

**REGULAR MEETING OF WILMINGTON CITY COUNCIL
OCTOBER 4, 2018 @ 6:30 P.M.**

**Council Chambers
Louis L. Redding City/County Building
800 N. French Street - Wilmington, DE 19801
www.WilmingtonDe.gov or 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**

Harlee	Recognize Steve Washington
McCoy	Recognize The Delaware Adolescent Program, Inc. (DAPI)
Oliver	Sympathy Keneesha Denise Cunningham
Oliver	Sympathy Juanita Crump
Oliver	Sympathy Thelma Richardson
Oliver	Sympathy Francis A. Thomas
Shabazz	Recognize The Honorable Gregory M. Sleet
Shabazz	Sympathy Ronald Sutton
Turner	Sympathy James Roger Turner
Williams	Recognize Master Corporal Martin L. Lenhardt

VI. Legislative Business

SHABAZZ (*Chukwuocha presenting on behalf of Shabazz*)

#4568 Ord. 18-043 Amend Chapter 2 of the City Code to Update the Ethics Provisions
(3rd & Final Reading)

Synopsis: *This Ordinance is being presented by the Administration and City Council, at the recommendation of the Wilmington Ethics Commission, for City Council's review and approval. This Ordinance is part of a comprehensive set of revisions to the City Code to repeal certain provisions that are no longer necessary or appropriate and to amend sections that require clarification or updating.*

Additionally, it includes substantive recommendations from the City Ethics Commission to improve and modernize ethics requirements in the City. This Ordinance amends Chapter 2, Article V, Division 6 to make the following substantive changes: (1) changes the title from Code of Conduct to Code of Ethics to more accurately reflect the substance of the code; (2) provides an updated definitions section to improve clarity of the code; (3) requires the Ethics Commission to make advisory opinions publicly available in a form redacted to protect the name of the requester, which will help educate the public and city employees; (4) eliminates the practice of permitting an absence of conflict of interest affidavit, which is not in keeping with best practices of financial disclosures; (5) changes the annual filing deadline to May 1 to ensure filers have received all financial and tax documents to help them make accurate disclosures; (6) amends those required complete financial disclosures to include members of certain boards and commission in addition to all elected officials and appointed officials to improve transparency; (7) requires financial disclosures of household members to improve transparency; (8) lowers the thresholds for certain income related financial disclosures to improve transparency; (9) amends the gift disclosure to include the aggregate value of gifts from a particular source over the calendar year to improve transparency; (10) revises the co-signed loans disclosure to require disclosure of the co-signer to improve transparency; (11) adds a real property disclosure for property involving city expenditure which ensures transparency of such acts; and (12) adds a requirement to disclose board service, which is in keeping with best practices.

HARLEE

#4582

An Ordinance to Enact Certain Traffic/Parking Regulations (**1st & 2nd Reading**)**Synopsis:**

This Ordinance is being presented by City Council for Council's review and approval. This Ordinance approves various traffic and parking regulations in the City.

TURNER

Rev. 1

#4576

Ord. 18-046 Amend Chapter 5 of the City Code Regarding Beverages Offered in Children's Meals (**3rd & Final Reading**)**Synopsis:**

This Ordinance is being presented by City Council for Council's review and Approval. This Ordinance amends Chapter 5 of the City Code by requiring healthy beverages to be offered as the default beverage offered with a combination children's meal inclusive of a drink, sold together at a single price. This ordinance does not prohibit a restaurant's ability to sell, or a customer's ability to purchase a substitute or alternative beverage if requested by the customer.

FREEL

#4571 Ord. 18-045 Amend Chapter 2 of the City Code to Establish (I) a Tax Stabilization Reserve within the General Fund and (II) an Operation and Maintenance Reserve and a Rate Stabilization Reserve within the Water/Sewer Fund **(3rd & Final Reading)**

Synopsis: *This Ordinance is being presented by the Administration for Council’s review and approval. This Ordinance amends Chapter 2 of the City Code by establishing three reserves in order to: (i) maintain the financial stability of the City; (ii) provide citizens with essential and quality services; and (iii) limit the need to increase taxes or water/sewer rates. First, it creates a tax stabilization reserve in the general fund to provide a reserve to pay City obligations and limit the need to increase taxes. Second, it creates an operation and maintenance reserve in the water/sewer fund to provide funding in the event of adverse economic conditions or a public emergency that impacts the operations and maintenance of the water/sewer fund such that immediate action is required. Third, it creates a rate stabilization reserve within the water/sewer fund to provide a reserve to pay City water/sewer obligations and limit the need to increase water/sewer rates. Finally, this Ordinance addresses certain housekeeping matters, including (i) the replacement of the term “undesignated” in current Section 2-378 of the City Code (which will be renumbered as Section 2-376.2) with the term “unrestricted” because the term “undesignated” is outdated and the term “unrestricted” is more appropriate and (ii) the renumbering of certain Sections and Divisions of Chapter 2 of the City Code for continuity purposes and to retain sufficient reserved Sections for potential future amendments to the City Code. This Ordinance shall be deemed effective as of June 30, 2018.*

GUY

#4561 Ord. 18-041 Amend Chapter 8 of the City Code to Require that Developers who Received Financial Assistance from the City of Wilmington on Residential Construction Projects Require their Construction Contractors to Hire Workers from Class A Apprentice Programs **(3rd & Final Reading)**

Synopsis: *This Ordinance is being presented by City Council for Council’s review and approval. This Ordinance amends Chapter 8 of the City Code to require that developers who receive financial assistance from the City of Wilmington on residential construction projects require their construction contractors to participate in and hire workers from Residential Construction Apprentice Programs.*

VII. Petitions and Communications**VIII. Adjournment**

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE TO UPDATE THE ETHICS PROVISIONS

#4568

**Sponsor:
Council
President
Shabazz**

**Co-Sponsors:
Council
Members
Chukwuocha
Freel
Oliver
Williams
Walsh**

WHEREAS, this Ordinance is part of a comprehensive set of revisions to the City Code to repeal certain provisions that are no longer necessary or appropriate and to amend sections that require clarification or updating; and

WHEREAS, pursuant to Sec. 2-344 of the City Code, the City Ethics Commission is empowered to make recommendations to the Mayor and City Council regarding the conduct for public employees and officials; and

WHEREAS, at its August 14, 2018 meeting, the City Ethics Commission discussed and unanimously approved several recommendations for changes to the City Employees' and Elected and Appointed Officials Code of Conduct, including renaming it City Ethics Requirements, and through a letter to the Mayor and Council recommended the proposed amendments to Chapter 2 of the City Code contained in this Ordinance; and

WHEREAS, City Council seeks to establish and encourage standards of ethical conduct in City government; and

WHEREAS, City Council seeks to provide clear, consistent guidance with respect to such standards by clarifying the City Code through defined terms, and by directing the Ethics Commission to create redacted versions of future advisory opinions available for public inspection; and

WHEREAS, City Council intends to improve government transparency, follow best practices, and improve the disclosure of potential conflicts of interest through updated financial disclosure requirements for elected officials, appointed officials, honorary officials,

and members of certain boards and commissions that are adjudicatory or play a significant role in policymaking; and

WHEREAS, City Council seeks to set an annual due date for financial disclosures that facilitates accurate reporting; and

WHEREAS, City Council deems it necessary and proper to amend Chapter 2 of the City Code to effectuate these changes.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Division 6 of Chapter 2, Article 5 is renamed City Ethics Requirements.

SECTION 2. Section 2-336 of the City Code, entitled "Title" is amended by deleting the stricken language and adding the underlined language to read as follows:

This division and the sections thereof shall be known as the City Ethics Requirements Employees' and Elected and Appointed Officials Code of Conduct.

SECTION 3. Section 2-337 of the City Code, entitled "Definitions" is amended by deleting the stricken language and adding the underlined language to read as follows:

Appointed official means a city employee who is appointed by an elected official or appointed official.

City agency means any office, department, board, commission, committee, or entity of the city, ~~or of the mayor, or~~ and city council of the city.

City employee means any person who receives compensation as an employee of the city or of a city agency; or who serves as an appointed member, trustee, director or the like of any city agency and who receives or reasonably expects to receive more than \$5,000.00 in compensation for such service in a calendar year, not including any reimbursement for expenses. "City employee" does not include honorary city officials.

