

CHAPTER 1 – GENERAL PROVISIONS**ARTICLE 1 – GENERAL PROVISIONS**

[Amended on 11/26/2013 by Ordinance #2013-07]

§ 1.1.1 Designation and citation of Code.

The ordinances embraced in this and the following Chapters and Sections shall constitute and be designated as “The Municipal Code of the City of Seaford, Delaware, and may be so cited. The Code may also be cited as the Municipal Code or in the provisions which follow, as “This Code”.

§ 1.1.2 Rules of Code construction; definitions.

In the construction of this Code and all ordinances the following rules of construction and definitions shall be observed unless inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

Administrative regulations - written orders which are issued by the Mayor or City Manager of the City and compiled in a manual.

And/or means **and** may read **or** and **or** may be read **and** if the sense requires it.

Board of Health - The Board as established and constituted in Section 19 of the Charter.

Bond - An obligation in writing, binding the signatory to pay a sum certain upon the happening or failure of an event.

Building - Any structure intended to have walls and a roof.

Business - Any profession, trade, occupation and any other commercial enterprise conducted for monetary reward.

Charter - The Charter of the City of Seaford, Delaware.

City - The City of Seaford, in the County of Sussex and State of Delaware.

City limits - Within the City and includes not only the corporate limits of the City, but also any property which it owns or which is under its jurisdiction.

City Manager - The chief administrative officer of the City.

Council - The governing body of the City, the City Council.

County - Sussex County, Delaware.

Definitions - given within a Chapter or Article apply only to words or phrases used in such Chapter or Article unless otherwise provided.

Designee - Following an official of the City, means the authorized agent, employee or representative of such official.

Director - The chief executive officer of the Office or Department to which the particular Division, Bureau, Board, Agency or subordinate municipal administrative body has been assigned by the Council.

Gender - Words in any Section importing the masculine gender shall include the feminine and neuter as well as the masculine.

Health Officer - The head of the Health Department or any person designated by the Council to perform the City health functions and duties.

Joint Authority - That authority given to several persons or officers. Such authority vests in a majority of such persons or officers.

Keeper - One in possession of or who has the care, custody or superintendence of a thing, place or business whether or not the owner or proprietor, and includes any person, firm, association, corporation, club and co-partnership whether acting by themselves or by a servant, agent or employee.

May - The word *may* is permissive and discretionary.

Mayor - The Chief Elected Official of the City of Seaford.

Month - A calendar month.

Number - Words used in the singular include the plural and the plural includes the singular.

Oath - Any form of attestation by which a person signifies that he is bound in conscience to perform an act or to speak faithfully and truthfully, and includes an affirmation or declaration in cases where by law an affirmation may be substituted for an oath.

Occupant - Tenant or person in actual possession.

Operate - Carry on, keep, conduct, maintain, manage, direct, or superintend.

Ordinances - The local laws of the City of Seaford and all amendments and supplements thereto.

Owner - One who has complete dominion over particular property and who is the one in whom legal or equitable title rests; when applied to a building or land, owner means any part owner, joint owner, owner of a community or partnership interest, life tenant, tenant in common, tenant by the entirety, or joint tenant, of the whole or part of such building or land.

Person - Any individual, natural person, joint stock company, partnership, voluntary association, society, club, firm, company, corporation, business trust, organization, or any other group acting as a unit, or the manager, lessee, agent, servant, partner, member, director, officer or employee of any of them including an executor, administrator, trustee, receiver, or other representative appointed according to law.

Personal property - Any money, goods, movable chattels, things in action, evidence or debt, all objects and rights which are capable of ownership, and every other species of property except real property.

Preceding and Following - Next before and next after, respectively.

Proprietor - An owner of the property or premises including any person, firm, association, corporation, club, partnerships or other group acting as a unit whether acting by themselves or by a servant, agent or employee.

Public place - Any park, lake, stream, stadium, athletic field, playground, school yard, street, avenue, plaza, square, bus, train or railroad depot, station, terminal, cemetery, open space adjacent thereto or any other place commonly open to the public.

Real property - Land, together with all things attached to the land so as to become a part thereof.

