

**REGULAR MEETING OF WILMINGTON CITY COUNCIL  
JANUARY 18, 2018 @ 6:30 P.M. - REVISED**

**Council Chambers  
Louis L. Redding City/County Building  
800 N. French Street - Wilmington, DE 19801  
[www.WilmingtonDe.gov](http://www.WilmingtonDe.gov) or [www.WITN22.org](http://www.WITN22.org)**

**AGENDA**

- I. Call to Order**
  - Prayer
  - Pledge of Allegiance
  - Roll Call
- II. Approval of Minutes**
- III. Committee Reports**
- IV. Acceptance of Treasurer's Report**
- V. Non-Legislative Business**

All Council	Retirement Matt Razze (42 Years)
All Council	Retirement Beverly Stokes (45 Years)
All Council	Sympathy Barbara DelleDonne
Guy	Sympathy Darrell Guy
Harlee	Recognize Shirelle Hogans
Oliver	Recognize National Association of Black Veterans – Chapter 94
Shabazz	Recognize Mason Ewing Witcher
Shabazz	Sympathy Jeanette C. DiEnna
Shabazz	Sympathy Jereld Cecil Robinson
Turner	Sympathy Jereline Hinson
Walsh	Sympathy Patrick J. Mulvena, Wilmington Fire Department (Retired)
Walsh	Sympathy Sheila Donovan DiSabatino
Williams	Sympathy James Turner, III

**VI. Legislative Business**

**CHUKWUOCHA**

Rev. 1

#4389 Sub. 1 Ord. 17-026 Amend Chapter 3 of the City Code Regarding Support Animals  
**(3<sup>rd</sup> and Final Reading)**

**Synopsis:** *This Substitute Ordinance is being presented by the City Council for Council's review and approval. If approved, this Substitute Ordinance would amend Chapter 3 of the City Code to add a definition of support animal. This Substitute Ordinance further amends Section 3-14 to allow residents and visitors of Wilmington to utilize otherwise prohibited animals as a support animal if necessary, so long as such animals are domesticated and properly restrained as not to constitute a public nuisance. In addition to ensuring that the City is in full compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act, the intent of this Substitute Ordinance is to ensure that Wilmington residents and visitors have access to the resources they need to cope with an emotional or mental disability.*

**SHABAZZ (Chukwuocha presenting on behalf of Shabazz)**

#4468 A Resolution Supporting the Delaware Department of Education's Proposed Regulations and Efforts Designed to Facilitate Inclusion and Prevent Discrimination

**Synopsis:** *This Resolution is being presented by City Council for Council's review and approval. If approved, this Resolution would be supporting the Delaware Department of Education's proposed Regulation 225 and all related efforts to foster an educational environment in which all students can learn, grow and thrive without experiencing unlawful discrimination based on their appearance, gender, race and/or ethnicity, gender identity or expression, sexual orientation, or any other protected characteristic.*

#4469 A Resolution Calling Upon Congress, the President, the United Nations and International Leaders to Condemn the Libyan Slave Trade and Take Actions to End this Grave Injustice

**Synopsis:** *This Resolution is being presented by City Council for Council's review and approval. This Resolution calls upon the United States Congress, the President of the United States, the United Nations and other international leaders to strongly condemn the Libyan slave trade and promptly take the actions necessary to end this grave injustice to human dignity.*

**OLIVER**

#4470 A Resolution Supporting Old Brandywine Village's Application for Commercial District Affiliate Program Participation at the State Level

**Synopsis:** *This Resolution is being presented by City Council for Council's review and approval. This Resolution demonstrates City Council's support for the joint application of the City of Wilmington and the Old Brandywine village, Inc. to participate in the Delaware Economic Development Office's Delaware Commercial District Affiliate Program.*

**GUY**

#4467

An Ordinance to Amend Chapter 44 of the City Code to Create a Section 44-154.1 Under Article VI – North Wilmington Market Street Business Improvement District (**1<sup>st</sup> and 2<sup>nd</sup> Reading**)

**Synopsis:**

*This Ordinance is being presented by City Council for Council's review and approval. This Ordinance amends the City Code to authorize the creation of a North Wilmington Market Street Business Improvement District.*