Close relative means a person's domestic partner or parents, spouse, children, siblings by blood (whole or half), adoption or marriage ~~natural or adopted, and siblings of the whole and half blood.~~

Commission or ethics commission means the city ethics commission established by this division.

Compensation means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

Elected official means a person who is the mayor, treasurer, council president or a member of council.

Family member means a domestic partner or a person related by blood (whole or half), adoption, or marriage.

Filers means all persons identified in Sec. 2-345.1(b).

Financial interest in private enterprise means that a person:

(1) Has a legal or equitable ownership interest in the enterprise of more than ten percent (one percent or more in the case of a corporation whose stock is regularly traded on an established securities market);

(2) Is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000.00 for services as an employee, officer, director, trustee or independent contractor; or

(3) Is a creditor of a private enterprise in an amount equal to ten percent or more of the debt of that enterprise (one percent or more in the case of a corporation whose securities are regularly traded on an established securities market).

Household member means a domestic partner or an adult family member, who lives in the same residence, domicile, home, or apartment as the city employee, elected official, appointed official, or honorary official.

Honorary city official means a person who serves only in an honorary capacity as an appointed member, trustee, director or the like of any city agency and who receives or reasonably expects to receive no compensation or not more than \$5,000.00 in compensation for such service in a calendar year, not including any reimbursement for expenses.

Matter means any application, petition, request, business dealing or transaction of any sort.

Personal or private interest means an interest which tends to impair a person's independence of judgment in the performance of his or her duties with respect to that matter such as (1) any vote, action or inaction that 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 (2) the person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any vote, action or

inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

Private enterprise means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property. Private enterprise does not include any activity of the state or of any political subdivision or of any agency, authority or instrumentality thereof, or, more specifically, of the city or of any department, agency, board, commission, authority, or instrumentality thereof.

Officer means:

- (1) The mayor;
- (2) The president and all members of city council;
- (3) The city treasurer;
- (4) All city department heads, including the city clerk, the director of public safety, the budget director, and the director of planning;
- (5) The chief judge and associate judges of the municipal court and all court commissioners; and
- (6) The appointed and ex officio members of city boards and commissions.

SECTION 4. Section 2-339 of the City Code, entitled “Legislative findings and statement of policy” is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) *Generally.* The city council finds and declares as matters of public policy goals and objectives for all city elected officials, and appointed officials, city employees and honorary city officials; the provisions of this section.

(b) *The public trust.* In our democratic form of government, the conduct of all elected officials, appointed officials, city employees and honorary officials ~~officers and employees of the city~~ must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.

(c) *Standards.* To ensure propriety and to preserve public confidence, all elected officials, appointed officials, city employees and honorary officials ~~officers and employees of the city~~ must have the benefit of specific standards to guide their conduct, and of some disciplinary mechanisms to guarantee uniform maintenance of those standards. Some standards of this type are so vital to government that violation thereof should subject the violator to criminal penalties.

(d) *Public service.* In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and employment, and that, therefore, the activities of all elected officials, appointed officials, city employees and honorary officials ~~officers and employees of the city~~ should not be unduly limited ~~circumscribed~~.

(e) *Performance of duty.*

(1) Elected officials, appointed officials ~~and appointed city officers~~ and city employees shall promote the delivery of the highest level of quality service to all city residents, and shall promote a professional and efficient interchange of services and information between their respective city departments.

(2) Elected officials ~~city officers~~ are obligated to uphold the fundamental legal principles of our system of government, as set forth in the United States Constitution, the state Constitution, and the city charter, as well as all applicable provisions of federal, state and local law and court decisions. They are bound to do so, and the failure to so act shall constitute malfeasance in office.

(3) No city employee shall be penalized, disciplined or dismissed by any other city employee or appointed or elected officer for performing his or her duties in accordance with the city charter, the city Code or established city policy. Any city employee who believes that he or she has been penalized, disciplined or dismissed as the result of the performance of his or her duties may seek redress through the city's personnel grievance and appeals process.

(f) *Duty to report.*

(1) Whenever any elected official, ~~or appointed official~~ ~~city officer~~ or city employee is required in the normal course of his or her employment to provide information to the city council, the mayor's office, or to any city department, board or commission, such information shall be provided in a complete and accurate manner.

(2) Any elected official, ~~or appointed official~~ ~~city officer~~ or city employee who is aware of a material deficiency in the delivery of services to city residents or between departments, or is aware of a condition or circumstance which necessitates an appropriate response by city government shall report such matter to the appropriate city department in order that appropriate action may be taken.

(3) Elected officials, ~~or appointed officials~~ ~~city officers~~ or city employees in supervisory capacities shall encourage input from city employees regarding the operation of their respective departments. They should also recognize those city employees who contribute in significant ways to the improvement of city services or to the operational quality of their respective departments.

(g) ~~*Abuse of office.*~~

~~(1) No elected official city officer 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) No elected official city officer shall vote for, or promote in any manner whatsoever, legislation affecting any subject matter in which he or she has a substantial personal or private interest. Any such interest shall be disclosed by said elected official officer prior to a vote on any such legislation, and said elected officer shall vote "present" when called upon to vote.~~

~~(3) No elected official, or appointed official city officer or city employee shall utilize the influence of his or her office or position for personal pecuniary gain, or to unduly influence the behavior of others, or to avoid the legal consequences of his or her personal conduct.~~

(h) *Fairness.*

(1) Elected officials, and appointed officials, honorary officials ~~city officers~~ and city employees shall strive for the highest standard of fairness in all of their activities.

(2) In the workplace, elected officials, appointed officials, honorary officials ~~such city officers~~ and city employees should strive for the fair application of employment conditions and policies, and attempt to create a working environment in which all persons can achieve their full potential.

(3) When providing city services, elected officials, appointed officials, honorary officials ~~such city officers~~ and city employees shall strive to ensure that city services are provided equally to all members of the community. In so doing, they ~~such city officers and employees~~ should attempt to address barriers to such services which may arise due to conditions of poverty, conditions of disability or special needs, or to the effects of past patterns of discrimination.

(4) This standard of fairness shall also imply a commitment by elected officials, appointed officials, honorary officials ~~and appointed city officers~~ and city employees to prevent and eliminate any and all discrimination in any action by the city government itself, or by any of its departments, boards, commissions, agencies or any other of its authorized entities on the basis of race, creed, color, national origin, age, religion, sex, sexual orientation, marital status, economic status, gender identity, or handicap or other disability.

(i) *Use of private information.* In the course of their official responsibilities, elected officials, appointed officials, honorary officials and ~~appointed city officers~~ and city employees are often privy to categories of information which are of a private nature and are legally protected from public disclosure. Elected officials, and appointed officials, and honorary officials ~~city officers~~ and city employees shall maintain the privacy of such information, and they shall not take advantage of such information for personal gain, or the personal gain of friends or a family member.

(j) *Use of illegal drugs.* Illegal drug use poses a threat to the individual user, to the user's co-workers, and to the general public. Elected officials, and appointed officials ~~city officers~~ and city employees shall commit themselves to ensuring that the city's work force and work environment are drug free. All city employees, elected officials, and appointed officials ~~except elected officials and municipal court judges~~, are subject to the provisions of chapter 40 of this Code. In all cases, any conviction of the

provisions of the state code, the Uniform Controlled Substances Act (16 Del. C. § 4701 et seq.), shall be deemed to be a crime of moral turpitude.

SECTION 5. Section 2-340 of the City Code, entitled “Prohibitions relating to conflicts of interest and political activities” is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) Restrictions on exercise of official authority.

(1) No city employee, elected official, appointed official ~~officer~~ or honorary city official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he or she 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 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 or her duties with respect to that matter.~~

(2) ~~Deleted~~ ~~A person has an interest which tends to impair his or her independence of judgment in the performance of his or her 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) In any case where a person has a statutory responsibility with respect to action or nonaction on any matter where he or she 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 personal or private ~~conflict of~~ interest, he or she must 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) ~~No city employee, officer or~~ honorary city official may represent or otherwise assist any private enterprise with respect to any matter before the city agency with which the ~~employee, officer or~~ honorary official is associated by ~~employment or~~ appointment.

