



**CITY OF DOVER, DELAWARE
BOARD OF ADJUSTMENT MEETING
Wednesday, June 17, 2026 at 9:00 AM**

City Hall Council Chambers, 15 Lookerman Plaza, Dover, Delaware

AGENDA

IN-PERSON & VIRTUAL MEETING

This Board of Adjustment Meeting for June 17, 2026 will be held in City Hall, City Council Chambers. The public is welcome to attend in person. The Meeting will also be provided as a Virtual Meeting using Webex, an audio/video conferencing system as an electronic means of communication. See participation information below to join by phone or computer.

**PUBLIC PARTICIPATION INFORMATION
To Attend City of Dover Board of Adjustment Meeting of June 17, 2026**

Join by Phone: Dial +1-650-479-3208
Access Code: 253 393 93321
Password from Phones: 36837262

Join Online: <https://bit.ly/BOA06172026>
Webinar Number: 2533 939 3321
Webinar Password: DoverBOA

If you are new to Webex, get the app now at <https://www.webex.com/> to be ready when the meeting starts. For problems accessing the meeting, please call the Planning Office at (302) 736-7196.

Written comments are accepted via mail to City of Dover – Board of Adjustment,
P.O. Box 475 Dover, DE 19903 and via email at CompPlan@dover.de.us.

WELCOME

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Adoption of Minutes of May 20, 2026

COMMUNICATIONS & REPORTS

Meeting Reminder: The next Board of Adjustment Meeting date is Wednesday, July 15, 2026 at 9:00 AM.

OLD BUSINESS

2. Update on Draft Rules of Procedure for Board of Adjustment

NEW BUSINESS

The following Appeal Application was filed for Review and Public Hearing before the Board of Adjustment:

3. Appeal Application #V-26-03

Property at 1131 S. Bay Road known as Kings Cliffe Manufactured Home Park. An Appeal Application has been filed by the owner's representative regarding the Zoning Violation issued as Code Enforcement Case #25-00004632 (and associated Case #20-00003344) and the allowance of a non-conforming use for recreational vehicle lots and recreational vehicle lot rentals. This Appeal pertains to a determination of the City of Dover Division of Code Enforcement to prohibit the addition of new non-conforming mobile homes, house trailers or recreational vehicles (RVs) on lots in the community. This Appeal is related to the enforcement of Dover Code of Ordinances, Appendix B – Zoning (Zoning Ordinance), Article 3 Section 8.4 Uses prohibited with Sections 8.41 and 8.42. The subject area of the property is zoned MH (Manufactured Housing Zone). The owner of record is Kings Cliffe MHP, LLC. Property Address: 1131 S. Bay Road, Dover DE. Tax Parcel: part of ED-05-086.00-01-080.000-000.

PUBLIC COMMENT OPPORTUNITY - An opportunity is given for members of the public to provide comments to the Board of Adjustment not specifically related to Applications with Public Hearings.

ADJOURN

Posted Agenda: June 10, 2026

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING

**CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES**

May 20, 2026

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, May 20, 2026, at 9:05 A.M. in person in the City Council Chambers and using the phone/videoconferencing system Webex. Members present were Mr. Wagner, Mr. Senato. Ms. Brinkley and new member Mr. Albert “Bill” Holmes Jr. Mr. Coburn was absent.

Staff members present were City Solicitor Mr. Daniel Griffith, Mrs. Melson-Williams, Mrs. Savage-Purnell, and Mrs. Walls.

APPROVAL OF AGENDA

Mr. Holmes moved for approval of the agenda. The motion was seconded by Ms. Brinkley and unanimously carried 4-0.

**APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF
March 18, 2026**

Ms. Brinkley moved for approval of the meeting minutes of March 18, 2026 with any necessary corrections. The motion was seconded by Mr. Wagner and unanimously carried 3-0 and one not voting.

Mr. Holmes stated that he did not vote on the meeting minutes of March 18, 2026 as he was not a Board member at that time.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams mentioned that there are no other items. The Planning Staff has no other items right now and there will be one application for the June meeting.

Chairman Senato mentioned that the next Board of Adjustment Meeting is Wednesday, June 17, 2026, at 09:00 A.M.

Chairman Senato asked if there were any other items.

Special Recognition

Mrs. Melson-Williams mentioned on your agenda today is a Resolution honoring the service of Christian J. Swalm to the Board of Adjustment. The Resolution reads as follows:

RESOLUTION

***Whereas, Mr. Christian J. Swalm** became an appointed member of the City of Dover Board of Adjustment on July 22, 2024 and has served with diligence in this capacity to ensure that the spirit of the City’s Zoning Ordinance is observed and substantial justice is done; and,*

***Whereas, Mr. Christian J. Swalm** has played a role in ensuring fundamental fairness and careful forethought in the interpretation of the Zoning Ordinance to ensure undue hardship and*

exceptional practical difficulties are mitigated by the granting of variances through his service on the Board of Adjustment; and,

Whereas, Mr. Christian J. Swalm in reviewing and deliberating on variance applications considered a property's zoning classification, character of the area, effects on neighboring properties and uses, and the creation of exceptional practical difficulties for property owners seeking to make normal improvements to their properties; and,

Whereas, Mr. Christian J. Swalm shared his knowledge of real estate matters when deliberating and in the consideration of applications while learning more about land use and zoning matters; and,

Whereas, Mr. Christian J. Swalm ended his term of service on the City of Dover Board of Adjustment as of May 1, 2026.

*Now Therefore Be It Resolved That, the City of Dover Board of Adjustment does hereby express its sincere appreciation to **Christian J. Swalm** for his service to the Citizens of the City of Dover as an active member of the City of Dover Board of Adjustment and extends its best wishes to **Christian J. Swalm** in future endeavors.*

Ms. Brinkley moved to adopt the Resolution honoring the services of Christian J. Swalm to the Board of Adjustment. The motion was seconded by Mr. Wagner and unanimously carried 4-0.