**VII. Petitions and Communications**

**VIII. Adjournment**

**SUBSTITUTE NO. 1 TO ORD. 17-026**

**AN ORDINANCE TO AMEND CHAPTER 3 OF THE CITY CODE  
REGARDING SUPPORT ANIMALS.**

**Rev. 1  
#4389**

**Sponsor:**

**Council  
Member  
Chukwuocha**

**WHEREAS**, the City of Wilmington has codified regulations pertaining to the keeping of domestic and wild animals within the City; and

**WHEREAS**, it is the responsibility of the City to ensure that the residents and visitors of Wilmington have access to the supports and resources they need; and

**WHEREAS**, the City recognizes and supports the needs of individuals with mental or emotional disabilities, as well as the range of resources that can assist such individuals – including animals that provide emotional support and comfort; and

**WHEREAS**, the City intends to mirror the protections afforded to individuals with disabilities and prohibit discrimination in housing, as outlined in the Fair Housing Act and Section 504 of the Rehabilitation Act, by providing reasonable accommodations for assistance animals, which include emotional support animals that serve as a resource for those with disabilities to help cope with and alleviate their symptoms.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Chapter 3 of the City Code is hereby amended by amending Section 3-1 by adding the underlined language as follows:

**Section 3-1. Definitions.**

Support animal means an animal tasked with the role of providing companionship and support to an individual with an emotional or mental disability. While not a traditional pet in every instance, a support animal shall, for the purposes of this Section, be domesticated, and prescribed or recommended by a licensed physician or psychologist in relation to the treatment of a disability.

**SECTION 2.** Chapter 3 of the City Code is hereby amended by amending Section 3-14 by deleting the stricken language and by adding the underlined language as follows:

**Section 3-14. Keeping of wild animals, farm animals; exceptions; penalty.**

- (a) No wild animal and no wild fowl may be kept within the city limits, except under such conditions as shall be fixed by the appropriate state agency; provided, however, that wild animals and wild fowl may be kept for exhibition purposes by circuses, zoos and educational institutions in accordance with such regulations as shall be established by the city or the appropriate state agency. Anyone keeping a wild animal pursuant to this section must do so in accordance with all applicable state laws.
- (b) It shall be unlawful for any person to keep, harbor or house, whether as a pet, or for eventual sale or consumption, or for any other purpose, any domestic animals or domestic fowl other than dogs or cats, commonly known as farm animals or fowl, including, but not limited to, chickens, chanticleers, roosters, ducks, geese, pigs, hogs, donkeys, mules, horses, cattle, goats, sheep, oxen, or any other animal or fowl suitable for slaughter or for the production of milk, eggs or fiber within the boundaries of the city, except:
- (1) Any such animals or fowl kept for exhibition purposes by circuses, zoos and educational institutions in accordance with regulations established by the appropriate state agency;
  - (2) Horses of the police department;
  - (3) Fish or crustaceans, or both being raised or produced in tanks inside of buildings that are located in nonresidential zoning districts only and that are otherwise in compliance with applicable provisions of this Code;
  - (4) Livestock held or kept on a temporary basis for a period not to exceed 96 hours at an indoor inspection or resting facility that is related to the export of such livestock from the Port of Wilmington and that is located in a manufacturing zoning district and is otherwise in compliance with applicable provisions of this Code; and
  - (5) As otherwise provided in this chapter, chapter 42, article X (farmers' market).
  - (6) A support animal, as defined in this Section, shall be permitted in housing by an individual residing in or spending time within the City limits, as outlined in the Fair Housing Act and Section 504 of the Rehabilitation Act, provided that:
    - i. The need for such an animal is affirmed by a physician or psychologist licensed in the State of Delaware, and that a signed letter from such licensed professional is provided to the Commissioner of Licenses and Inspections no less frequently than once per year. In the case of an individual visiting the City, such letter, which could be signed by a licensed professional in the individual's home state, shall be produced upon request by the Commissioner of Licenses and Inspections or his or her designee, or an official with any other enforcement entity operating within the City.
    - ii. Such animal receives proper care and treatment, pursuant to regulations set forth in this Code and/or as determined by the

State Office of Animal Welfare, the Delaware Department of Agriculture, or any other applicable State agency or humane law enforcement agency.

iii. Such animal is properly restrained, and that the animal does not constitute a public nuisance as determined by the Commissioner of Licenses and Inspections.

(c) A conviction of violation of the provisions of this section shall be punishable by a fine of not less than \$250.00 and not more than \$1,000.00 for the first offense, a fine of not less than \$500.00 and not more than \$2,500.00 for the second offense, and a fine of not less than \$1,000.00 which shall not be suspended and not more than \$5,000.00 for the third and subsequent offenses. A corporation may be fined by the court in an amount not exceeding \$5,000.00.

