, the application for site development plan approval shall be submitted, in triplicate, to the building inspector, on forms approved by the planning commission, at least 30 days prior to the planning commission meeting at which approval is to be requested. The application for site development plan approval shall be accompanied by a fee ~~of $325.00~~ as provided for in Appendix F. Applications for administrative site plans shall be accompanied by a fee ~~of $125.00~~ as provided for in Appendix F.

2.46*[Building inspector certification.]* The building inspector shall certify on each application for site development plan approval whether or not the application meets the requirements of all zoning ordinance provisions. The building inspector shall retain one copy and transmit two copies of the certified application for site development plan approval to the planning commission or its authorized representative at least seven days prior to the date of the meeting at which approval of the site development plan is to be requested.

2.47*[Public hearing.]* Prior to the review and action on the site plan application, the commission shall hold a public hearing to be advertised by the applicant in a newspaper of general circulation at least ten days prior thereto. The applicant shall notify, by mail, all property owners within 200 feet of the extreme limits of the site plan property as their names appear on the municipal tax record at least ten days prior thereto. The applicant shall provide the commission with a copy of the notice, verification of newspaper

DRAFT

publication, and post office return receipts for all letters on or before the meeting date. Said notices shall state the time and place of the hearing, a brief description of the site plan and shall state that a copy of the site plan application and plan is filed with the planning department for public review.

2.48*[Planning commission action.]* The planning commission shall act to approve or disapprove any application for site development plan received by it either as an original review or as an appeal under the provisions of [sub]section 2.43 of this article within 45 days or within such additional time as may be consented to by the applicant. Failure to act within 45 days or the additional time consented shall be deemed approval. Planning commission disapproval shall include written findings upon any site development plan element found contrary to the provisions or intent of this ordinance.

2.49*[Final plans and working drawings.]* Final plans and working drawings shall not be prepared for submission to the city planner for building permit approval until after approval of the application for site development plan approval has been obtained.

2.491*Expiration of planning commission approval.*

(a) Site development plan approval shall expire on the last day of the 12th month after the date of final or conditional approval of the planning commission if construction of the work authorized or use permitted has not started or unless an extension of time is applied for by the applicant and granted by the planning commission. Approval shall also expire if the construction of work authorized has stopped for a period of one year unless an extension of time is applied for and granted by the planning commission.

(b) For projects which are reviewed and approved by the planning commission as site development master plans, approval of the master plan shall remain valid for a period not to exceed five years from the date of planning commission approval, provided that the authorized construction or use has commenced within one year of approval and is proceeding

DRAFT

toward completion, unless an extension of time is applied for by the applicant and granted by the planning commission. In addition, the time between the completion of one phase and the initiation of the next phase shall not exceed a period of two years. Upon approval of a site development master plan by the planning commission, the city planner or authorized designee shall have approval authority over final plans governing each phase of construction as depicted on the master plan.

(c) 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.

(d) 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 been any significant changes in the surrounding neighborhood.
4. Whether there has been any related amendments to the zoning map or text, or the comprehensive plan, or if any waivers or variances have been granted.

(e) Applications for extensions shall be submitted to the city by completing an application for extension of approval form which may be obtained in city hall.

(f) Under no circumstances shall the planning commission grant extensions beyond 24 months from the date of first approval.

2.49.1 [*Amendments.*]Amendments to an approved site development plan shall be acted upon in the same manner as the original plan.

DRAFT

2.5 *Site development plan elements submission requirements accompanying applications for site development plan approval.* The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The applicant shall submit 15 copies of the site development plan map to the building inspector prior to or at the time of filing the formal application for site development plan approval under the provisions of [sub]section 2.42 or [sub]section 2.45 of this article. If the application is under the provisions of [sub]section 2.45 of this article, the city planner shall retain one copy and transmit nine copies of the site development plan map to the planning commission or its authorized representative at least seven days prior to the meeting at which approval of the application for site development plan approval is to be requested. Site development plan elements shall include those listed below which are appropriate to the proposed development or use as indicated in the presubmission conference required by the provisions of [sub]section 2.41 of this ordinance.