(2) No city employee, ~~officer or~~ honorary city elected official or appointed official may represent or otherwise assist any private enterprise with respect to any matter before the city.

(3) This subsection shall not preclude any city employee, elected official, appointed official, city officer or honorary city official from appearing before the city or otherwise assisting any private enterprise with respect to any matter in the exercise of his or her official duties.

(c) *Restrictions on contracting with the city.*

(1) No ~~city officer or~~ elected official, appointed official or city employee shall benefit from or be interested in 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) No private enterprise in which an ~~city officer~~ elected official, appointed official or city employee has a legal or equitable ownership of more than 20 percent (more than one percent in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the city, other than an employment contract.

(d) *Postemployment restrictions.* No person who has served as a city employee, ~~city officer~~ elected official, appointed official or honorary city 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 or her employment or elected or appointed status with the city, if he or she gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his or her official duties as a city employee, ~~officer~~ elected official, appointed official or honorary official.

(e) *Unauthorized disclosure of confidential information.* No person shall disclose any information required to be maintained confidential by the commission under sections 2-341(d), 2-342(b) or 2-345 of this chapter.

(f) *Abuse of office.*

(1) No elected official ~~city officer~~ 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) No elected official ~~city officer~~ shall vote for, or promote in any manner whatsoever, legislation affecting any subject matter in which he or she has a substantial personal or private interest. Any such interest shall be disclosed by said elected officer prior to a vote on any such legislation, and said elected official ~~officer~~ shall vote "present" when called upon to vote.

(3) No elected official, or appointed official ~~city officer~~ or city employee shall utilize the influence of his or her office or position for personal pecuniary gain, or to unduly influence the behavior of others, or to avoid the legal consequences of his or her personal conduct.

(4)

a. *Conduct of appointed ~~officials-city officers/city employees~~:* Appointed officials and ~~city officers or~~ city employees are prohibited under this section from engaging in

certain political activities during scheduled work hours or at any other time while present at a city facility or in a city vehicle or wearing an official city uniform. The prohibited activities by appointed city officials ~~officers~~ and city employees are:

- (1) Seeking to influence the giving or withholding of a vote for, any candidates in any general, special or primary election;
- (2) Soliciting monetary or other contributions on behalf of any political party, political action committee or candidate for public office;
- (3) Using e-mail for political campaign purposes during scheduled work hours or while present in a city facility;
- (4) Using any city resources for the activities described in 1, 2, 3; or,
- (5) Directing, ordering or otherwise coercing any elected official, appointed official ~~city officer~~ or city employee to violate this section.

Scheduled meetings of city council and its committees shall be considered the scheduled work hours for elected officials ~~council members, the mayor, the city treasurer, and all other city officers~~ and city employees in attendance on city business.

b. *Conduct of elected officials:* Elected officials are prohibited under this section from engaging in certain political activities during scheduled work hours or while present in a city facility. The prohibited activities for elected officials under this section (f)(4)(b) are:

- (1) Arranging, participating or directing others to engage in the conduct of any political phone bank. A violation of this section shall occur when two or more phones are used simultaneously for political campaigning purposes by city employees or others within or outside a city facility during the scheduled work hours of the participants;
- (2) Distributing or directing city employees to distribute campaign literature during scheduled work hours or while present in a city facility;
- (3) Erecting or directing city employees to erect campaign lawn signs during scheduled work hours or while present in a city facility; or
- (4) Using e-mail for political campaign purposes during scheduled work hours or while present in a city facility; or
- (5) Ordering or otherwise coercing any elected official, appointed official ~~city officer~~ or city employee to violate this section.

(g) *Criminal sanctions.*

- (1) Any person who knowingly or wilfully willfully violates any provision of this section shall be guilty of a Class A misdemeanor for which punishment may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate. punishable for each such violation by imprisonment of not more than one year and by a fine not to exceed 10,000.00.
- (2) 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 the city or any city agency in violation of this division shall be voidable by the city or city agency; provided, that in determining whether any court action should be taken to void such a contract pursuant to this division, the city or 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 or city agency involved has, or should have, knowledge of such violation.

SECTION 6. Section 2-341 of the City Code, entitled “Code of Conduct” is renamed “Code of Ethics” and is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) Each city employee, elected official, appointed official ~~city officer~~ and honorary ~~city~~ official shall endeavor to pursue a course of conduct which will not raise any justifiable suspicion among the public that he or she is engaging in acts which are in violation of his or her public trust and which course of conduct will not reflect unfavorably upon the city and its government.

(b) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall have any interest in any private enterprise nor shall he or she incur any obligation of any nature which is in substantial conflict with the proper performance of his or her duties in the public interest. No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

- (1) Impairment of independence of judgment in the exercise of official duties;
- (2) An undertaking to give preferential treatment to any person;
- (3) The making of a governmental decision outside official channels; or
- (4) Any adverse effect on the confidence of the public in the integrity of the government of the city.

(c) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall acquire a financial interest in any private enterprise which he or she has reason to believe may be directly involved in decisions to be made by him or her in an official capacity on behalf of the city.

(d) Deleted

~~Any city employee or city officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any city agency, and any honorary city official who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, the city agency on which he serves as an appointee shall file with the ethics commission a~~

~~written statement fully disclosing the same. Such disclosure shall be confidential and the ethics commission shall not release such disclosed information, except as may be necessary for the enforcement of this section. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the city.~~

(e) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall use his or her public office to secure unwarranted privileges, private advancement or gain.

(f) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall engage in any activity beyond the scope of his or her public position which might reasonably be expected to require or induce him or her to disclose confidential information acquired by him or her by reason of his or her public position.

(g) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official shall, beyond the scope of his or her public position, disclose confidential information gained by reason of his or her public position nor shall he or she otherwise use such information for personal gain or benefit.

(h) No city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official, in the course of his or her public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a the city agency.

(i) Elected officials ~~city officers~~ are obligated to uphold the fundamental legal principles of our system of government. No elected official ~~such officer~~ shall knowingly fail to uphold those legal principles as set forth in the Constitution of the United States, the state Constitution and the city charter, as well as, all applicable provisions of federal, state and local law and court decisions, and any such knowing failure shall constitute malfeasance in office.

SECTION 7. Section 2-342 of the City Code, entitled "Waivers of restrictions and advisory opinions" is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) Notwithstanding the provisions of sections 2-340 and 2-341 of this division, upon the written request of any city agency or of any individual who is or was a city employee, elected official, appointed official ~~city officer~~ or honorary ~~city~~ official, the ethics commission may grant a waiver to the specific prohibitions contained therein if the ethics commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this division or would result in an undue hardship on any city employee, elected official, appointed official

~~officer, official~~ or city agency, provided that such waiver does not conflict with the provisions of the city charter, including specifically, but not limited to, article IX, chapter 2 of the charter. Any such waiver may be granted only by written decision of the ethics commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision provided there was a full disclosure to the ethics commission of all material facts necessary for the waiver decision.

(b) Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the commission provided that:

- (1) Public disclosure shall be made by the commission upon the written request of the applicant;
- (2) The commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this section;
- (3) The commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention; and
- (4) In the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.

(c) Upon the written request of any city employee, elected official, appointed official, ~~city officer,~~ honorary city official or city agency, the commission may issue an advisory opinion as to the applicability of this division to any particular fact situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion provided there was a full disclosure to the ethics commission of all material facts necessary for the advisory opinion.

(d) Any application for an advisory opinion, any proceedings and any decision with respect thereto shall be maintained confidential by the commission provided that:

- (1) Public disclosure shall be made by the commission upon ~~the~~ written request of the applicant;
- (2) The commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this division; and
- (3) The commission shall report to appropriate federal, state and city authorities substantial evidence of any criminal violation which may come to its attention.

(e) Notwithstanding subsection (d), the commission shall create a public version of advisory opinions that shall be available for public inspection in a redacted form making best efforts to not disclose the identity of the requester.