**SECTION 3.** This Substitute Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

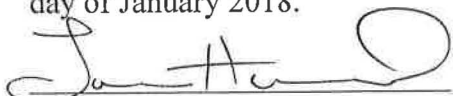
First Reading.....August 24, 2017  
Second Reading.... August 24, 2017  
Third Reading.....

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form this 16<sup>th</sup>  
day of January 2018.

  
Assistant City Solicitor

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Substitute Ordinance amends Chapter 3 of the City Code to add a definition of support animal. This Substitute Ordinance further amends Section 3-14 to allow residents and visitors of Wilmington to utilize otherwise prohibited animals as a support animal if necessary, so long as such animals are domesticated and properly restrained as not to constitute a public nuisance. In addition to ensuring that the City is in full compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act, the intent of this Substitute Ordinance is to ensure that Wilmington residents and visitors have access to the resources they need to cope with an emotional or mental disability.

**POLICY STATEMENT:** This Substitute Ordinance is designed to provide residents and visitors of the City of Wilmington with access to the resources needed to help alleviate and cope with emotional or mental disabilities through support animals. Research indicates that support animals are effective at reducing emotional and mental health issues, and are becoming a more commonly utilized resource for individuals with various disabilities and conditions. This legislation codifies a definition of support animals and extends a reasonable accommodation for such animals, and mirrors the provisions set forth in the Fair Housing Act and Section 504 of the Rehabilitation Act, which contain accommodations that protect renters and buyers from discrimination. This Substitute Ordinance is grounded in thoroughly conducted research on the topic, and is intended to enhance the quality of life for residents and visitors of the City of Wilmington.

Wilmington, Delaware  
January 18, 2018

#4468

**Sponsor:**

**Council  
President  
Shabazz**

**Co-Sponsors:**

**Council  
Members  
Chukwuocha  
McCoy**

**WHEREAS**, City Council supports efforts to create an educational environment in which all students can learn, grow and thrive without experiencing unlawful discrimination based on their gender, race and/or ethnicity, gender identity, appearance or expression, sexual orientation, or any other protected characteristic; and

**WHEREAS**, on July 17, 2017, Governor John Carney issued a memorandum asking the Delaware Department of Education (DDOE) to develop a regulation prohibiting discrimination in Delaware's public-school districts and charter schools and to provide a model anti-discrimination policy these schools could use to address potential discrimination against students; and

**WHEREAS**, on September 20, 2017, DDOE released a draft of Regulation 225, which provides guidelines to help public school districts and charter schools create consistent policies statewide that prohibit discrimination based on gender, race and/or ethnicity, gender identity or expression, sexual orientation, or any other protected characteristic; and

**WHEREAS**, Regulation 225 includes language specifically prohibiting discrimination based on gender identity and expression, language which was not previously included in Title 14 of the Delaware Code, but is consistent with Delaware's Gender Identity Nondiscrimination Act of 2013; and

**WHEREAS**, research has shown that 41 percent of transgender individuals have reported attempting suicide, compared to 4.6 percent of the general population; and



**WHEREAS**, further research has shown that reports of attempted suicide among transgender individuals are higher in certain circumstances, including among those who have been rejected by family members (57 percent), those who have experienced harassment or bullying in school (50 to 54 percent), and those who have experienced physical or sexual violence at school (63 to 78 percent); and

**WHEREAS**, guaranteeing the equal rights of transgender students within Delaware public school districts and charter schools is vital to ensuring the security and well-being of this vulnerable population.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, that the Council strongly supports the Delaware Department of Education's proposed Regulation 225 and all related efforts to foster an educational environment in which all students can learn, grow and thrive without experiencing unlawful discrimination based on their gender, race and/or ethnicity, gender identity, appearance or expression, sexual orientation, or any other protected characteristic.

Passed by City Council,

Attest: \_\_\_\_\_  
City Clerk

Approved as to form this 16<sup>th</sup>  
day of January 2018.

Elizabeth D. Power  
Senior Assistant City Solicitor

**SYNOPSIS:** This Resolution supports the Delaware Department of Education's proposed Regulation 225 and all related efforts to foster an educational environment in which all students can learn, grow and thrive without experiencing unlawful discrimination based on their gender, race and/or ethnicity, gender identity, appearance or expression, sexual orientation, or any other protected characteristic.