Chairman Senato thanked Mr. Swalm for his service. He stated that Mr. Swalm was an asset as a member of the Board who also contributed a lot of information. On behalf of the other members, we wish you the very best in the forthcoming years in whatever you do.

Mr. Swalm said thank you very much. I just want to say something really quick. Serving on the City of Dover Board of Adjustment has been a meaningful experience for me. I had the opportunity to work alongside dedicated Board members, City Staff, Attorneys, Engineers and Planners on important Land Use and Zoning matters that directly impacted the community. This role gave me experience on seeing how decisions related to development, property rights, infrastructure and many other things that impact real people and working families every day. I would like to thank the City for placing trust in me at a relatively young age and allowing me the opportunity to serve in this capacity. As many of you may know my resignation comes as a result of me relocating back to Middletown. But while closing this chapter, my commitment to public service and community involvement is not. I look forward to continuing to stay involved in land use, housing and community issues and variance and zoning matters moving forward. And thank you again to the Board and the City Staff and everyone that I have worked with during my time here. I truly appreciate the experience and the relationship I have developed with all of you along the way.

Chairman Senato mentioned again, thank you for your service. We really appreciate it very much. Thank you very much.

OLD BUSINESS

Continued Discussion of Draft Rules of Procedure for Board of Adjustment

Mrs. Melson-Williams mentioned you begin this process back in September of last year. Included in your packet was the original Draft that you started with that the City Solicitor Mr. Griffith offered as a kind of a starting point making use of other examples that he was aware of. And throughout the ensuing months predominantly in December and then in March of this year, you worked through that document kind of line by line, and making suggestions, and corrections to that. As a result, we have attempted to capture all of those suggested revisions and changes in what we are calling the Draft May 26 version of the document. What I've done is placed any new language in red and red strike through if we were eliminating something. I will let you know that the March minutes were not fully prepared when I finalized this document, so there may be things that we need to go back and capture. There are a couple of things that I left in blue where we need to either clarify what the intent was or some additional information needs to go in that area. If the Solicitor has some opening remarks and then beyond that we can probably just quickly kind of look through this. I would not anticipate that it would be officially ready for formal adoption today. We may have a few more edits, but we're certainly getting there.

City Solicitor: Thank you, Dawn. I just had a couple of comments. Because we've been working through this in and out for about eight months. I thought it might be a helpful reminder as to why we're doing this. Most larger Boards of Adjustment in the State of Delaware have Rules of Procedure. And the reason is not just to guide us in terms of how we conduct our meetings, although that's certainly helpful for that purpose; but it's really for the purpose of the public to be able to know how we do things. To be able to look at the Rules of Procedure and know how to present an application and to know what we are thinking about and to incorporate open public meetings requirements of the FOIA. So, what we are doing is tedious exercise and I get that. We are working through language paragraph by paragraph. But it really is important for the members of the public in the City of Dover to understand when they come before the Board how things work and know that we are not just flying by the seat of our pants. That we are guided by Rules and Procedures that we follow. Thank you for the painful process of working through it paragraph-by-paragraph and word-by-word. It has been a very conscientious endeavor. I certainly appreciate it as somebody who will ultimately have to defend the Board if an applicant, landowner, or taxpayer challenges something we do. In the same way, I want to express my really deep appreciation to the Planning Staff. We worked through this during our multiple meetings and just say this should be changed, that should be changed. And it's a little easier to just say it in an open meeting, but then the task of having to go back and try to parse through what we decided and then incorporate those changes for the strikethroughs and additions, and then present this document to us had to be hard for you know a very busy and probably overworked Staff. The extra work it took to incorporate the changes we've already made. To be able to look today at where we started in September and where we are now as of May, it was herculean for the Staff to do this. So, I want to express my appreciation for the Staff for getting us to where we are.

Now that we have the documents before us, I think the most helpful way to do it would be to go through the May version. In the packets, I have it as 35 pages with the Draft May edits on page 20 of 35 (out of the packet). If the Board members would be so kind as to scroll or get to that page where the red edits start, I think we could just kind of walk through what has been done and confirm that the red reflects what we want.

Mrs. Melson-Williams: If you have your paper version of the packet, it's the one that says Draft May 2026 as you see on the screen. It is page number 1 of 16. The packet numbers that City

Solicitor Griffith would be packet page numbers for your entire meeting packet if you were looking at it on your computer.

City Solicitor: If everybody is on the same page literally with the heading Rules and Procedure, you will see the first red edit is the Planning Staff putting in the authority of the Board and how we have been created and what the statutory authority for our work is. I think that's absolutely appropriate. The public should know where we get our authority from. Does anybody have any comments on that edit?

After that, the next edit is definitionally. I think it was Chairman and, we changed it to Chairperson. I assume that there are no comments on that.

The next definitions that were changed were to identify what a variance is and the difference between an Area Variance and a Use Variance. These definitions are pretty much taken as under Delaware State Law. Applicants can know whether they are applying for a Use Variance or an Area Variance. We apply a different standard for each.

The next edit is an Appeal and how we define an Appeal. As you may recall, we not only hear original applications for things like Area Variances and Use Variances, but we also hear Appeals from zoning determinations.

Mr. Wagner asked if they jumped over Area Variances. What are "related bulk standards?"

Mrs. Melson-Williams: Under the term "Area Variance" related bulk standards would be things like setbacks from property lines, size of something, height, and other limitations. They're kind of "number" things that are part of the *Zoning Ordinance* that would limit how and where development could happen. For example, on a property the bulk standards would govern how close the building could be from property lines, the height of the building, and things like that.

City Solicitor: We were just talking about Appeals. So, what I was explaining is that sometimes you hear an original application for some type of variance, like we just said either Area Variance or a Use Variance. But also, you all have the authority to consider and determine Appeals from zoning determinations that have been made. If an applicant gets a letter from an administrative official in the City concerning land use issues and wants to appeal that then there's original jurisdiction for this body to consider that Appeal as well.

Mr. Wagner: Does that clarify 18.2? My question becomes if there is an Appeal. To who do you request the Appeal to and what is the procedure. We had a considerable discussion on 18.2.