SECTION 8. Section 2-343 of the City Code, entitled “Wilmington Ethics Commission—Establishment, membership, offices” is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) There is hereby established the Wilmington Ethics Commission (commission) to administer and implement this division. The commission shall consist of seven members appointed by the mayor with the concurrence by resolution of a majority of all members of council. Not more than four members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the state, county, or city, or be a candidate for any such office. No member shall hold any political party office or an office in any political campaign. Members of the commission may be removed by the mayor, with the concurrence of a majority of all members of the council, for substantial neglect of duty, gross misconduct in office or violation of this division.

(b) Each member of the commission shall be appointed for a term of office of four years beginning on the day of their appointment ~~the second anniversary of mayoral term~~ and until the member's successor has been appointed and has qualified. No member shall serve for more than two full four-year terms. ~~When a vacancy occurs in the membership of the commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.~~

(c) The commission shall elect a chairman from among its membership. Four members of the commission shall constitute a quorum and, if a quorum is present, a vacancy on the commission shall not impair the right of the remaining members to exercise all the powers of the commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least four members. Otherwise, the commission may delegate authority to the chairman to act for the commission between meetings.

(d) Each member of the commission shall receive no compensation.

(e) The city solicitor or his or her designee shall provide legal counsel to the commission and shall be the legal representative of the commission in connection with its duties hereunder, on a case by case basis, or determine that outside counsel is needed and obtain such outside counsel for a particular matter.

(f) The city solicitor or his or her designee shall investigate complaints referred by the commission and shall prosecute all complaints before the commission, except he or she shall not investigate, nor shall he or she prosecute, any complaint about the mayor; any and all investigations of complaints about the mayor and any prosecution thereof shall be conducted only by outside counsel selected for such purposes and approved by resolution of council with the concurrence of two-thirds of all of the members of

council. The investigatory and prosecutorial functions of the city solicitor shall otherwise be performed by personnel who are not serving as legal counsel to the commission.

(g) The principal office of the commission shall be in the city/county building, but it may meet, and exercise its power, at any other place in the city.

SECTION 9. Section 2-344 of the City Code, entitled "Same—Powers and duties" is amended by deleting the stricken language and adding the underlined language to read as follows:

The powers and duties of the ethics commission shall be to:

(1) Recommend to the mayor and city council from time to time such rules of ethics ~~conduct~~ for ~~public~~ city employees, elected officials, appointed officials and honorary officials as it shall deem appropriate.

(2) Issue written advisory opinions upon the request of any city employee, ~~city officer~~ elected official, appointed official, honorary ~~city~~ official or city agency as to the applicability of this division to any particular fact or situation.

(3) Refer to the city solicitor to investigate any alleged violation of this division and, after notice and hearing, to recommend by resolution such disciplinary action as it may deem appropriate, to the city agency employing the city employee, elected official or appointed official ~~or city officer~~, the city agency with which the honorary ~~city~~ official is associated, the agency or official who appointed such officer or official, or other appropriate official or agency as the commission shall determine. The commission may also dismiss, without reference to the city solicitor, any complaint which the commission determines is frivolous or fails to state a violation.

(4) Report to the appropriate federal, state or city authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.

(5) Maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of sections 2-342(b) and 2-345(h).

(6) Follow the procedural rules specified in section 2-345 and establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.

(7) Subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers.

(8) Prescribe forms for reports, statements, notices and other documents required by law.

(9) Prepare and publish manuals and guides explaining the duties of individuals covered by this division, and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(10) Provide assistance to city agencies, city employees, elected officials, appointed officials, and honorary ~~and~~ officials in administering the provisions of this law.

(11) Prepare reports and studies to advance the purposes of this division.

(12) Contract for any services which cannot satisfactorily, practically, or ethically be performed by the office of the city solicitor.

(13) Request appropriate city agencies to provide such professional assistance as it may require in the discharge of its duties.

SECTION 10. Section 2-345 of the City Code, entitled “Same—Complaints; hearings; dispositions” is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) Upon the sworn complaint of any person or on its own initiative, the commission may refer to the city solicitor for investigation any alleged violations of the conflict of interest provisions and of the code of conduct provisions in sections 2-340 and 2-341, respectively. Except as provided in section 2-343(f) regarding investigations of complaints about the mayor, the city solicitor or his or her designee shall be the prosecuting attorney in all disciplinary proceedings before the commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross-examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of this division. The commission shall adopt rules of procedure and guidelines deemed necessary, subject to the approval of the administrative board.

(b) A member of the commission shall be ineligible to participate, as a member of the commission, in any commission proceeding relating to his or her conduct. A member of the commission who has been found by the commission to have violated this subsection shall be ineligible to serve again as a member of the commission.

(c) A member of the commission may disqualify himself or herself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that he or she cannot render an impartial and unbiased decision in the case in which he or she seeks to disqualify himself or herself.

(d) With respect to any violation with which a person has been charged and which the commission has determined as proved, the commission may take any one or more of the following actions:

(1) Issue a written reprimand or censure of that person's conduct.

(2) With respect to a city employee or appointed official ~~city officer, other than an elected official,~~ recommend by resolution that the city agency employing the city employee or appointed official ~~city officer,~~ the agency or official who appointed such appointed officer or official, or other appropriate appointed official or agency as the commission shall determine, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by this division but within the limits of the Constitution and other laws of the city and state. With respect to an elected ~~city~~ official, not recommend that such official be removed, demoted or suspended, but that such official be fined in an amount recommended by the commission.

(3) With respect to an honorary ~~city~~ official, recommend that appropriate action be taken to remove the honorary official from office.

(e) In any proceeding before the commission, upon the request of any person charged with a violation of this division, such person shall be permitted to inspect, copy or photograph books, papers, documents, photographs or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his or her defense.

(f) In any proceeding before the commission, if the city solicitor, his or her designee or the commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall forthwith make such information available to such person.

(g) Any person charged with a violation of this division may apply to the commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his or her behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant, or is reasonably calculated to lead to the discovery of relevant evidence, and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(h) The requirements for confidentiality or public disclosure are as provided in this subsection as follows:

(1) All proceedings before the commission relating to a violation of this division by a city employee, including the disposition thereof, shall be maintained confidential by the commission unless public disclosure is requested in writing by the city employee.

(2) All proceedings before the commission relating to a violation of this division by an appointed official or elected official ~~city officer~~ shall be maintained confidential by the commission unless public disclosure is requested in writing by the appointed official or elected official ~~city officer~~ or unless the commission, based on a preliminary inquiry, determines that there is reason to believe that a violation has occurred, and serves upon the alleged violator a statement of the alleged facts of such violation. After the service of such a statement on such person, all proceedings relating thereto shall be open to the

public and the statement and any other paper filed thereafter respecting such violation shall be made available for public inspection at reasonable hours.

(3) All proceedings relating to a violation of this division by an honorary city official shall be maintained confidential by the commission unless public disclosure is requested in writing by the honorary city official or unless the commission determines that a violation has occurred and so informs the official. At and after the time of so informing the official, the commission shall make the record of all proceedings relating thereto available for public inspection at reasonable hours and all subsequent proceedings relating thereto, if any, shall be open to the public.

(4) Notwithstanding the confidentiality requirements of subsections (h)(1)—(3) of this section, the commission shall make available for public inspection the record of all proceedings relating to any decision of the commission which is appealed to superior court and the commission shall report to appropriate federal or state authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this division.

(5) The chairman of the commission shall, with the approval of the commission, establish such procedures as in the chair's ~~man's~~ judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the commission or its staff except as permitted by this division.

SECTION 11. Section 2-345.1 of the City Code, is renamed "Financial disclosure requirements of elected officials and appointed officials and certain city employees and members of certain boards" and is amended by deleting the stricken language and adding the underlined language to read as follows:

(a) *Findings.* The purpose of this section is to require annual financial disclosure by elected officials and ~~certain~~ appointed officials and certain city employees and members of boards and commissions of city government.