Wilmington, Delaware  
January 18, 2018

#4469

Sponsor:

Council  
President  
Shabazz

**WHEREAS**, a recent video of men being sold at a slave auction in Libya has sparked international outrage and has put a spotlight on the exploitation of migrant populations not only in Libya but all over the world. The undercover video, filmed by CNN reporters, showed smugglers selling off a dozen men for \$400 each; and

**WHEREAS**, since the ousting of Libya's longtime leader, Muammar Gaddafi, in 2011, Libya has been in a state of unrest. The transitional government was unsuccessful in taking control of the country, which led to the division of the population into several factions of militias, and civil war; and

**WHEREAS**, tackling the Libyan slave trade will require international assistance. Libya is an especially opportune place for slave traders as many migrants and refugees pass through Libya with hopes of crossing over to Europe from Africa; and

**WHEREAS**, the International Organization for Migration, the United Nation's (U.N.) migration agency, said that they had reports of "slave markets" along the migrant routes in North Africa; and

**WHEREAS**, hundreds of thousands of migrants have crossed the Mediterranean at significant risk to themselves and their families. Thousands have died while attempting the journey. Recently, the European Union has cracked down on boats smuggling refugees from Africa, resulting in at least 400,000 migrants being bottled up in Libyan detention camps, creating an environment ripe for extortion; and

**WHEREAS**, the leaders of Libya, France, Germany, Chad, Niger and other countries agreed on a plan to evacuate thousands of migrants in Libyan detention camps; and

**WHEREAS**, the U.N. Security Council held an emergency meeting and said it would be “stepping up its work” to address this issue. However, the U.N. refugee agency is underfunded, and additional funds are especially needed for its operations in sub-Saharan Africa; and

**WHEREAS**, the U.S. Ambassador to the U.N. expressed “To see the pictures of these men being treated like cattle, and to hear the auctioneer describe them as, quote, ‘big strong boys for farm work,’ should shock the conscience of us all. There are few greater violations of human rights and human dignity than this.”; and

**WHEREAS**, in a statement, the U.N. has called for “urgent actions to end Libya’s trade in enslaved people.” They further stated that, “It is now clear that slavery is an outrageous reality in Libya. The auctions are reminiscent of one of the darkest chapters in human history, when millions of Africans were uprooted, enslaved, trafficked and auctioned to the highest bidder.”; and

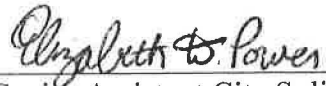
**WHEREAS**, City Council endorses the content of this statement and is anxious to see further action be taken by Global leaders.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, that Council calls upon the United States Congress, the President of the United States, the United Nations and other international leaders to strongly condemn the Libyan slave trade and promptly take the actions necessary to end this grave injustice to human dignity.

Passed by City Council,

Attest: \_\_\_\_\_  
City Clerk

Approved as to form this 16<sup>th</sup>  
day of January 2018.



Senior Assistant City Solicitor

**SYNOPSIS:** This Resolution calls upon the United States Congress, the President of the United States, the United Nations and other international leaders to strongly condemn the Libyan slave trade and promptly take the actions necessary to end this grave injustice to human dignity.

Wilmington, Delaware  
January 18, 2018

#4470

Sponsor:

Council  
Member  
Oliver

**WHEREAS**, the Main Street model is considered one of the many economic and community development tools used by a locality, and that successful revitalization requires an on-going commitment, continuous attention and full public-private partnership; and

**WHEREAS**, the Delaware Economic Development Office has established the Downtown Delaware Commercial District Affiliate status to assist localities in developing public/private efforts to revitalize their downtown commercial areas; and

**WHEREAS**, interested Delaware cities, towns and communities that are exploring downtown revitalization, including those that may not be eligible or do not desire to meet the “Accredited Main Street USDA requirements” may participate as an Affiliate; and

**WHEREAS**, Affiliate communities have access to Delaware Downtown training opportunities and limited on-site assistance, as resources permit; and

**WHEREAS**, in an effort to continue developing the Brandywine Village area and to further economically revitalize the community within the context of the Main Street approach, the City of Wilmington supports the application of the Old Brandywine Village, Inc. in their pursuit to participate in the Delaware Economic Development Office’s Delaware Commercial District Affiliate Program, and has completed the necessary application.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, that the City Council supports the joint application of the City of Wilmington and the Old Brandywine Village, Inc. to participate in the Delaware Economic Development Office’s Delaware Commercial District Affiliate Program.