City Solicitor: Said 18.2 is the Request for a rehearing. I don't know if that relates to Record of an Appeal. Request for a Rehearing is 18.2. Oh, now I get it. So, one of the things we were talking about when we came to 18.2 is what happens if an applicant is disenchanted with your decision, and what are their opportunities for recourse? What do they do? In the original Draft of these, we had a provision where they can ask you to reconsider your decision. We struck that. So, if they are disenchanted with your decision and this is consistent with *Delaware Code* and the Municipal Code, their recourse is an Appeal to the Superior Court and not coming back to you and asking you to change your mind.

City Solicitor: Just so you know, the difference between an Appeal and the definitions and this provision. An Appeal, there are some cases where you have the original jurisdiction for an Appeal of a decision that another City Code Official makes. So, for instance if a landowner says I think my neighbor's use of their property exceeds what the property is zoned for and they write a letter to the City for that. And then a mystery official for the city says I reviewed this and NO. It looks like I think your neighbor is using this property the exact way it is zoned for; and you decide well I'm going to appeal that, then that comes before the Board.

Mr. Wagner: He said okay.

City Solicitor: There are some matters where you hear Appeals and there are some where you hear initial Applications. This definition part that we are on now relates to when you hear an Appeal.

Rule 1 – Duties

1.1

City Solicitor: Moving back to where we were on definition. The last definition was Appeals. The first red edit we changed “Chairman” to “Chairperson.”

1.2

The only real edit here is the obligation and role of the Office of the Board of Adjustment to send out notices and to keep records.

Correction: It's not the role of the Officer of the Board of Adjustment to keep those records; it's the Department of Planning and Inspections to keep records and send out notices.

1.4

Here we added the provision that the Office of the City Clerk shall provide guidance to ensure appropriate Record retention practices are followed because it is the Office of the City Clerk who is responsible for retention of City Records.

Chairman Senato: In 1.4 you have the Board of Adjustment activity as required by law, he would presume is more general than anything else.

City Solicitor: What that really says is for the Office of the City Clerk, one of their main rules is to maintain all official City Records. Because we are an agency or an administrative body of the City of Dover, the Records shall be maintained by the Office of the City Clerk.

Rule 2

2.1

City Solicitor: The only edit we made was to include a Public Comments Opportunity on the agenda. And the reason we did that is because it's a requirement under the Delaware Open

Meetings Law. Every one of our meetings that you might recall has to include an opportunity for public comment.

Mrs. Melson-Williams: That opportunity for public comment is outside of a particular Application appearing before you. I think there was some confusion about that during our discussion. So, you have an Application for a Variance or an Appeal that has a public hearing, that is not what we are talking about here. This is a separate opportunity for public comment. It can be a comment on how the Board is functioning or something like that. It's not tied to a specific Application that has come before you.

2.2

City Solicitor: And that ties into the next edit as well. If you look at 2.2. There was a sentence stricken. That sentence says "the privilege of the floor may be granted to the public at any time by the presenting officer." That's not really the case. There is a time for public comment and there is a time for the presentation of an Application or an Appeal. We do not want the presiding officer to simply open up the floor for public comment at any time during the meeting.

2.3

City Solicitor: There's a small edit to 2.3, but it's kind of important because it changes having comments or testimony. What we are talking about is setting reasonable time limits on the testimony and support of an application, which is different from public comment. I think the edit makes that clear as to what we are talking about. It's limits on testimony in support of an application. The Chair can also set limits on public comments as well.

2.4

City Solicitor: These are minor semantic edits when all we did was add terminology to make it clear what we're talking about is the business schedule at a meeting. Are there any comments on 2.4?

Chairman Senato: The reason is we anticipated the presentation and/or the meeting may be suspended by motion and approval of majority of the Board of Adjustment members present. I just have a note/wording and I could be wrong. "May be suspended by the Chairperson by the motion and approval of majority of the Board of Adjustment members present." How does the Board feel about that?

Again, the meeting may be suspended by motion, and I am suggesting "and the meeting may be suspended by the Chairperson with a motion and the approval of the majority."

City Solicitor: So, action by the Board has to be by the majority of the Board. My concern is that it says the Chairperson is the one doing the adjourning of the meeting, even though it makes clear that it's after the motion. I think we might be better served if the provision makes clear that it is the Board that is suspending the meeting and not one person.

Chairman Senato: Okay, thank you.

Mrs. Melson-Williams: So, your recommendation would be to leave that as is without the reference to the presiding officer or Chair?

Chairman Senato: Yes, according to the Solicitor.

2.6

City Solicitor: So that does two things. The first thing it does is make clear that there is going to be a Public Comments Opportunity during all of our meetings, and then it talks about how the public comment obligation will be carried out. So, we don't anticipate it. We haven't had it since I've been here, but the presiding officer or the Chairperson can take action if we have either a speaker who is going beyond a reasonable time or, you know, a hundred speakers that wanted to take 3 hours. The Chairperson has the right to limit the time for public comment. And that's consistent with the open public meetings law that allows a public body to impose reasonable time restrictions on public comment. And then the other thing is, how those public comments can be made. You are not limited to showing up in person and making a presentation or a public comment here. An individual may submit a written statement in addition. And then it gives the presiding officer discretion to strike unduly, competitive, or irrelevant comments.

Chairman Senato: I want to go to 2.5 regarding administrating the oath directed by the presiding officer. Basically, either the Chair or the Chairperson or the attorney, if I am reading this right can issue the oath. I believe it is in one of the Codes. This is a point of information.

City Solicitor: That is right. The way we have been doing it is that I've been administering the oath to people testifying, but what this provision says is that, whether I'm here or whether I'm not here, you can designate somebody to administer the oath.

Chairman Senato: Thank you for the clarification.

Rule 3 – Meetings of the Board of Adjustment

3.1

City Solicitor: This makes clear that if for some reason this room is not available, then our meetings can be held at another location made available by the City. The only comment I would make for 3.1 is if the meetings are going to be held at a different location other than City Hall, then it will need to be put on the agenda.