(b) *Applicability.* The requirements of this section shall be applicable to "filers" "city officials" defined as all elected officials, appointed officials, members of the boards and commissions listed below and any city employee or member of the boards and commissions designated by rule of the ethics commission. The enumerated boards and commissions are as follows: ~~of the city government and the who are in the appointed positions enumerated below, specifically:~~

Audit Review Committee

Board of License & Inspection Review

City Officer & Employee Residency Review Board

City Planning Commission

Wilmington Design Review and Preservation Commission

Wilmington Ethics Commission

Wilmington Water, Sewer, and Stormwater Citizens Advisory Board

Zoning Board of Adjustment

The mayor;

The city treasurer;

The president of city council;

All members of city council; and

The officials in the following appointed positions of city government:

Administrative assistant to the mayor;

Special assistant to the mayor;

Executive assistant to the mayor;

Mayor's director of communications;

Mayor's office manager;

Secretary to the administrative assistant;

Mayor's scheduling secretary;

Mayor's office receptionist;

Director of cultural affairs;

Cultural affairs program manager;

Community affairs advisors (2);

Constituent services officer;

Director of economic development;

Director of enterprise communities;

Director of public safety;

Public safety administrative assistant;

City auditor;

Auditing administrative assistant;

~~City solicitor;~~
~~First assistant city solicitor;~~
~~All assistant city solicitors;~~
~~Executive legal secretary;~~
~~Director of finance and deputy director;~~
~~Chief of police and two inspectors;~~
~~Chief of fire and two deputy chiefs of fire;~~
~~Commissioner of licenses and inspections and deputy commissioner;~~
~~Director of parks and recreation;~~
~~Director of personnel and deputy director;~~
~~Director of planning;~~
~~Commissioner of public works;~~
~~Director of real estate and housing;~~
~~Director of youth and families;~~
~~Education specialist;~~
~~Marketing and special projects coordinator;~~
~~Family support partnership coordinator;~~
~~Economic development manager/Brownfields assessment coordination;~~
~~Economic development program manager;~~
~~Deputy city treasurer;~~
~~Administrative assistant to the city treasurer;~~
~~All appointed staff of city council, including the city clerk;~~
~~Executive secretary/deputy clerk; and~~
~~All executive secretaries.~~

(c) Financial disclosure report; alternative of affidavit of no conflict of interest.

(1) Reporting requirements. The financial disclosure requirements are as follows:

a. Every filer ~~city official~~ as defined in subsection (b), above, shall file a financial disclosure report ("financial disclosure report" or "report") disclosing financial

information interests for himself or herself and his or her household members for the prior calendar year, as hereinafter provided. Each report shall be on a form prescribed by the ethics commission, shall be signed by the filer ~~city official~~, shall be notarized and shall include at least the following information:

(1) The name and position of the filer ~~city official~~; and

(2) The name, instrument and nature of ownership, and any position of management held by, or constructively controlled by, the filer or his or her household members ~~city official~~ in any business enterprise in which legal or equitable ownership is in excess of \$5,000.00 fair market value or from which income of more than \$5,000.00 was derived during the preceding calendar year. Time or demand deposits in a financial institution, or any debt instrument having a fixed yield shall not be listed unless convertible to an equity instrument; and

(3) The name, address and type of practice, ~~without reference to the identity of any individual clients served~~, of any professional organization in which the city official filer or his or her household members ~~are~~ is the sole practitioner, officer, director or partner, or serves in any advisory capacity, or which is constructively controlled by the filer or his or her household members ~~city official~~, from which income of more than \$5,000.00 was derived during the preceding year; provided, however, that any such organization construed as a business enterprise and reported pursuant to paragraph (2) of this subsection need not be reported under this subsection; and

(4) For all filers except honorary officials, ~~the~~ source of each of the following items received by the filer or his or her household members during the preceding calendar year:

(a) Any income derived for services rendered exceeding \$1,050.00 from a single source, unless such income is otherwise identified pursuant to paragraph (2) or (3) of this subsection; or

(b) Any capital gain exceeding \$1,050.00 from a single source other than from the sale of a residence occupied by the city official; or

(c) Any reimbursement for expenditures exceeding \$1,000.00 from a single source; or

(d) Any honoraria; or

(e) Any gift(s) with an aggregate value in excess of \$250.00 received from any person other than a gift from a close relative or family member, identifying also in each case the amount of each such gift. For purposes of compliance with this gift reporting obligation, the recipient may rely in good faith upon the representation of the source of the gift as to the gift's value; and

(5) For all filers except honorary officials, ~~the~~ name of each creditor to whom the city official filer or household members ~~were~~ was indebted for a period of 90 consecutive days or more during the preceding calendar year in an aggregate amount in excess of \$1,000.00.

(6) Disclosure of whether the ~~city official filer or household members~~ have ~~has~~ co-signed a loan with anyone who has done business with the city or is an city employee and, if yes, the identity of that person or entity. ~~of the city government.~~ (Yes or No?)

(7) Disclosure of any direct or indirect interest in any real property by filer or household members which was sold or leased to the city or any of its departments, boards, commissions, authorities, or other agencies; purchased or leased from the city or any of its departments, boards, commissions, authorities, or other agencies; or was subject to any condemnation proceeding by the city or any of its departments, boards, commissions, authorities, or other agencies.

(8) Identify any corporate and/or non-profit board memberships of the filer and household members, including the nature of the entity's business and whether it operates within the City of Wilmington.

~~b. The affidavit of no conflict of interest, authorized by the provisions that are set forth in section 2-345.2 of this chapter, may be filed instead of the financial disclosure report, otherwise required by this section, by any city official to whom the financial disclosure requirement as are applicable as provided in subparagraph (b) "applicability" of this section, in any instance in which the name of the specific parties would otherwise have to be disclosed under the requirements of this financial disclosure section.~~

(2) *Definitions.* For purposes of this section the following words and phrases shall be defined as such words and phrases are defined in 29 Del. C. Ch. 58, Subch. II, the State financial disclosure law and any amendments thereto:

"Constructively controlled";

"Instrument of ownership";

"Position of management";

"Fair market value";

"Equity instrument";

"Time or demand deposits";

"Debt instrument";

"Professional organization";

"Income for services rendered";

"Capital gain";

"Reimbursement for expenditures";

"Honoraria";

"Business enterprise"; and

"Gift"

All of such words and phrases shall be read for purposes of this section in terms of their applicability to filers "~~city officials~~" and not to State of Delaware "public officers."

(d) *Sworn certification.* Each report required by this section shall contain a sworn certification by the filer ~~city official~~ that the filer ~~city official~~ has read the report, and that to the best of the filer's ~~city official's~~ knowledge and belief it is true, correct and complete, and that the filer ~~city official~~ has not and will not transfer any assets, interests or property for the purpose of concealing it from disclosure while retaining an equitable interest therein.

(e) *Time of filing.* Not later than 14 days after becoming a filer ~~city official~~, as defined in this section, the report required by this section shall be filed. Thereafter, the report shall be filed on ~~March~~ May 1 of each year.

(f) *Place of filing.* Each report required by this section shall be filed with the ethics commission, whose records shall be retained by the law department.

(g) *Retention of reports.*

(1) The ethics commission shall keep the reports required by this section on file for so long as the person submitting such report is an city official elected official, appointed official, honorary official or city employee of the city and for at least five years thereafter.

(2) The reports filed pursuant to this section shall be made available at reasonable hours for public inspection and copying pursuant to Chapter 100 of Title 29 of the Delaware Code.

(h) *Violations and penalties.*

(1) ~~No city elected official or appointee subject to the provisions of this section~~ filer shall be allowed to ~~take the oath of office or enter into or~~ continue upon his or her duties, nor shall he or she receive any compensation from city funds, unless he or she has filed a financial disclosure report as required by this section.

(2) ~~Any filer who knowingly~~ Filing a false financial disclosure report shall constitute the Class A misdemeanor of "filing a false written statement" and upon conviction thereof shall be punishable as provided in Title 11, the Delaware Criminal Code. (See 11 Del. C. § 1233). Knowingly filing files a financial disclosure report that is false in any material respect shall be guilty of a class A misdemeanor for which punishment may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate, punishable upon conviction thereof by a fine in an amount up to \$2,300.00.

(3) ~~Any filer who willfully failing fails~~ to file a financial disclosure report shall be guilty of a class B misdemeanor for which punishment may include up to 6 months

incarceration at Level V and such fine up to \$1,150, restitution or other conditions as the court deems appropriate. ~~punishable upon conviction thereof by a fine in an amount up to \$1,150.00.~~

SECTION 12. Section 2-345.2 of the City Code, entitled “Affidavit of absence of conflict of interest” is deleted in its entirety.