**BE IT FURTHER RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, that resources permitting, the City of Wilmington fully intends to actively support and implement the initiatives developed as a result of Commercial District Affiliate status.

Passed by City Council,

Attest: \_\_\_\_\_  
City Clerk

Approved as to form this 16<sup>th</sup>  
day of January 2018.

  
\_\_\_\_\_  
Senior Assistant City Solicitor

**SYNOPSIS:** This Resolution demonstrates City Council's support for the joint application of the City of Wilmington and the Old Brandywine village, Inc. to participate in the Delaware Economic Development Office's Delaware Commercial District Affiliate Program.

**AN ORDINANCE TO AMEND ARTICLE VI. AND ADD SEC. 44-154.1 TO THE CITY CODE - NORTH WILMINGTON MARKET STREET BUSINESS IMPROVEMENT DISTRICT**

#4467

Sponsor:

Council  
Member  
Guy

WHEREAS, The City of Wilmington, acting pursuant to the provisions of 22 Del. C. ch. 15, has embraced the use of Business Improvement Districts in Downtown Wilmington and in the Wilmington Riverfront; and

WHEREAS, In North Wilmington, along the North Market Street corridor, is where substantial commercial activity exists in an area that is worthy of reviewing whether a Business Improvement District may be beneficial for this area for the following reasons expressed in the Wilmington City Code as reflected below:

(1) Preserving and enhancing commercial enterprise in Wilmington and in the North Wilmington Market Street area of Wilmington is critical to the long-term financial well-being of the city; and

(2) The availability of enhanced city services within the commercial centers of the city should result in significantly improved street and sidewalk sanitation, facilities and infrastructure maintenance, and public security, serving as a magnet to the consuming public; and

(3) Numerous cities and towns throughout the United States, including Philadelphia, Baltimore, Buffalo and Allentown have successfully funded and witnessed the benefit of such enhancements through the creation of business improvement districts as authorized by state legislative enactments; and

(4) The cost of the enhanced city services provided for within the downtown business improvement district shall be funded exclusively by the principal beneficiaries thereof, the commercial enterprises within the district, thereby avoiding further demand



on the city treasury.

**THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:**

**SECTION 1.** Wilmington City Code is hereby amended by adding the following material.

**Sec. 44-154.1- Establishment of the North Wilmington Market Street Business Improvement District.**

- (a) *Purpose.* The creation of the North Wilmington Market Street Business Improvement District is designed to revitalize the City's Christina Riverfront Commercial District by providing enhanced municipal services without the expenditure of public funds. The district is created pursuant to Chapter 15, Title 22, Delaware Code (hereinafter, the "Enabling Legislation").
- (b) *Establishment.* The mayor and council hereby create a Business Improvement District to be known as the "North Wilmington Market Street Business Improvement District" ("NWMSBID"), which district shall be bounded, governed and administered in accordance with this section.
- (c) *Geographic boundaries.* The geographic boundaries of the NWMSBID shall include both sides of all designated streets acting as boundaries, to include the full perimeter of all properties fronting on such streets to the rear property lines of all such properties, unless the centerline of a street is specifically designated as the boundary, or unless specifically noted otherwise, and said geographic boundaries are as follows:
  - (1) Beginning at the northern terminus of the Market Street Bridge, thence along North Market Street, across West Lea Boulevard to the North Market Street intersection with the boundary line of the City of Wilmington.
- (d) *Duration of NWMSBID.* The NWMSBID shall have a duration of existence of ten years, unless extended by ordinance for a longer duration prior to the expiration of the first ten years.
- (e) *Management company.* The NWMSBID shall be governed by a management company specifically authorized by this ordinance and organized under the not-for-profit corporation provisions of the Delaware General Corporation Law, which Management Company shall be known as "NWMSBID Management Company" (hereinafter, the "company").
  - (1) *Certificate of incorporation.* The city solicitor as incorporator of the company shall prepare and cause the Certificate of Incorporation attached hereto as Exhibit 2 to be filed with the Secretary of State of Delaware within 30 days of the effective date of this Ordinance.
  - (2) *Membership of company and board of directors.* The company shall be a non-profit membership corporation, managed by a board of directors, at least five of whom shall be representatives or designees of owners of commercial property

within the NWMSBID. The board shall also include the following five non-voting ex officio members: the mayor, or a designee of the mayor's office, the city council president (or his designee), and the directors of the departments of public works and finance and the chief of police (or their respective designees). The terms of all voting directors shall be two years, with no term limitations. The board shall adopt by-laws and secure Federal 501(c) tax-exempt status.