Shall - The word shall is mandatory.

Sidewalk - That portion of a street between the curb line and the adjacent property along the margin of a street or other highway, designed, constructed and intended for the use of pedestrians to the exclusion of vehicles.

Signature and Subscription - The name of a person, mark or symbol appended by him to a writing with intent to authenticate the instrument as one made or put into effect by him.

State - The State of Delaware.

Statutes or Revised Statutes - The latest published edition of the Statutes or Revised Statutes of Delaware.

Street - All streets, highways, avenues, boulevards, parkways, roads, lanes, viaducts, bridges and the approaches thereto, docks built on the public street, alleys, courts, places, squares, curbs, sidewalks, recreation and park lands used for vehicular traffic, or other public ways or thoroughfares in this City, over which it has jurisdiction, which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this State.

Tenant - Any person occupying the premises, building or land of another in subordination to such other person's title and with his express or implied assent, whether he occupies the whole or a part of those premises, building or land, whether alone or with others.

Tense - Words used in the past or present tense include the future, past and present where applicable unless the context clearly indicates otherwise.

Time - An hour of the day according to the official time of the City.

Time of performance - The time within which an act is to be done as provided in any Section or any order issued pursuant to any Section, when expressed in days, and is computed by excluding the first and including the last day. If the last day is Sunday or a legal holiday, that day shall not be counted in the computation. When the time is expressed in hours, the whole of Sunday or a legal holiday from midnight to midnight is excluded.

Watercourse - Any drain, ditch and stream, flowing in a definite direction or course in a bed with banks.

Week - Seven (7) calendar days.

Words and phrases - shall be construed according to the common and approved usage of the language, but technical words and phrases and others that have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such meaning.

Writing and Written - Any representation of words, letters or figures, whether by printing or otherwise, capable of comprehension by ordinary visual means.

Year - A calendar year.

§ 1.1.3 Authority of Code.

This code is a revision and codification of the general ordinances of the City of Seaford, Delaware which have been enacted and published in accordance with the authority granted in Chapter 42, Volume 52, Laws of Delaware, as amended; Acts of General Assembly granting specific authorization to municipalities to act in matters, including but not limited to planning, zoning and recreation.

§ 1.1.4 Territorial applicability.

This Code shall refer only to the commission or omission of acts within the territorial limits of the City and to that territory outside this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

§ 1.1.5 Applicability to privately owned areas.

The Charter and this Code, and penalties applicable for violation thereof, shall be applicable to those privately owned lands located within the City limits.

§ 1.1.6 Certified copy of Code admissible into evidence.

Any printed copy of this Code or any printed supplement thereto, published and certified according to law, shall be received in evidence in any court for the purpose of providing any Charter or ordinance provision therein contained with like effect and for the same purpose as the original ordinances, minutes or journals would be received.

§ 1.1.7 Acts by deputy or designee.

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by any authorized deputy or designee or by any person authorized pursuant to law or ordinances, unless this Code expressly provides otherwise.

§ 1.1.8 Effective date of ordinance, amendment or repeal; publication requirements.

- A. No ordinance or amendment or repeal of any Section hereof shall be operative, in full force and effect, until it has been adopted in the manner prescribed by law and until it has been published.
- B. Publication shall be sufficient if made in a newspaper published or in general circulation in the City or if made in a book or pamphlet form.

§ 1.1.9 Code provisions as continuance of existing ordinances.

The provisions appearing in this Code, insofar as they relate to the same subject matter and are substantially the same as those ordinance provisions previously adopted by the City and existing at the effective date of this Code, shall be considered as restatements and continuations thereof and not as new enactments.

§ 1.1.10 Effect of repeal of ordinances; revival.

- A. Neither the adoption of this Code nor the repeal hereby of any ordinance of this City shall in any manner affect the prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty at the effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining, shall continue in full force and effect.
- B. Whenever any ordinance repealing a former ordinance, clause or provision is repealed, such repeal shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

§ 1.1.11 Conflicting provisions.