SECTION 13. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor. The new financial disclosure forms reflecting these code changes shall be due for the first time on May 1, 2019.

First Reading..... September 13, 2018
Second Reading..... September 13, 2018
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2018.

Mayor

SYNOPSIS: This Ordinance is part of a comprehensive set of revisions to the City Code to repeal certain provisions that are no longer necessary or appropriate and the amend sections that require clarification or updating. Additionally, it includes substantive recommendations from the City Ethics Commission to improve and modernize ethics requirements in the City. This Ordinance amends Chapter 2, Article V, Division 6 to make the following substantive changes: (1) changes the title from Code of Conduct to Code of Ethics to more accurately reflect the substance of the code; (2) provides an updated definitions section to improve clarity of the code; (3) requires the Ethics Commission to make advisory opinions publically available in a form redacted to protect the name of the requester, which will help educate the

public and city employees; (4) eliminates the practice of permitting an absence of conflict of interest affidavit, which is not in keeping with best practices of financial disclosures; (5) changes the annual filing deadline to May 1 to ensure filers have received all financial and tax documents to help them make accurate disclosures; (6) amends those required complete financial disclosures to include members of certain boards and commission in addition to all elected officials and appointed officials to improve transparency; (7) requires financial disclosures of household members to improve transparency; (8) lowers the thresholds for certain income related financial disclosures to improve transparency; (9) amends the gift disclosure to include the aggregate value of gifts from a particular source over the calendar year to improve transparency; (10) revises the co-signed loans disclosure to require disclosure of the co-signer to improve transparency; (11) adds a real property disclosure for property involving city expenditure which ensures transparency of such acts; and (12) adds a requirement to disclose board service, which is in keeping with best practices.

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

AN ORDINANCE TO ENACT CERTAIN TRAFFIC/PARKING REGULATIONS

WHEREAS, pursuant to the City Charter and Chapter 37 of the City Code, the Department of Public Works has proposed and the City Council deems it necessary and proper to enact the traffic/parking regulations set forth herein.

#4582

Sponsors:

Council
Members
Harlee
Chukwuocha
Congo
Freel
McCoy
Williams

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. That “**ALL-WAY STOP**” signs be installed at the following locations:

- a. South Park Drive and Riddle Avenue
- b. Maple Street and Porter Street
- c. South Scott Street and Chestnut Street
- d. South Clayton Street and Oak Street
- e. Water Street and North Orange Street

SECTION 2. That “**STOP**” signs be installed at the following locations:

- a. Swarthmore Road intersecting North Dupont Road
- b. North Locust Street intersecting East 27th Street

SECTION 3. That “**YIELD**” signs be installed on Swarthmore Road intersecting North Dupont Road.

SECTION 4. That “**NO PARKING STREET CLEANING 10:00 AM TO 12:00 PM, MONDAYS ONLY**” signs be installed on the northside of East Thirteenth Street between North French Street and North Walnut Street.

SECTION 5. That “**NO PARKING STREET CLEANING 10:00 AM TO 12:00 PM, WEDNESDAYS ONLY**” signs be installed on the southside of East Thirteenth Street between North French Street and North Walnut Street.

SECTION 6. That **“NO PARKING STREET CLEANING 8:00 AM TO 10:00 AM, THURSDAYS ONLY”** signs be installed on the northside of West 26th Street between North Madison Street and North Monroe Street.

SECTION 7. That **“NO PARKING STREET CLEANING 8:00 AM TO 10:00 AM, FRIDAYS ONLY”** signs be installed on the southside of West 26th Street between North Madison Street and North Monroe Street.

SECTION 8. That **“NO PARKING CHILD DROP OFF/PICK UP 8:30 AM to 9:00 AM, EXCEPT SATURDAYS AND SUNDAYS”** signs be installed on the eastside of North French Street beginning at the southerly building line of East 11th Street and extending south 145 feet.

SECTION 9. That **“NO PARKING CHILD DROP OFF/PICK UP 3:00 PM to 4:00 PM, EXCEPT SATURDAYS AND SUNDAYS”** signs be installed on the eastside of North French Street beginning at the southerly building line of East 11th Street and extending south 145 feet.

SECTION 10. That **“2 HOUR PARKING AT ALL TIMES”** signs be installed on the eastside of North Monroe Street between West 9th Street and West 10th Street.

SECTION 11. That **“4 HOUR PARKING 8:00 A.M. to 6:00 P.M., EXCEPT SATURDAYS AND SUNDAYS”** signs be installed on the westside of North Tatnall Street beginning 89 feet of the southerly building line of Water Street and extending south 300 feet.

SECTION 12. That **“20 MINUTE PARKING BETWEEN SIGNS”** signs be installed on the eastside of North Market Street beginning 50 feet from the northerly building line of East 13th Street and extending north 108 feet.

SECTION 13. That the portions of legislation that designate the following be hereby **RESCINDED** to allow for the **REMOVAL** of signs as stated herein:

- a. **“ONE HOUR PARKING 8:00 AM TO 6:00 PM, EXCEPT SATURDAYS AND SUNDAYS”** signs on the eastside of North French Street beginning at the southerly building line of East 11th Street and extending south 145 feet.
- b. **“NO PARKING BETWEEN SIGNS”** signs on the northside of Gilpin Avenue beginning 110 feet from the westerly building line of North Lincoln Street and extending west 44 feet.
- c. **“1 HOUR PARKING AT ALL TIMES”** signs on the eastside of North Monroe Street between West 9th Street and West 10th Street.

SECTION 14. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

First Reading.....October 4, 2018
Second Reading.....October 4, 2018
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ___ day of _____, 2018.

Mayor

SYNOPSIS: This Ordinance approves various traffic and parking regulations in the City.
W0102321

ORDINANCE NO. 18-046

AN ORDINANCE TO AMEND CHAPTER 5 OF THE CITY CODE REGARDING BEVERAGES OFFERED IN CHILDREN’S MEALS

**Rev. 1
#4576**

Sponsors:

**Council
Member
Turner**

**Council
Member
Congo**

Co-Sponsors:

**Council
Members
Dixon
Williams**

WHEREAS, City Council desires to promote healthy meal options for children and families and contribute to building healthier communities through the implementation of innovative approaches to social problems; and

WHEREAS, a 2011 Nemours Survey of Children’s Health found that forty percent of Delaware children, ages 2-17, were overweight or obese. Increased intake of Sugar-Sweetened Beverages (SSBs) and sugar-containing foods plays a critical role in the obesity epidemic; and

WHEREAS, Sugar-Sweetened Beverages alone make up to nine percent of the calories children consume daily, posing a significant health risk to children who, on average, consume more than 10 times The American Heart Association’s 8-ounce weekly intake recommendation; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), low-income families consume 2 ½ times more sugary drinks than their high-income counterparts, due in part to targeted marketing to communities of color and low-income families; and

WHEREAS, many restaurants and beverage companies have taken steps to help citizens address obesity by introducing lower and no-calorie options, displaying calorie information, encouraging citizens to drink more water, removing full-calorie beverages from schools, and reducing calories from many of their products; and

WHEREAS, City Council believes that requiring restaurants to provide a healthy beverage as a “default” beverage automatically included in children’s meal will contribute to the overall health and wellbeing of the City of Wilmington.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 5 of the City Code is hereby amended by adding the underlined language as follows:

Sec. 5-2. – Beverages offered in children’s meals.

1. Definitions. The following words, terms and phrases, when used in this Section, shall be defined as follows:
 - a) Children’s Meal:
 - i. Shall mean a combination of food items and beverage that is (1) prepared by and offered for purchase at a food service facility as a unit at a single price; and (2) represented to be or otherwise primarily intended for consumption by a child.
 - ii. Shall not include a combination of food items that has been prepackaged by or at a facility other than the food service facility offering the prepackaged combination for purchase.
 - b) Restaurants, as defined by subsections 5-78 (e) of this chapter, shall refer to retail establishments with 15 or more tables and chairs on the premises with table service and accessible public bathrooms where patrons eat in or take out.
 - i. It includes, but is not limited to, drive-through or walk-up counters, coffee shops, cafes, pizza parlors, and dine-in establishments.
 - ii. A restaurant, for purposes of this Section, may provide alcoholic beverage sales for drinking on premises provided that such sales are ancillary to food service.
 - c) Default beverage means the beverage automatically included as part of a children’s meal, absent a specific request by the purchaser of the children’s meal for an alternative beverage.