3.2

City Solicitor: The first edit has to do with meeting times. Regular meetings shall convene at 9:00 A.M. But then the edit makes clear that the meeting time may be adjusted by the Chairperson in consultation with City Staff or by a majority vote of the Board. You have the ability to change the time of your meetings. We would have to be in compliance with the public notice requirements. That would have to be sufficiently noticed in advance. You can't wait until the morning of and say let's do this at 10:30 instead of 9. But you do have the discretion to change the time of your meetings.

Mrs. Melson-Williams: Staff added that one about the adjustment by the Chair and in consultation with City Staff. My thoughts there were that if for some reason there was a weather delay and the City opening did not happen until after the start of the meeting time. So, something along those lines unexpected to be then able to adjust it somewhat administratively. For example, this morning's meeting was scheduled at 9; however, we had a freak snowstorm last night and City Offices weren't opening until 10 to be able to adjust that time.

City Solicitor: Thank you for that edit.

3.3

City Solicitor: Just a couple edits. The first just makes clear that we refer to Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act) FOIA, and then we changed "Chairman" to "Chairperson."

3.4 – No changes

3.5

City Solicitor: This is also a requirement of the FOIA of the public meetings. It just makes clear that minutes will be kept and they will be made available for inspection and copying as authorized by FOIA. So, any member of the public can make a FOIA request for the minutes of our meetings. And they are considered public records.

Ms. Brinkley: Just an observation to add "be" after the word can. It should read "such minutes can be made available instead" of "can made".

City Solicitor: Yes, you are right. You found a grammatical error.

City Solicitor: We might have to workshop this a little bit. The first sentence says minutes of all meetings including executive sessions shall be kept and then such minutes can be made available for public inspection. Actually, executive session minutes cannot be made available for public inspection under FOIA. Maybe what we should do is say in the second sentence that minutes of public meetings can be made available for public inspection.

City Solicitor: Is there any objection to that language? There were none.

City Solicitor: So, the way it reads now is it says, "minutes of both public meetings and executive session can be made available to the public." The actual statement of the law for minutes of executive sessions states that if we moved into executive session back in that room and away from the public and we held an executive session, there would be minutes kept of that, but those minutes are not public. So, what we're trying to do is to distinguish between minutes that are made from our public meetings can be available for inspections or available for the public, but minutes of executive sessions are not available to the public. I think the way to do that would be in the second sentence say, "minutes of public meetings can be made available." If there's consensus for that, we can move on to the next item.

Rule 4 – Public Notice of Meetings**4.1.**

City Solicitor: The only edit is to make clear that the public notices will be provided at least 7 days before the meeting date. That is the requirement under the public meetings Law. That should not be controversial.

4.2

City Solicitor: The first edit eliminates “property” because that doesn't apply here. The next editing includes hearings from variance requests and appeal applications. That's really what this Board does. What you do is variance requests and appeals applications. So, that's what you have hearings for and that just makes it clear that what we are doing is providing public notices and advertisements for these types of hearings. And then the last edit on this paragraph is the Department of Planning and Inspections is responsible for completing notices, and that's the way it has always been done.

4.3

City Solicitor: This was inserted by Staff because they know the rules of notice better than we do. They inserted this provision to comply with the Law.

4.4 / 4.5

City Solicitor: It is the same for 4.4 and 4.5. Staff inserted these edits to make sure that it is clear how Staff provides notices.

Mrs. Melson-Williams: Yes, public notice is actually outlined in how it occurs. It's actually outlined in the City's *Zoning Ordinance* in Article 9 that deals with the Board of Adjustment. So, this language is basically lifted from that as notice of all hearings. There is a mailing that goes out to adjacent property owners that by Code has to be completed 10 days prior to the hearing and it is also subject to a newspaper legal ad as well with the same time notice. Then there's also provisions if the subject application is in proximity of an adjacent municipality.

Rule 5 – Agenda

City Solicitor: Again, the provision regarding the agenda is largely dictated by the public meetings law.

5.1

City Solicitor: We changed “one week to 7 days” which I think is the right thing. It makes it clear and it is the language used by the public meetings law.

Chairman Senato: He asked about the 7 days. Did it used to be 10 days?

Mrs. Melson-Williams: The public notice is very specifically in our Code as ten. For the agenda posting, our Code is silent about that and absent of any kind of Rules of Procedures, we chose to follow the FOIA requirement which is the 7 days. You may not have your packet at that 7 day point, but you will have the agenda in hand.

Ms. Brinkley: The Agenda for the Board of Adjustment meetings shall be available to members of the Board of Adjustment at least seven days prior. She asked if the 7 days prior were in delivery of the packets to the Board members or is it available somewhere else at 7 days?

Mrs. Melson-Williams: So, this talks specifically about the agenda and at that 7 day timeframe that agenda has to be posted. Referring back to Rule 4, its where the agenda is posted on a bulletin board here in City Hall. It is posted on the website. What we do if the packet is not going out to you on that day, which is what happened this time, we are very specifically emailing the Board of Adjustment, that yes, you're having the meeting and here is the meeting agenda. You can mark your calendar for one week, 7 days prior to your meeting, which in this case would have been last Wednesday. You're either getting your packet delivered to you that day or you're getting an email that at least has the agenda in it.

Ms. Brinkley: I was just trying to clear that up in my head, thank you.

Mr. Holmes: What about if there's a holiday in that week?

Mrs. Melson-Williams: We still count calendar days.

5.2

City Solicitor: It's the Staff because all applications and appeals come first to the Staff. They place them on the agenda for the next meeting date. And then the second part provides authority for you members of the Board if there is some type of matter that you believe should be on the agenda for a particular meeting to contact Staff. You contact the Director of Planning and Inspections and let them know that there's an item you would like to put on the agenda. So, in other words, the Staff will create the agenda based on the applications and appeals that they receive, but if you want something else in addition to that, you can feel free to contact Staff and make that request.