2.51*Scale dimensions:* Twenty or 40 feet to the inch, except that if the property has a maximum dimension over 900 feet, a scale of 50 feet to the inch may be used.

2.52*Legal data:*

(a) Lot, block, and section number of the property.

(b) Name and address of the owner of record.

(c) Name and address of the equitable owner, if any.

(d) Name and address of [the] person, firm or organization preparing the map.

(e) Date, north point and written and graphic scale.

(f) Sufficient description of information to define precisely the boundaries of the site, [and] total acreage of the site. All distances shall be given in feet and tenths of a foot. All angles shall be given to the nearest ten seconds or closer. The error of closure shall not exceed one in 10,000.

DRAFT

(g) The locations, names and existing widths of adjacent street rights-of-way and curblines.

(h) The locations and owners of record of all adjoining lands.

(i) Locations, widths and purposes of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.

(j) A complete outline of existing or proposed deed restrictions or covenants applying to the property and recital of the deed references if they are of record.

(k) Existing zoning on the site and adjacent properties.

(l) Two location maps, one at a scale of 1,200 feet to the inch, and one at a scale of 400 feet to the inch, showing the distance along all adjacent roads to the nearest intersections.

(m) Record of any agreements between the applicant and the city regarding the proposed development.

2.53*Natural features:*

(a) Contour lines at vertical intervals of two feet for land with [an] average existing slope of four percent or less, and at intervals of five feet for land with [an] average existing slope greater than four percent.

(b) Location of different soil types, as indicated by the soil survey of Kent County, prepared by the Natural Resources Conservation Service, and including locations of flood hazard areas. The soils information shall be supplemented by soil boring and percolation test data, if requested by the city.

(c) Location of significant natural features, including bodies of water, wetlands, and forest areas.

2.54*Proposed development:*

(a) Existing buildings and other structures.

DRAFT

(b) Location and width of all proposed streets and rights-of-way. Speed bumps or speed dips for the purpose of slowing down traffic on any street shall not be permitted.

(c) Location of all proposed structures, except one-family detached dwellings, [and an] indication of the total number of dwelling units.

(d) Location and dimensions of all lot lines.

(e) Building setback lines on all lots.

(f) Location of all uses not requiring structures, including parks, playgrounds and other open space areas.

(g) Location and plans for any outdoor signs.

(h) Location, direction, power and time of use for any proposed outdoor lighting.

(i) The location, size and arrangement of proposed sidewalks, driveways, loading areas, off-street parking areas and other paved areas.

(j) Indication of the total amount of impervious surfaces and the development coverage.

(k) Any proposed changes in elevation of the site and elevations of all streets, parking areas, and building foundations. The datum to which all elevations, including existing contour elevations, refer shall be clearly indicated on the plan.

(l) Plans for surface drainage of the site, if requested by the city. Such plans shall include stormwater run-off calculations and shall show the proposed method of accommodating the anticipated run-off.

(m) Any proposed below-ground or above-ground utilities and any contemplated public improvements, including road improvements, on or adjoining the property. Plans for such utilities and improvements shall indicate whether the developer, the city, or other agency will bear the

DRAFT

financial responsibility for the construction, and which improvements are intended to be dedicated to the city.

(n) Proposed grading, screening and other landscaping, including types and locations of proposed street trees.

(o) Architectural elevation drawings or other graphic representations illustrating exterior building characteristics of proposed buildings and/or building additions that would be visible from the public right-of-way. Elevation drawings shall be drawn to scale and shall reflect major architectural elements such as exterior surface materials, windows, doors, columns, and wall-mounted signage. Elevation plans are intended to provide a general depiction of the physical appearance, massing and scale of the proposed construction.

2.55*[Requested information.]* Full and complete information requested by the planner in accordance with the development information requirements set forth in article 10, section 4.

2.56*[Stage development compliance.]* If the site development plan indicates only one stage of the development, supplementary material shall be included to show compliance with article 5, section 9, development in stages.

2.57*[Miscellaneous information.]* Other information deemed by the planning commission [to be] necessary to determine conformity with the intent of this ordinance.