- A. If the provisions of different Chapters, Articles, or Sections of this Code conflict with or contravene each other, the provisions of each Chapter, Article, or Section shall prevail as to all matters and questions growing out of the subject matter of that Chapter, Article, or Section.
- B. If clearly conflicting provisions are found in different Sections of the same Chapter, the provisions of the Section last enacted shall prevail unless the construction is inconsistent with the meaning of that Chapter.
- C. Where any conflict exists between a Chapter, Article, or Section of this Code and any Chapter or Section of the City Charter or State Code, the latter shall prevail.

§ 1.1.12 References include amendments; construction.

- A. Any reference in this Code to an ordinance or provision of this Code shall mean such ordinance or provision as may now exist or is hereafter amended.
- B. Any references in this Code to Chapters, Articles or Sections shall be to the Chapters, Articles and Sections of this Code unless otherwise specified.

§ 1.1.13 Catchlines and headings; construction.

All designations and headings of Chapters, Articles, and Sections are intended only for convenience in arrangement and as mere catchwords to indicate the contents of such Chapters, Articles or Sections, whether printed in boldface type or italics. They shall not be deemed or taken to be any part or title of such Chapters, Articles or Sections; nor unless expressly so provided, shall they be so deemed upon amendment or reenactment; nor shall they be construed to govern, limit, modify, alter or in any other manner affect the scope, meaning or intent of any of the provisions of this Code.

§ 1.1.14 Interpretation of Section numbers.

In reading a Section number from left to right, the digit or digits to the left of the first decimal point designate the Chapter number. The digit or digits to the right of the first decimal point designate the Article number within the Chapter. The digit or digits to the right of the second decimal point indicate Sections within each Article. The decimal system shall be used to maintain the numerical order of this Code.

§ 1.1.15 Continuing offenses.

Each day any violation of this Code occurs or continues to exist shall constitute a separate offense. Each individual act or failure to act in violation of the provisions of this Code shall constitute a separate offense.

§ 1.1.16 Prohibited acts include causing, permitting, concealing.

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

§ 1.1.17 Notices to be written and in English language.

All notices, reports, statements, applications or records required or authorized by this Code shall be made in writing in the English language unless specifically provided otherwise.

§ 1.1.18 Notices; service and proof.

- A. Unless otherwise specifically provided, whenever a notice is required to be given pursuant to any Section of this Code such notice shall be given either by personal delivery to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his last known business or residence address as the same appears in the public records or other records pertaining to the matter for which such notice is served, or by any other method of delivery approved by law. Service by mail shall be deemed to have been completed at the time of deposit in the post office or any United States mailbox.
- B. Proof of giving any notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen (18) years who actually accomplished personal service in conformity with this Code or other provisions of law applicable to the subject matter concerned, or by a return receipt signed by the recipient notified by United States Mail.

§ 1.1.19 Inspections and right of entry.

- A. All records, buildings and premises subject to inspection under this Code shall be inspected from time to time by the City Manager, or designee.
- B. All records, rooms and areas of a building or premises shall be available and accessible for such inspection which shall be made during normal business hours if the premises are used for nonresidential purposes; provided, however, that inspections may be made at other times if:

1. The premises are not available during the foregoing hours for inspection;
 2. There is reason to believe that violations are occurring on the premises which can only be apprehended and proved by inspection during other than the prescribed hours; or,
 3. There is reason to believe a violation exists of a character which is an immediate threat to health or safety requiring inspection and abatement without delay.
- C. Emergency inspections may be authorized without warrant if the City Manager, or designee, has reason to believe that a condition exists which poses an immediate threat to life, health, or safety. Such Procedure shall take place only where the time required to apply for and secure the issuance of a warrant would render ineffective the immediate action necessary to abate the condition.
- D. Where the City Manager, or designee, is refused entry or access or is otherwise impeded or prevented by the owner, occupant, or operator from conducting an inspection of the premises, such person shall be in violation of this Article and subject to the penalties hereunder.

§ 1.1.20 Search Warrant or access warrant.

- A. The City Manager, or designee, may upon affidavit, apply to the Judge of competent jurisdiction for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this Code may exist, including one or more of the following.
1. That the premises or records require inspection according to the cycle established by the City Manager, or designee, for periodic inspections of records, buildings or premises of the type involved; or,
 2. That observation or external conditions of the premises and its public areas has resulted in the belief that violations of the Code exist.
- B. If the Judge of competent jurisdiction is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

§ 1.1.21 Code severability.