- (3) *Company reports.* The company shall file with the Director of Finance, Treasurer, and the Clerk of Council of the City of Wilmington (i) quarterly written reports within 30 days of the close of each fiscal quarter of the company and (ii) an annual cumulative written report within 90 days of the end of the company's fiscal year. Each report shall include, at a minimum, a detailed financial statement and a detailed summary of the services provided to the NWMSBID during the period reported. Each annual report also shall include a list of the assessments paid or owed by each assessable property in the NWMSBID. All annual financial statements shall have been audited in accordance with generally accepted auditing standards by a firm of certified public accountants prior to submission to the finance department and the clerk of council. Each quarterly written report and annual written report shall be approved by the board of directors of the company prior to its filing with the Director of Finance, Treasurer, and the Clerk of Council of the City of Wilmington.
- (4) *Public review and comment.* The company's annual operating plan, annual operating budget, and annual financial statements as contained in the annual cumulative written report provided for in subsection (3) above shall be submitted for review and comment to the Mayor and the Clerk of the City Council (who shall provide copies to the President and each Member of City Council as well the 1st District, 2nd District, and 3rd District Neighborhood Planning Council.
- (5) *Annual review by mayor and city council.* Not less than annually, the mayor and city council shall review the performance of the company and shall prepare for public inspection a report which certifies that:
  - (a) The company is in compliance with its enabling ordinance, this section of this chapter of this article, its Certificate of Incorporation and By-Laws and the provisions of 22 Del. C, Ch. 15;
  - (b) The company is fiscally sound and has provided an annual audit report using generally accepted auditing standards; and
  - (c) The company has not discriminated against any person based upon race, sex, national origin, religion, age or disability.
- (6) *Duration.* The company shall file a Certificate of Dissolution within 30 days of the earlier of (i) the date of termination of the NWMSBID pursuant to subsection (d) above or (ii) the revocation by ordinance adopted by two-thirds of all the members of council of the company's authority pursuant to 22 Del, § 1504(b)(5) to assess assessable properties within the NWMSBID, provided that

any such revocation ordinance may defer for up to one year the date by which the Certificate of Dissolution must be filed.

- (f) *Services.* Except as limited by the enabling legislation, the NWMSBID may use proceeds of the special assessments to provide for the following services, directly or by contract: private security monitoring services; private site and sidewalk cleaning; sanitation services; acquisition, replacement, painting and maintenance of street furniture; snow removal; garbage removal; litter and debris removal; management, promotional, marketing, advertising and retail development services; landscape acquisition, replacement and maintenance; recreation and cultural activities; and any other services, activities, or improvements which will improve the safety, convenience, cleanliness, attractiveness or usefulness of the NWMSBID. The company may provide by agreement to any other business improvement district located within the city any of the services it provides to the NWMSBID. The company may provide by agreement to contract with the owners of any assessable property within the NWMSBID to maintain any publicly-owned properties within the NWMSBID.
- (g) *Assessment base.* The assessment base through which the annual budget of the NWMSBID shall be funded shall be the assessment base for the real property tax of the city (without reduction for any special abatements).
- (h) *Properties exempt from assessment; properties subject to reduced assessment.*
  - (1) All exclusively residential properties having not more than four rental units shall be exempt from assessment, provided that in order to effect such exemption the owner (or his agent) of such a property must file an affidavit with the city's finance department declaring that the property in question meets the requirements of the exemption, and provided further that the finance department shall be responsible for determining which properties qualify for such exemption.
  - (2) All properties (i) which are exempt from the city's real property tax and (ii) which are owned by either churches or the federal, state or local government shall be exempt from assessment.
  - (3) The finance department shall maintain and keep current a list of the exempt properties.
- (i) *Limitations on assessments*
  - (1) The base annual assessment for each assessable property shall be equal to (a) the ratio of such assessable property's assessment base to the total amount of the assessment base for all assessable properties in the NWMSBID multiplied by (b) the total service and improvement cost as reflected in the adopted budget for the respective fiscal year (less any allocated surplus or estimated revenue from other sources) (the "rate of assessment"), provided that the base annual assessment calculated according to the rate of assessment shall be reduced by 50 percent for organizations which are exempt from the city's real property tax but which are not exempt from assessment under subsection (h)(2). Any funds generated by assessments or contributions which are not expended during the fiscal year generated shall be applied towards the total service and improvement

cost for the next fiscal year. Upon dissolution of the NWMSBID, the board of directors of the company shall distribute any surplus funds in accordance with its certificate of incorporation.