Mrs. Melson-Williams: This is why we left that paragraph that is in blue italics. That was in your original Draft, and it was a little unclear as to what the Board had decided about the ability of others to place items on the agenda. So, I think that may need some more discussion or clarification.

Ms. Brinkley: When I was reading this under 5.2 "The Department of Planning and Inspections shall be responsible for the preparation and contents of the agenda based on the applications as filed meeting established deadlines and other matters and correspondence that may come before the Board." That just wasn't clear to me.

City Solicitor: It might be confusing because it might be interpreted as referring to a meeting that we have. What it really means is the application has to meet the deadline. In other words, if an application was filed two days ago, and the applicant said, "hey, can I have it on Wednesday's

agenda?” We cannot do that; we have to meet the applicable deadline. The “meeting” there is not referencing an actual “meeting” of the Board. It’s referring to the obligation of the applicant to meet the appropriate deadline.

Ms. Brinkley: Is there a way you can clarify that a little bit?

City Solicitor: I think we can say as far as “complying” with established deadlines.

Ms. Brinkley: Thank you.

City Solicitor: Did the Board want to have any discussion on the blue edits which really apply to Applications and Appeals that go to the Planning Staff? The Planning Staff creates the agenda based on those Applications and Appeals. This provision has to do with any additional items on the agenda and how the Board wants to handle either requests from members of the public to put things on the agenda or requests from members of the Board to put things on the agenda. I think the way it reads; I'm not on the Board so I don't get to vote here. All roads are run through the Planning Department. In other words, if you members of the Board want something on the agenda, you go to the Department of Planning and Inspections. If members of the public want something on the agenda, they do the same thing. In my view, the Planning Staff has special expertise. Dawn in particular has special expertise in determining what matters the Board has jurisdiction over and what matters the Board does not have jurisdiction over. Because what this process involves really is going to be determining whether this is an appropriate matter for the Board or not. To me it makes sense for the people with specialized expertise to make the determination. So, that if either a Board member or a member of the public believes something should be on the agenda, that request should be made to the Staff.

Chairman Senato: Yes, definitely if they have the expertise. I would presume that any addition to the agenda by the Board or the public would have to relate to the particular applicant or particular meeting that is coming up or have to deal with an application. Is there any other factor? Would that leave it open to other items coming to the agenda that perhaps would not be related and have to be determined by Ms. Melson-Williams at that time?

Ms. Melson-Williams: The only thing that Staff would note is we'll probably revise this too instead of specifically saying the Director of Planning and Inspections, to just use the term Department of Planning and Inspections because technically at the moment that individual position is not filled. That's one thing that Staff would note here. It looks like there are probably four instances of that.

City Solicitor: It would just be a matter of taking the word “Director” out and putting the word “Department” in. But I think otherwise this provision makes sense in terms of having the Department make the decision as to what items go on the agenda including requests from the Board to go on the agenda.

Mr. Holmes: Yes, I agree with the City Solicitor. I would like the Planning and Inspections Department to take care of all of it and present me with an agenda. I want the public to go to them and not to me. I want the Department of Planning to handle it. Thank you.

City Solicitor: Other than the substitution of the word "Department" for "Director," we will keep that in.

5.3 There are no edits.

There is a blue provision about adding the statement about the Board of Adjustment meeting packet. I think what we talked about is not necessarily the content of the packet but the timing that packets are received. Is that right Dawn?

Mrs. Melson-Williams: Yes, I think since there is a packet that is distributed to the Board of Adjustment, we want to make some reference to that. Probably a statement of what the general contents of that are being the agenda and then the documents submitted. Also, we should probably indicate that it would be delivered to the members of the Board, and the word "delivered" I would not define it more than that. Right now, we do distribute via hard copy, but we also can distribute electronically. I think we would also note that the meeting packet would also be posted on the city's website, which is the practice we have today.

City Solicitor: I can propose language for that and circulate it. I don't think I realized that the packet got posted. Now in terms of the timeframe for the posting, I don't want to put any pressure on the Staff for that. I don't know if there's a requirement or deadline for the posting of the packet. Would it be the preference of the Staff for that to be just as soon as reasonably practical to be posted?

Mrs. Melson-Williams: Yes, because it doesn't always meet seven days, but by FOIA we only need the agenda posted by seven days. So, we strive to have it certainly within five days of your meeting.

City Solicitor: We will try to add a provision to 5.4 which I can circulate and which can say something to the effect of the Department of Planning and Inspections will prepare a meeting packet for the members of the Board as soon as reasonably practical in advance of the meeting. The package shall include, among other things, the agenda, minutes from the prior meeting if available, and all materials supporting any Applications or Appeals.

Ms. Brinkley: This is just in reference to the agenda, but not the informational content of what we would be dealing with. I know I need time to be able to consider it to do my best job on this Board. Receipt in seven days of that information is a really good time period because this is a one day out of a month kind of a deal that we do here, but we want to have time and give our best to it. We need time to be able to read it and think about it.

City Solicitor: Yeah, I think that's the ideal. I don't know that including it as a requirement is helpful because Staff is really busy. I don't want it to be a violation of the Rules and Procedure if you get it five or six days before the meeting. So that's why I thought it might be helpful to say it's as soon as reasonably practical. That way, it's no gun to the Staff's head to have it out by seven days in advance, but the Staff can use its best efforts to get it out as soon as possible.

Chairman Senato: The only comment I have is that this is a lot of work that goes into these packets from my experience and I know the Staff has been under the gun with most of this probably with everything you had to do. But I feel that the Board members need adequate time to

review, particularly if it's going to be a long case with a lot of information. I'm sure that Mrs. Melson-Williams will as quickly as possible provide the information and give us at least give us three or four days rather than the day before. I know the Minutes haven't been coming out and they're supposed to be ready for the next meeting to be approved and there's no way we can approve minutes two months later. We received a hard copy of the minutes today. I didn't have a chance to get on my computer last night because I got in late to read the electronic minutes that were sent a day before the meeting. I think we have to have some consensus of allowing the information to be presented to the Board members rather than that at the meeting or two days before. I'm hoping that at least with the Minutes we will have them every meeting month after the previous meeting and not two or three months later. As far as the packet, I would like to see that packet at least five days prior to the meeting. Not putting any restraints on Mrs. Melson-Williams and her Staff. But at least to give the members of the Board who do their due diligence to spend enough time to come into the meeting and make a sound judgment rather than rushing through it. It is important to the applicant that we do the best we can. With that being said it will be up to Mrs. Melson-Williams, I'm sure.