2. Children's Meal Beverage Limitation

- a) A restaurant that sells a children's meal shall make the default beverage with the children's meal, and which shall be displayed on menu boards, one of the following:
 - i. Water, sparkling water, or flavored water, with no added natural or artificial sweeteners; or
 - ii. Regular, low fat or fat-free milk, including flavored milk or a non-dairy alternative; or
 - iii. 100% Fruit Juice or fruit juice combined with water or sparkling water, with no added natural or artificial sweeteners, in a serving size of no more than 8 ounces.
- b) The beverage listed or displayed on a restaurant menu for a children's meal shall be one of the default beverages listed in Sec. 5-2.

3. Qualifications, Enforcement & Penalties

- a) Nothing in this Section prohibits a restaurant's ability to sell, or a customer's ability to purchase, a substitute or alternative beverage instead of the default beverage offered with a children's meal, if requested by the purchaser of the children's meal.
- b) The Department of Licenses & Inspections shall administer and enforce this chapter. The department may issue rules and regulations as necessary to carry out the purposes of this chapter.
- c) A violation of this chapter is an infraction, provided, however, that the first violation shall result in a written warning notice of violation to the operator of the store that a violation has occurred and the penalties that will apply for future violations. A second violation within a five-year period from the notice of violation shall be punishable by a fine of not more than two hundred fifty dollars (\$250). For a third or subsequent violation within a five-year period, the fine shall be not more than five hundred dollars (\$500). A restaurant shall not be found to have committed a violation under this chapter more than once during an inspection visit.

SECTION 2. This Ordinance shall become effective ninety (90) days upon its date of passage by the City Council and approval by the Mayor.

First Reading.....September 20, 2018

Second Reading.... September 20, 2018

Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2018.

Mayor

SYNOPSIS: This Ordinance amends Chapter 5 of the City Code by requiring healthy beverages to be offered as the default beverage offered with a combination children’s meal inclusive of a drink, sold together at a single price. This ordinance does not prohibit a restaurant’s ability to sell, or a customer’s ability to purchase a substitute or alternative beverage if requested by the customer.

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

POLICY STATEMENT: This Ordinance was inspired by a systematic review of interventions aimed at reducing the consumption of sugar sweetened beverages. Studies have found a significant link between sugary drink consumption and weight gain in children. Soda and sugary beverages are the single largest source of calories in children's diets and provide nearly half of kids' added sugar intake. Cities can promote good health for their youngest residents by instituting policies that support children’s health and intends to support parent’s efforts in providing healthier choices and improving the nutritional quality of children’s meals.

The cities of Davis, Stockton, Berkeley, Long Beach, and Santa Clara County in California, and Baltimore in Maryland, have all adopted ordinances providing for healthy default beverages in restaurant children’s meals. We urge Wilmington to join this growing national movement. The designation of particular beverages as children’s menu items helps to establish food norms for children, affecting their preferences and lifelong eating patterns.

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE TO ESTABLISH (I) A TAX STABILIZATION RESERVE WITHIN THE GENERAL FUND AND (II) AN OPERATION AND MAINTENANCE RESERVE AND A RATE STABILIZATION RESERVE WITHIN THE WATER/SEWER FUND

#4571

Sponsor:

Council
Member
Freel

WHEREAS, the City desires to provide its citizens with essential and quality services without large tax or water/sewer rate increases; and

WHEREAS, the City wishes to continue to maintain the long-term financial stability of the City and its current bond rating; and

WHEREAS, in order to achieve the aforementioned goals, the City would like to establish (i) a tax stabilization reserve within the general fund and (ii) an operation and management reserve and a rate stabilization reserve within the water/sewer fund; and

WHEREAS, the City would also like to perform certain housekeeping matters, including (i) the replacement of the term "undesignated" in Section 2-378 of the City Code with the term "unrestricted" because the term "undesignated" is outdated and the term "unrestricted" is more appropriate and (ii) the renumbering of certain Sections and Divisions of Chapter 2 of the City Code for continuity purposes and to retain sufficient reserved sections for potential future amendments to the City Code; and

WHEREAS, the Wilmington Water, Sewer and Stormwater Citizens Advisory Board deems it necessary and appropriate to establish an operation and management reserve and a rate stabilization reserve within the water/sewer fund; and

WHEREAS, City Council deems it necessary and appropriate to (i) establish a tax stabilization reserve within the general fund; (ii) establish an operation and management reserve and a rate stabilization reserve within the water/sewer fund; and (iii) perform the aforementioned housekeeping matters.

210-21-2

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:

SECTION 1. Chapter 2 of the City Code is hereby amended by amending Section 2-378 thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 2-378. - Budget reserve account - Appropriations from budget reserve account.

The city council, may, by ordinance, adopted by a two-thirds majority (nine) of the president and all the members of the city council, appropriate funds from the budget reserve account to other annual operating budget accounts, in order to meet general operating fund expenses during the course of or at the end of any fiscal year, if funds are not available in the ~~undesignated~~ unrestricted fund balance.

SECTION 2. Chapter 2 of the City Code is hereby amended by adding a new Division 3 thereto, which shall consist of new Sections 2-381, 2-381.1, and 2-381.2, with the underlined language to read as follows:

DIVISION 3. – TAX STABILIZATION RESERVE

Sec. 2-381 - Established.

There is hereby created a tax stabilization reserve within the general fund. The purpose of the reserve is to provide future tax stabilization for the general fund.

Sec. 2-381.1 – Tax stabilization reserve - funding.

The tax stabilization reserve shall be the net unrestricted general fund balance as determined by the fiscal year end comprehensive annual financial report.

Sec. 2-381.2 - Authorization to access and appropriations from the tax stabilization reserve.

The city shall be authorized to access the tax stabilization reserve as may be necessary in order to pay city obligations and limit the need to increase taxes when authorized by city council by ordinance.

SECTION 3. Chapter 2 of the City Code is hereby amended by adding a new Division 4 thereto, which shall consist of new Sections 2-386, 2-386.1, and 2-386.2, with the underlined language to read as follows:

DIVISION 4. - OPERATION AND MAINTENANCE RESERVE

Sec. 2-386 - Established.

There is hereby created an operation and maintenance reserve within the water/sewer fund. The reserve is to be recorded separately in the water/sewer fund balance. The purpose of the reserve is to provide funding in the event of adverse economic conditions or a public emergency that impacts the operations and maintenance of the water/sewer fund.

Sec. 2-386.1 – Water/sewer fund operation and maintenance reserve - funding.

The water/sewer fund operation and maintenance reserve shall be determined at the end of each fiscal year and shall be equal to seventeen (17) percent of the following fiscal year's water/sewer fund operating budget (excluding extraordinary or one-time items), as authorized by city council by ordinance.

Sec. 2-386.2 - Authorization to access and appropriations from the water/sewer fund operation and maintenance reserve.

- (a) The city shall be authorized to access the water/sewer fund operation and maintenance reserve as may be necessary in order to pay water/sewer obligations if the mayor certifies that adverse economic conditions or a public emergency has occurred that impacts the operations and maintenance of the water/sewer fund such that immediate action is required.
- (b) The city council shall, by ordinance, appropriate funds from the water/sewer fund operation and maintenance reserve to other annual operating budget accounts in order to meet water/sewer operating fund expenses at the end of any fiscal year, if funds are not available in the unrestricted fund balance.

SECTION 4. Chapter 2 of the City Code is hereby amended by adding a new Division 5 thereto, which shall consist of new Sections 2-391, 2-391.1, and 2-391.2, with the underlined language to read as follows:

DIVISION 5. - RATE STABILIZATION RESERVE

Sec. 2-391. - Established.

There is hereby created a rate stabilization reserve within the water/sewer fund. The reserve is to be recorded separately in the water/sewer fund balance. The purpose of the reserve is to provide future rate stabilization for the water/sewer fund.

Sec. 2-391.1. – Water/sewer fund rate stabilization reserve - funding.