- (2) As to each assessable property, the amount of assessment calculated according to the rate of assessment shall not at any time exceed 15 percent of the city's real property tax rate per \$100.00 of assessed value, provided that this limitation shall be adjusted for any increase in the cost of living, using the relevant consumer price index, but in no event by more than five percent from the prior fiscal year; further provided that this limitation (after any adjustment for cost of living) shall also be adjusted for any increase in the minimum wage mandated by federal or state law. In calculating the assessment base, NWMSBID shall include the estimated cost of such increase, together with the actual cost to it of such increase previously incurred if such increase became effective during the prior fiscal year and the estimated cost thereof was not included as part of the assessment base for such year.
- (j) *Assessment billing.* Each year the city finance department shall provide the company with a list of the assessed values of all properties located within the NWMSBID which are subject to assessment hereunder as well as the (i) name and address of the owner(s) of each such property and (ii) the address and parcel number of each such property. The NWMSBID's assessment bills shall be distributed annually by the company.
- (k) *Collection of delinquent assessments.* In accordance with 22 Del. C. § 1505(c), delinquent assessments shall be collectable by the city through its finance department in the same manner as the collection of a city real property tax delinquency provided that an assessment shall be determined to be delinquent according to the same rules or method used for determining when a city real property tax payment is delinquent, and provided further that the company shall provide a list of delinquent assessments to the city finance department within thirty (30) days after such assessments become delinquent.
- (l) *Limitations on borrowing authority.* The NWMSBID shall not borrow funds for a term beyond the termination date of the NWMSBID as set forth in subsection (d) above.
- (m) *Credits for and interest on assessment overpayments.*
  - (1) If an assessment appealed to the county board of assessment review results in a reduction in the assessed valuation of any real property within the NWMSBID which is either not appealed or which is sustained in whole or in part upon final appeal, which reduction results in an overpayment of the NWMSBID assessment for any fiscal year for which the reduction is applicable, the property owner shall not be entitled to a refund of such assessment overpayment. Any such overpayment shall be a credit to the property owner's assessment account and will be used to offset any subsequent assessment obligation which has not yet been imposed with respect to the property for NWMSBID purposes.
  - (2) No interest shall accrue on any assessment credit arising under this section as of the date of a payment of assessment under protest and continuing until the date on which the last principal amount attributable to the overpayment is

credited to the property owner's assessment account. A payment under protest shall mean any payment of the entire amount of the NWMSBID assessment timely remitted to the NWMSBID for any fiscal year for which a subsequent reduction in property tax assessment shall be applicable. In the event that a property owner does not pay the assessment when due or pays less than the full amount of the assessment, then any applicable penalties and interest shall accrue on such delinquent assessments based on the property assessment at that time and not on the basis of a subsequent reduction in property assessment resulting from the appeal.

- (3) NWMSBID assessment credits shall be applied first to any outstanding assessment balance on the property upon which they accrued. Any credit remaining of record shall be applied to any assessment levied thereafter, and shall be credited as of the date upon which the obligation first constitutes a lien against the real property against which it is billed.
- (4) Subject to written application made to and approval by the NWMSBID, the NWMSBID may pay to the property owner, the amount that is due as an authorized refund.
- (5) The provisions of this section shall be applicable to appeals which have resulted in reductions of assessed value of real property for the tax year commencing July 1, 2018 and July 1, of each tax year thereafter, provided that a written request for a credit or refund, if applicable, has been delivered to the NWMSBID, and that a copy of the final order which resulted in the reduction of assessed value of the subject property has been provided to the director of finance and the NWMSBID.

**SECTION 2.** This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First Reading.....~~January 4,~~ 2018 Jan. 18  
Second Reading.... ~~January 4,~~ 2018 Jan. 18  
Third Reading.....

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form this  
3rd day of January, 2018.

Elizabeth D. Power  
Senior Assistant City Solicitor

Approved this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance amends the City Code to authorize the creation of a North Wilmington Market Street Business Improvement District.

**FISCAL IMPACT:** This Ordinance has no anticipated fiscal impact.