Ms. Brinkley: It is a consideration I think of the Board and for the Planning Staff. I do understand you feeling like you are under the gun and not able to do your best job. You may not be able to get it out in seven days. Maybe just some compromise there, so it's as close to seven days as possible. We need to put some kind of timing on it. I would not want it to end up either being two or three days before the meeting.

City Solicitor: If the Board members feel like it's been working sufficiently so far and trust the Department to get it out as reasonably soon as possible, I wonder if we even need to include a provision here about that. As they said, trust the process.

Ms. Brinkley: We have like seven days there now, right?

City Solicitor: Yes, there's seven days for the agenda, but not the packet.

Ms. Brinkley: I trust the Staff at this point. I've been receiving my information in a timely manner.

Mr. Holmes: I'm on a lot of other Commissions and was on the City of Dover Planning Commission years ago. Staff always do a good job. They always get it out to you. I take my hat off to all the different Staffs. I'm sure they will take care of us. Thank you.

Chairman Senato: They haven't failed the Board yet.

City Solicitor: There might be a consensus just not to put a deadline on the packet and materials and leave as it is.

Rule 6 – Attendance of Members of the Board of Adjustment at meetings; Quorums

6.1

City Solicitor: Instead of just notifying one person, if a member is not able to make a meeting, the member shall be responsible for notifying both the Chairperson and the Director of Planning

and Inspections or Staff member. So, it could be Mr. Senato and/or another Presiding Officer or either Dawn or Staff.

Chairman Senato: In doing all of this, something is missing. I believe it was a couple of months ago that the attendance of the City Solicitor at the meetings it was suggested and that we add that the City Solicitor should attend all meetings. If not, a representative from his office should be in attendance at the Board meetings. I believe Mr. Coburn made a motion and it was approved by the majority of the Board. When it was brought up and discussed very seriously, it was dropped from Rule 6. And my first question is, why was it dropped if the Board had agreed; correct me if I'm wrong, I believe there was a motion and Ms. Brinkley and Mr. Wagner, you were here, to that effect. So, whether the Planning Department or the City Solicitor agreed or disagreed with it, it should have been in this packet as requested by the majority members of the Board at that time and maybe further discussed.

Mrs. Melson-Williams: I will note that discussion occurred at your March 18 meeting and it is found on page 20 of those minutes. As I noted, this main version of your "Rules of Procedures" was ready for basically distribution before those minutes were officially completed. So, it would be an item. I don't know if we specifically said where it should go, but it was mentioned and we just need to find the proper location in these rules for it to go. It was right after the discussion of Rule 19, so it was kind of at the end when we were at the section of any other questions and thoughts about the "Rules of Procedures." So, it was discussed and it can be made part of your "Rules of Procedure." Rule 9 talks about the attendance of the members of the Board of Adjustment. I'm not sure if there's a better location in these rules or if there needs to be an additional rule or statement.

Chairman Senato: I believe at the time it was mentioned and that's why it was brought up by Mr. Coburn because we were talking about attendance of members of the Board of Adjustment. Of course, the City's Solicitors considered a member not necessarily of the Board members himself, but he's here at the Board meetings. That's why it was suggested at that time it would go under 19.1 where Rule 6 is attendance and members. Maybe that's a technicality and maybe we should have 6.1. I think that's where it was agreed upon at that time and that's why it was brought up because we were discussing attendance. It could either go in there as a numbered paragraph just for the City Solicitor. But it seems logical that it would be the place to go.

Mr. Holmes: Yes, I think that is where it should go, number one and number two. I think the City Solicitor should be at all the meetings. I don't want to do business without someone here. I don't expect him to be at every meeting because he has his life to live, but I think he could always make sure that somebody is sent to represent (another attorney). I remember one time when I was head of the Planning Commission for the County and the Solicitor did not show up, we didn't have the meeting. We dismissed the meeting and had it the following week. I think it's very important that you have legal representation at these meetings because you will never know what might happen, especially when you are dealing with the public.

City Solicitor: We can add it to Rule 6. The only question I have in my head is whether an administrative body of the City can require the City Solicitor to be at their meetings. That might be a City Council decision. I don't know if the City's Human Rights Commission decided that the City's Solicitor should be at other meetings or whether they have the authority to just make that determination on their own. I think it might be a City Council decision as to how I spend the

City money. I think we can put it in, but it might be worthwhile to say if there's any objection later on, we recognize that it might be beyond the authority of the Board to require the City Solicitor to be at all of their meetings.

Ms. Brinkley: With the unavailability of a City Solicitor at each one of our meetings, I could see where that goes to extend issues that we might have or concerns about because we might need that legal consultation. And we're thinking about a Staff that's overworked, that works really hard and they do a good job. And just waiting and waiting and waiting for an issue to be resolved, I think that puts more work into our Planning Office. And on something that we have fresh in our minds, trying to think about, why not just go and get it out of the way. That's really important, I think getting something out of the way. Just a comment to be considered.

Mr. Wagner: Because this requires expenditure, let's pass it on to the City Council to get it resolved because I think that's the issue.

City Solicitor: I won't say as a matter of practice that I won't be at the meeting. I've been here almost a year. As better practice, either I or somebody from my office will be covering every meeting. There are only two meetings that I attend every one of and that's City Council meetings and these meetings.

Mr. Wagner: Was it resolved?

City Solicitor: When I was first hired as City Solicitor, I kind of asked, hey, what meetings do I go to? And I was told by I think the City Manager, you go to every Board of Adjustment meeting, every City Council meeting and then you go to other meetings at the request of either the City Council or the Department Head.