The water/sewer fund rate stabilization reserve shall be the net unrestricted water/sewer fund balance as determined by the fiscal year end comprehensive annual financial report.

Sec. 2-391.2. - Authorization to access and appropriations from the water/sewer fund rate stabilization reserve.

The city shall be authorized to access the water/sewer fund rate stabilization reserve as may be necessary in order to pay city water/sewer obligations and limit the need to increase water/sewer rates when authorized by city council by ordinance.

SECTION 5. Chapter 2 of the City Code is hereby amended by renumbering certain Divisions and Sections thereof by deleting the stricken language and adding the underlined language to read as follows:

Sec. 2-3776.1. - Budget reserve account - Implementation and funding.

Sec. 2-3786.2. - Budget reserve account - Appropriations from budget reserve account.

Sec. 2-3796.3. - Authorization to access budget reserve account funds and to require their replenishment.

Secs. 2-377 - 2-380. - Reserved.

Secs. 2-382 - 2-385. - Reserved.

Secs. 2-387 - 2-390. - Reserved.

Secs. 2-392 - 2-395. - Reserved.

DIVISION 36. - TAX AND REVENUE ANTICIPATION NOTES

DIVISION 47. - GENERAL OBLIGATION BONDS

DIVISION 58. - RISK MANAGEMENT PROGRAM

DIVISION 69. - PROCUREMENT PROCEDURES AND REQUIREMENTS

DIVISION 710. - SALES OF REAL PROPERTY

DIVISION 811. - PAYMENT OF PREVAILING WAGES BY CITY CONTRACTORS

SECTION 6. This Ordinance shall be deemed effective as of June 30, 2018.

First Reading.....September 13, 2018
Second Reading.....September 13, 2018
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ___ day of _____, 2018.

Mayor

SYNOPSIS: This Ordinance amends Chapter 2 of the City Code by establishing three reserves in order to: (i) maintain the financial stability of the City; (ii) provide citizens with essential and quality services; and (iii) limit the need to increase taxes or water/sewer rates. First, it creates a tax stabilization reserve in the general fund to provide a reserve to pay City obligations and limit the need to increase taxes. Second, it creates an operation and maintenance reserve in the water/sewer fund to provide funding in the event of adverse economic conditions or a public emergency that impacts the operations and maintenance of the water/sewer fund such that immediate action is required. Third, it creates a rate stabilization reserve within the water/sewer fund to provide a reserve to pay City water/sewer obligations and limit the need to increase water/sewer rates. Finally, this Ordinance

addresses certain housekeeping matters, including (i) the replacement of the term “undesigned” in current Section 2-378 of the City Code (which will be renumbered as Section 2-376.2) with the term “unrestricted” because the term “undesigned” is outdated and the term “unrestricted” is more appropriate and (ii) the renumbering of certain Sections and Divisions of Chapter 2 of the City Code for continuity purposes and to retain sufficient reserved Sections for potential future amendments to the City Code. This Ordinance shall be deemed effective as of June 30, 2018.

W0100072

AN ORDINANCE TO AMEND CHAPTER 8 OF THE CITY CODE TO REQUIRE THAT DEVELOPERS WHO RECEIVE FINANCIAL ASSISTANCE FROM THE CITY OF WILMINGTON ON RESIDENTIAL CONSTRUCTION PROJECTS REQUIRE THEIR CONSTRUCTION CONTRACTORS TO HIRE WORKERS FROM CLASS A APPRENTICE PROGRAMS

#4561

Sponsors:

Council
Member
Guy
Dixon

WHEREAS, the City of Wilmington has a compelling interest to ensure that residential construction projects located in the City ("Residential Projects") are completed at a reasonable cost with a high degree of quality; and

WHEREAS, a highly skilled workforce helps to ensure the efficient, economical and safe completion of such projects; and

WHEREAS, the City desires to encourage new and established businesses to generate good-paying job opportunities for City residents, particularly in low-income neighborhoods and in new markets; and

WHEREAS, the City desires to encourage developers and contractors to hire workers from Class A Apprentice Programs where Wilmington residents can gain key skills in residential construction; and

WHEREAS, the City has the authority to grant economic incentives for businesses to remain in or relocate to Wilmington, and the City periodically grants such incentives to developers of Residential Projects.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 8 of the City Code is hereby amended by adding a new Section 8-6 thereto as follows:

Section 8-6. Developer and Contractor Requirements Regarding Residential

Construction Apprentices Programs.

- (a) *Definition.* For purposes of this Section 8-6, a Residential Construction Apprentices Program shall be a program, as defined in City Code Sec. 2-563, that:
- (1) Maintains participation by Residents of the City of Wilmington.
 - (2) Recruits applicants from low-income neighborhoods, including in the City of Wilmington, especially those applicants that live near the location of a Residential Project.
 - (3) Demonstrates a commitment to graduating and placing apprentices from underrepresented communities in career-track residential construction jobs.
 - (4) Provides classroom and on-the-job training in residential construction prior to graduation, including classroom health and safety training, as well as training to recognize and abate hazardous material such as asbestos, mold and lead.
- (b) *Applicability.* This section shall be applicable to any developer of a residential construction project 1) receiving any amount of financing, subsidy, or grant from any city department, or 2) any developer receiving an in-kind contribution from any city department with a value that exceeds \$100,000.00, or 3) developing a residential construction project on property acquired by the Wilmington Neighborhood Conservancy Land Bank, with the exception of Homesteading for new home-owners, Side-Lots, and Community Gardens. This section shall not apply to developers who are awarded contracts through the competitive bidding process, or where the source of the funding exclusively derives from the federal or state government.
- (c) The City has previously been authorized to give financial assistance to developers of Residential Projects located in the City of Wilmington, including subsidies in the form of donation of property and tax credits. Each construction contractor hired by a developer to work on Residential Projects, shall provide a contractor responsibility certification, in a form developed by the City, that it participates in a Residential Construction Apprentices Program and demonstrates good faith efforts to meet the following requirements:
- (1) Pay a wage of at least \$15.00 an hour to all construction employees, effective upon passage, pay a wage of at least \$16.00 an hour to all construction employees, effective January 1, 2019; pay a wage of at least \$17.00 an hour to all construction employees, effective January 1, 2020; and pay a wage of at least \$18.00 an hour to all construction employees, effective January 1, 2021.
 - (2) Endeavor to ensure that at least 30% of work hours on any Residential Project will be performed by apprentices in a Residential Construction

Apprentice Program or individuals who have graduated from a Residential Construction Apprentice Program in the past two years.

- (3) Certify that neither the developer nor the construction contractors hired by the developer, nor any principal thereof, have been suspended or debarred by any federal, state, or local agency within the past five years.
- (d) As part of its review process, the city shall ensure that the contractor responsibility certification has been submitted and properly executed for all the developer's contractors and subcontractors. The city may conduct any additional inquiries to verify that the developer and its subcontractors have the qualifications and performance capabilities necessary to successfully comply with the requirements of Section (b). In conducting such inquiries, the city may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- (e) *Enforcement.* This section shall be enforced by the City Department of Real Estate and Housing. Failure to comply with this section may result in revocation of city assistance in the immediate project and/or subsequent projects. If the city determines that a developer's contractor or subcontractor responsibility certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be prohibited from performing work on Residential Construction Projects under Section 8-6(b) for a period of three years and shall be subject to any other penalties and sanctions, including contract termination, available to the city under law. A contract terminated under these circumstances shall further entitle the city to withhold payment of any monies due to the developer, contractor or subcontractor as damages.
- (f) If any provision of this subdivision shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this subdivision and all remaining provisions shall remain in full force and effect.
- (g) The requirements of this subdivision shall not apply to contracts advertised for bid prior to the effective date of the ordinance from which this subdivision is derived, except that the exercise of an option on a contract covered by this subdivision shall be deemed to create a new contract for purposes of this subdivision.

...

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

First Reading.....July 2, 2018
Second Reading.....July 2, 2018
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2018

Mayor

SYNOPSIS: This Ordinance amends Chapter 8 of the City Code to require that developers who receive financial assistance from the City of Wilmington on residential construction projects require their construction contractors to participate in and hire workers from Residential Construction Apprentice Programs.