2.58*Site development master plans.* Site development master plans shall depict a generalized site development proposal that reflects general compliance with all applicable provisions of article 10, [sub]section 2.5 above, and shall also reflect the following information on the plan:

(1) [The] plan shall illustrate distinct phase boundaries for each proposed construction phase and shall detail proposed construction and site improvements planned for each phase. Bulk quantities and area totals for

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each construction phase, and for the total site, shall be tabulated in a data column on the plan.

(2) Each construction phase shall be enumerated in sequential order on the site development master plan according to the order of construction contemplated by the plan. Phases shall be implemented in accordance with the approved site development master plan.

(3) Each construction phase represented on the master plan shall be planned and designed to function independent of construction and site improvements contemplated in future construction phases in all respects, including but not limited to bulk area provisions of the zoning district in which the site is located, off-street parking requirements, site entrances, emergency access requirements, site utilities, and stormwater management improvements.

(4) Any special agreements or conditions of approval relative to the overall development that have been specified by regulatory agencies shall be documented on the site development master plan.

Site construction plans, details, and specifications are not required as part of a site development master plan submission. Final site construction plans, including detailed site grading, paving, utilities, stormwater management, and tree planting and preservation plans shall be submitted for final approval by the planning director, and/or authorized designee, and to other agencies having jurisdiction, on a phase by phase basis in accordance with the approved site development master plan, and all regulations of the City of Dover governing the approval of site plans as set forth in [this] article 10, section 2 of this ordinance.

(Ord. of 7-12-1982, § 3; Ord. of 12-12-1988; Ord. of 6-24-1991; Ord. of 10-13-1992; Ord. of 1-10-1996; Ord. of 9-25-2000; Ord. of 5-22-2000; Ord. of 7-12-2004(2); Ord. of 11-13-2007; Ord. of 4-28-2008(2))

Adopted: *

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Synopsis

This revision will move all associated fees and fines to Appendix F, a comprehensive fee code table, for easy look up and reference.

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ACTION FORM

PROCEEDING: Legislative, Finance & Administration Committee

DEPARTMENT OF ORIGIN: Finance **DATE SUBMITTED**: 4/27/09

PREPARED BY: Donna Mitchell, Controller/Treasurer

SUBJECT: Recommendations of Civilian Pension Board – A & B

REFERENCE: N/A

RELATED PROJECT: N/A

APPROVALS: City Council

EXHIBITS: Minutes of Civilian Pension Board Meeting - March 13, 2009

EXPENDITURE REQUIRED: Item A - $4,000
AMOUNT BUDGETED: $0
FUNDING SOURCE (Dept./Page in CIP & Budget):

TIMETABLE: Item A – 45 days; Item B – N/A

RECOMMENDED ACTION:

(A) The approval of the Board's recommendation to authorize the Controller/Treasurer to spend $4,000 to conduct an analysis using a sample of 5 employees to transfer from the 401a Plan to the Defined Benefit Plan.

(B) The acceptance of the Board's recommendation for no Cost of Living Adjustment to retirement benefits for Fiscal Year 2010.

(A) During the meeting of November 24, 2008 a motion to obtain a cost estimate for conducting an analysis of re-opening the (Civilian) Defined Benefit Pension Plan for current employees was approved by the Pension Board. The cost estimate and recommendation of how to proceed was provided by the City's pension actuary and presented to the Board on March 13, 2009. The Board is requesting City Council to approve the completion of this analysis as provided in the Recommended Action.

(B) During the meeting of March 13, 2009 the Civilian Pension Board held their annual discussion on providing an ad-hoc Cost of Living Adjustment for current retirees. Due to the funding level of the Civilian Defined Benefit Plan, the current CPI, market losses and poor budget conditions the Board recommended against a Cost of Living Adjustment for Fiscal Year 2010.

CIVILIAN PENSION BOARD

The Civilian Pension Board met on March 13, 2009, at 4:35 p.m. with Chairman McGiffin presiding. Members present were Mr. Leary, Mr. DePrima, Mrs. Mitchell, Mr. Lucas, and Mrs. Rigby. Mrs. Braun was absent.