Chairman Senato: I guess the reason why this was brought up to the solicitor personally. For the presiding officer or the Chair if we have a request not brought forward prior to (the meeting) with the exception of one that he had to be dismissed from the meeting, and the thing that bothers me is when we have an applicant in front of us. We are a quasi-court which means similar or like in a sense as everyone knows. I don't want to be here conducting a meeting and have an applicant here participating and the frustration of what he has to go through if that's the case and then have the City Solicitor say I've got to stop the meeting because I have to take a call with the Judge. I'm not being critical of the City Solicitor because he has his work to do and that's fine. What I have to worry about as the Chair, I have to consider the Board members. I have to consider Mrs. Melson's time and the work that the Staff has put in. I have to consider the work that you have put in, but I have to consider the citizens in the audience and mainly the applicant in my mind. And I don't want an applicant to wait. We just get ready to vote on something and I'm going to call for a 15 minute recess. That's not going to happen. It's not going to happen when I all of a sudden have whispered I got to leave for 10 minutes because I have to make a call. Maybe it sounds as if I'm being critical and I apologize to the City Solicitor. Believe me, I have a lot of respect for the City Solicitor since I have known him. That's not the reason; I'm just talking about policy. I'm talking about how the Chair feels about interrupting a meeting with the applicants or whoever else is there anticipating some kind of a decision from this Board without any kind of delay. It should never be. In the 27 years, possibly, I have been on the Board, we have never had this problem. We have never missed a City Solicitor here at the meeting for the Executive Session. So, my obligation is to the Board, Mrs. Melson, to the citizens, and the

responsibility that I have to the City of Dover. With that being said I hope that we can come up with an agreement that a City Solicitor or representative will be here at all times. For the City Solicitor, this is the meeting committee or Boards they should be attending. Because if he is not here, not through his fault, and then all of a sudden we need to go into an Executive Session and we don't have an attorney. Or a Board member asks a question and we need a legal opinion and he's not here. What do you do? I don't want that situation to happen at all.

City Solicitor: Why don't we have a vote to include a provision in the Rule that the City Solicitor or a representative be present at each of the meetings. I don't have any difficulty in including that in the Rules of Procedure. The only caveat I would have is it's not in conceivable that members of City Council can override that. So, we'll include that provision under Rule 6.

Ms. Brinkley: I do have one question. On "or a Representative from," would we include that? It would say something to the effect that the City Solicitor or his or her Representative.

City Solicitor: It might make sense to put that in as the last part of 6.1. rather than add a new provision at the end. Because that provision relates to attendance. It would be another sentence added to 6.1.

6.3

City Solicitor: It previously said when a quorum is not present, the members may adjourn, it makes sense. You can't do business if the quorum's not there. So, that edit makes clear that when a quorum is not present, it's required to adjourn.

6.4

City Solicitor: This just changes Office of Planning and Inspections to the Department of Planning and Inspections. It makes it clear again that if no members are present Staff members shall adjourn the meeting.

6.5

City Solicitor: Previously said that three affirmative votes would be required. But that's not actually the case, because if three members of the Board are present at a meeting you have a quorum and two affirmatives' votes would be sufficient. So, we took that provision out. It previously said that a majority of the members of the Board present can vote on these. So, because a quorum can be three, there can be two votes. This provision previously said you need three votes to approve a variance application. That is not actually the case. If only three of you are here, you only need two votes. The new 6.5 is just a semantic change.

Rule 7 – Voting Procedure

City Solicitor: There are no substantive changes other than 7.1 rather than the presiding officer calling a vote. The presiding officer request a call of the vote.

Rule 8 – Record Keeping**8.1**

City Solicitor: This is also a requirement of the FOIA. A file shall be kept in the Department of Planning and Inspections of all Board of Adjustment meetings.

Rule 9 – Minutes of Board of Adjustment Meetings**9.1**

City Solicitor: Describes what the minutes consist of. One edit is that it includes the meeting format so that if it is both in person and video availability. The minutes will include not only the members of the Board that are present but also the Staff members who are present. So, subsection “F” here was a subject of discussion at a prior meeting. We talked about what should be included in the minutes. The language we came up with is included in the edit so that the minutes will describe and summarize what was said. It will not be a verbatim transcript. That’s the way it has been done. I think that’s what we agreed on. And then “G” the minute shall reference the reports, exhibits, and other documents submitted for the record. I think this is all consistent with what common practice has been.

Chairman Senato: I believe there was a general discussion if I remember, there was some opposition by a couple of Board members. Ok, let me ask you this. The minutes that we are going to approve would be as said, but the full transcript of the minutes will not be presented on the agenda for approval; just the short version, am I correct?

City Solicitor: So, you have the minutes in front of you from the March meeting. This is typically what minutes look like. It's a kind of a summary of what's said rather than verbatim transcript. Although this looks much like a transcript. But we are not requiring the Staff to put together the full transcript of everything that was said at every meeting. What it does is just kind of summarize what was said by everybody.

Chairman Senato: We vote on a summation. And not on the total minutes that were transcribed. Could this in the future bring up a bring up a legal situation? In other words, here is my problem with that. But the problem is to me the legality. If the Board is voting on the minutes that were said and discussed in an hour’s meeting with an applicant, and here we are voting on a short version. The problem I have with that is what happens with the full version? Is that without voting and coming up in front of the Board a legal document? If anything happens or if there's errors or omissions or miswording on those full minutes that the Board members haven't had a chance to look at prior to the meeting and saying “yay” or “nay” That's my problem. We are approving something that we are not really seeing. We are just seeing a summation. Errors can be made. Things could be misinterpreted. If you have an Appeal or anything like that, I’m sure the Superior Court is going to want the full version and not the short version.