It is declared to be the intention of the Council that the Sections, Subsections, paragraphs, sentences, clauses and words of this Code are severable. If any Section, Subsection, paragraph, sentence, clause or word is declared unconstitutional or otherwise invalid by the lawful judgment or decree of any court of competent jurisdiction, its unconstitutionality or invalidity shall not affect the validity of any of the remaining Sections, Subsections, paragraphs, sentences, clauses and words of this Code, since the Sections or parts of Sections would have been enacted by the Council without and irrespective of any unconstitutional or otherwise invalid Section, Subsection, paragraph, sentence, clause or word being incorporated into this Code.

§ 1.1.22 Same offense punishable by different Sections of the Code.

In all cases where the same offense is made punishable or is created by different Sections of this Code, the City Manager, or designee, may elect under which to proceed, but not more than one recovery shall be had against the same person for the same offense.

§ 1.1.23 Suspension or revocation.

- A.** The licenses issued pursuant to this Code may be suspended or revoked by the City Manager, or designee, after notice and hearing for any of the following causes:
 - 1.** Any fraud, misrepresentation or false statement contained in the application for license;
 - 2.** Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares and merchandise;
 - 3.** Any violation of this Code relative to the type of license issued;
 - 4.** Conviction of the licensee of any crime, or a violation of any Code provisions having a reasonable relationship to the purpose and scope of the license;
 - 5.** Conducting the activity licensed under this Code in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public.
- B.** Notice of hearing for the suspension or revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be by registered mail to the licensee at the last known address, at least five (5) days prior to the date set for the hearing.
- C.** In case of revocation of any license as herein provided, no portion of the license fee shall be reimbursed to the licensee.
- D.** Any suspension or revocation may be either in addition to or instead of the penalties prescribed in § 1.1.25 of this Code.

§ 1.1.24 Appeals.

- A.** Any person aggrieved by the decision of the City Manager, or designee, in regard to the denial of application for a license or in connection with the suspension or revocation of a license as provided in this Code shall have the right to appeal to the Council unless otherwise provided by law.
- B.** Such appeal shall be taken by filing with the Council within thirty (30) days after notice of the decision of the City Manager, or designee, has been given by registered mail to such person at his last known address, a written statement setting forth the grounds for the appeal.
- C.** The Council shall set the time and place for a hearing on such appeal and notice of such hearing shall be given by registered mail to such person at his last known address at least five (5) days prior to the date set for the hearing.
- D.** The order of Council on such appeal shall be the final municipal action for the purpose of judicial review.

§ 1.1.25 General penalty; subsequent violation; suspension or revocation of license or permit.

- A. Whenever in this Code or in any ordinance of the City any act or failure to do a required act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not exceeding Fifty Dollars (\$50.00) or by imprisonment in a place of legal incarceration for not more than thirty (30) Days, or by both such fine and imprisonment in the discretion of the court.
- B. Whenever in this Code or in any ordinance there is no provision for a greater penalty for a second or subsequent conviction for a violation of this Code, any person who has previously been convicted of the same violation shall be subject to a fine of not less than One-hundred Dollars (\$100.00), more for each succeeding offense, not to exceed the maximum penalty permitted for each offense.
- C. If the penalty for a particular offense is limited by State Statute then such limitation shall be applicable to the provision of this Code and other ordinances of the City notwithstanding the provisions of the Section.
- D. The suspension or revocation of any license, certificate or other privilege conferred by the City, shall not be regarded as a penalty for the purposes of this Code but shall be in addition thereto.

§ 1.1.26 Payment of Fines.

- A. Any person who, upon conviction of a violation of an ordinance of the City, shall fail to pay a fine imposed as part or all of the sentence passed by virtue of such conviction may be sentenced to serve an additional term of imprisonment not exceeding thirty (30) days, to be fixed in the discretion of the Court of competent jurisdiction.

§ 1.1.27 through § 1.1.99 RESERVED

END OF CHAPTER