AGENDA ADDITIONS/DELETIONS

Mr. DePrima moved for approval of the agenda, seconded by Mrs. Mitchell and unanimously carried.

SCOPE OF WORK AND COST ESTIMATE ANALYSIS OF REOPENING THE DEFINED BENEFIT PENSION PLAN

During their meeting of November 21, 2008, members requested the Controller/Treasurer and the Human Resources Director to develop a scope of work for investigating the possibility of re-opening the Defined Benefit Plan for current employees and that this information be presented to the City's current actuary to obtain a cost estimate for conducting the analysis.

Mrs. Mitchell, Controller/Treasurer, provided members with the actuary's cost estimate analysis. She advised members that the actuary recommended selecting four (4) or five (5) employees for review, with one employee in their thirties (30's), one eligible to retire immediately, and all others staggered in between. Mrs. Mitchell explained that the actuary will calculate the amount of buy back and the actuarial liability for the selected employees. This information could then be used to determine the cost implications for reopening the Defined Pension Benefit Plan. She stated that the cost to perform the analysis would be $2,000, plus an additional $400 for each employee reviewed. It was noted that there would be an additional expense to evaluate alternative plan designs.

Responding to Mr. DePrima, Mrs. Mitchell stated that the information provided by the Actuary was in response to a previous inquiry regarding buy back and did not include the estimated cost to re-open the Defined Benefit Plan.

Mr. DePrima questioned whether the actuary would provide a buy back per year rate. Responding, Mrs. Mitchell, indicated that specific information would be provided for the selected employees.

In response to Mr. Lucas, Mr. Dave Carden, City of Dover Employee, stated that employees are interested in having the Defined Benefit Pension Plan re-opened and/or allowing them to buy back their time. Mr. Lucas felt that the City would incur a greater expense by allowing employees to buy back their time than merely allowing them to enter the plan.

Mrs. Mitchell suggested opening a new pension plan for current employees who are enrolled in the 401(A). She explained that the City is presently paying an unfunded liability of 28% of payroll and that 28% would have to be paid on each employee who enters the plan. Mrs. Mitchell advised members that a new pension plan would not have an unfunded liability.

Concurring with Mrs. Mitchell, Mr. DePrima relayed his support for opening a new pension plan.

Mr. Lucas questioned how the study would be funded and felt that it was not something the pension plan should finance. Responding, Mr. DePrima stated that the motion would be to make a recommendation to Council to proceed with the study. It was his opinion that the consideration to re-open the Defined Benefit Plan was a morale issue and that there was a perception among employees (real or not) that they were inadequately informed of the various pension plan options. He felt that the study would be a small amount of money to invest to demonstrate that the City is willing to listen to the concerns of the employees.

Mr. McGiffin stated his understanding of the proposal was that employees with several years of service would have to contribute the money necessary to join the plan, get credit for their service, and not increase the City's liability. Responding, Mrs. Mitchell stated that employees would be required to buy in at a cost neutral to the City plan; however, the City's liability would always have the potential to increase.

Mr. DePrima mentioned that the Human Resources Department believed that the funds that employees have been putting aside in existing 401(A)'s could possibly be rolled over into the new fund.

Mr. Carden stated that it was not the desire of employees in the 401(A) plan to increase the City's liability and that he was willing to meet someone from the City to determine an amount that would prevent the City's liability from being increased. He expressed his desire to do his part and thought that other employees felt the same way.

Mrs. Mitchell reiterated her concerns, and noted that opening a new pension plan would be a more viable alternative. She explained that if employees enter the existing plan, those employees who are currently contributing 3½% would have to raise their contribution to subsidize new employees coming into the plan.

Mr. DePrima moved to recommend that the Controller/Treasurer be authorized to spend $4,000 ($2,000 to conduct the analysis, plus an additional $400 for each employee) to model five (5) employees. The motion was seconded by Mr. Lucas and carried with Mrs. Mitchell voting no.

Mr. DePrima suggested that Mrs. Mitchell obtain quotes from pension plan designers to get an estimate of the cost to open a second, separate, pension plan for employees.

Mrs. Mitchell questioned whether the Pension Board had the authority to form a separate pension plan which would be regulated by a separate board and whether the Pension Board or the Legislative, Finance, and Administration Committee would be the appropriate body to proceed with this motion. It was Mr. DePrima's feeling that Council viewed the Pension Board as the source of advice on Pension issues; however, he would verify this in the City Code.

Since the results of the actuarial analysis have not been obtained and may show that the cost would prohibit proceeding, it was Mr. Leary's feeling that approaching Council for money for an additional study was premature.

Mr. McGiffin felt that the two (2) options were completely different and that either one could impact the other. He did not feel that one had to precede the other and he could see the logic in proceeding on both paths at the same time.

Mr. DePrima moved to recommend that Mrs. Mitchell, Controller/Treasurer obtain cost estimates from Pension Plan Designers to open a second, separate, pension plan for employees. The motion was seconded by Mr. McGiffin and failed with Mr. Leary, Mr. Lucas, Mrs. Rigby and Mrs. Mitchell voting no.

DISCUSSION - COST OF LIVING ADJUSTMENTS

During their meeting of January 27, 2000, members directed the City Clerk to maintain a permanent pending agenda item to review a Cost of Living Adjustment (COLA) for City of Dover retirees prior to the third week of February each year.

Based on the funding status of the General Employee Pension Plan and the Consumer Price Index (CPI) statistics for the last calendar year, it was Mr. Leary's opinion that a COLA would not be appropriate this year. He advised members that the inflation number was relatively low at .1% for the last calendar year and -3.19% for the last quarter.

In response to Mr. McGiffin, Mrs. Mitchell stated that an automatic COLA affects the integrity of the plan and that if an ad hoc COLA is granted annually, it can be perceived as an automatic COLA. For this reason, during their meeting of April 8, 2008, in lieu of a COLA, members recommended that City Council fund a $100,000 one-time stipend to retirees based on age of the retiree. Mrs. Mitchell advised members that if stipend is consistently granted, it too becomes an automatic COLA.

Mr Leary moved to refrain from recommending a Cost of Living Adjustment (COLA) or stipend at this time due to the CPI (which indicates that inflation rates are down), the pension plan's unfunded liability, the contribution rate, market losses, and the poor budget condition. The motion was seconded by Mr. DePrima and carried with Mrs. Rigby voting no.

Mrs. Rigby questioned why the unfunded liability comes into play each year when this matter comes before the Board. It was her feeling that the unfunded liability is an issue that City Council should address and had nothing to do with retirees. Mrs. Rigby acknowledged the economic situation but stated that many retirees are struggling to make ends meet. She suggested the City place additional money into the plan to get it funded. Responding, Mrs. Mitchell stated the City has placed additional money into the fund over the last three (3) years, including $620,000 over and above the contribution percentage last year.

Mr. DePrima explained that the current plan was not designed with a COLA in mind and he felt that the retirement plan was extremely lucrative and allowed many employees to retire in their 40's. If the plan had originally been designed to provide a COLA, it would have been designed differently in terms of required years of service and the percentage of employee contribution.

Understanding Mrs. Rigby's concerns and the financial plight of many retirees, Mr. Leary felt that Mrs. Mitchell and Mr. DePrima were doing what could be done at the present time. He explained that the CPI was virtually non-existent this year; therefore, a COLA could not be justified. He reminded members that there have been other years when this was not the case and he encouraged Mrs. Rigby to "keep talking to" this issue.

It was Mr. McGiffin's feeling that the retirees bear some responsibility as they agreed to the provisions of the pension plan; however, he also felt that the City has an obligation to seriously consider taking good care of retirees. He noted that this is not a good time to address this issue due to the current economic situation and encouraged returning to it when the market improves.

Mr. DePrima moved for adjournment, seconded by Mrs. Rigby and unanimously carried.

Meeting adjourned at 5:13 P.M.

Respectfully submitted,

James G. McGiffin, Jr.
Chairman

TAM/JM/jjs
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