City Solicitor: So, the way it typically works when we go to the Superior Court of handling probably a hundred Appeals from administrative decisions, is that the first thing after an Appeal is taken is that the Superior Court will order that the record below be transmitted to the Superior Court. So, what does the record below consist of? The record below consists of the materials that

were given to the Board as part of the meeting and the minutes of the meeting. The Superior Court is pretty used to seeing that the record consists of the minutes, not necessarily a verbatim transcript. Now, that goes back historically. More recently, most meetings are recorded; so, we have either a video recording or an audio recording of all meetings. So, we can go back later if there is ever an Appeal and find and create a transcript of that meeting. I think an audio recording is made of these meetings. So, if there is ever an Appeal that a transcript can be created. But for your purposes, what you're really doing in each meeting when you look at the minutes, it's just making sure that they accurately reflect what happened generally in terms of yes, I voted that way or the other person did not vote that way. This is a fair summary of the Application that was brought. So, you don't really need a verbatim transcript for purposes of creating accurate records for an Appeal. That can be done after the Appeal is taken.

Chairman Senato: I just want to make sure that if they go to Superior Court or something happens that the Board actions for whatever decisions are made and whatever are in the full minutes, we are not going to be held accountable because we never really voted on it like the procedures has been for the last 27 years. That's my only concern. Other than that, based on what you just told me, I don't have a problem with that.

He asked the Board if they had any problems? He asked the Board if they were in agreement.

Mr. Holmes said he did not have a problem.

Mrs. Melson-Williams: Staff would like to note that your meeting minutes are fairly detailed. If you really wanted to see what short looked like, we could show you what short looks like. Because under some of the Robert's Rules, it really is: who's here, who made the motion, what the motion was and what the vote was without any of the presentation of the applicant talking and any of that. So that's the minimum, and we have never done the minimum. We have been fairly complete in reflecting the presentations by staff, the applicants, the questions back and forth, as well as the votes that we are required to do. Is it verbatim? No. But it's fairly close. I would say it's a cleaned up verbatim. We put things in sentences because if you really wanted to do verbatim, you would have captured all the ums that I would say by habit I can't break. The fact that you don't talk in sentences and all of that. So, it's a clean-up version of what transpires in each meeting. You certainly shouldn't feel like you're not voting on the full actions that happen.

Chairman Senato: I agree with Mrs. Melson. I know the Robert Rules of Order. I have no problem with shorting this version down to eliminating all the work that you have to do. But as Chair, some of the questions I have might not be in agreement, but I have a reason to bring them up. It is now settled. I'm in agreement and the Board is in agreement and we are fine with that. I appreciate what you do with the Planning Department and the minutes.

Mr. Holmes: I would also like to add to the Record that I have represented over 15 municipalities in Delaware, and I have never seen minutes this detailed from any type of proceeding. The minutes that I have seen are much more detailed than the County.

Rule 10 – Conduct During Meetings

City Solicitor: There were not very many controversial comments about the Draft Rules. The only matter of discussion was Rule 10.3 which originally provided that if one of the members of the Board transgresses the Rules, any other member of the Board can call that member to order. We changed that. So, if any member of the Board transgresses the Rules, the Presiding Officer and the Presiding Officer alone can call that person to order.

Rule 11 and Rule 12 – There are no proposed changes.**Rule 13 – Standards of Conduct**

City Solicitor: We did make wholesale changes to Rule 13 Standards of Conduct. You'll see that they were pretty detailed in prescribing appropriate attire and things like that. We had some First Amendment concerns about prescribing what people are allowed to wear and how they're allowed to present themselves. So, we made changes to be a little more consistent to balance the fact that members of the public who come here do have the First Amendment rights of expression, but you all also have the ability to impose reasonable time, place, and manner restrictions. And so proposed new Rules 13.1 and 13.2 that you see in blue, they're offered for additional discussion. What it really provides is some discretion on the part of the Board to make sure that members of the public conduct themselves in an orderly fashion and follow the direction of the Presiding Officer. No cell phones going off or being loud and no applause or disruptive behavior. It really just gives the Presiding Officer the right to maintain order in the chamber without imposing upon any First Amendment rights.

Rule 14 – Appeals and Variance Applications to the Board of Adjustment**14.1**

City Solicitor: You will see in the blue edit, we mentioned a few times now that your responsibilities are sort of divided between hearing Variance Applications on the one hand and hearing Appeals from zoning determinations and other decisions by Code Officials on the other. So it's whether or not, we need to clarify and separate those two things or combine them and determine how we proceed with them. So, the way that has been done, is the way we originally had it combined here as Appeals and Variance Applications in 14.1. We added Variance Request Applications and Appeals and it's just a general statement about how the applications are made. They have to be on the right forms; they have to be approved by the Board. You have the right to reject Applications and Appeals that are not conformed to the forms and have not paid the proper fee.

14.2

City Solicitor: One of the things we took out is if you look at 14.2. The original version had that all appeals and applications include a recent survey. That has never been, as far as I know, an actual requirement; so, that has been taken out. No survey is required.

14.3

City Solicitor: We added a provision that in addition to people speaking on behalf of or in opposition to an application or Appeal, the applicant or an opponent can also submit the exhibits that could be entered into the Record. It's both an oral presentation and a documentary presentation both in support and against.

Mr. Wagner: My only intent is to make sure anybody who appears before us fully understands what options they have in front of this Board. I understand and explain to me that Appeals will go to the particular court. What does the person do or how do they understand if you say to them, they had a right to an Appeal. How are we involved in that if the court is going to be involved in that? So, does that make sense?

City Solicitor: It does and so the provision allowing appeals from Board of Adjustment are included in the *Delaware Code*. So, they should know from that. I will say what it would be analogous to is if you're present in an actual Superior Court. If you go down the street here and you appear in front of the Superior Court Judge and the judge rules against you. The judge doesn't then say I'm dismissing your case. By the way, now you have the right to file an Appeal to the Supreme Court. It's not the burden of the governing body to tell the applicant how to appeal. If they ask, we can answer, but we typically don't give that type of advice and sometimes it can create some type of liability. We've had cases where city employees have been accused of giving advice by saying you have 30 days to do this. Well, it turns out they had ten days to do that and then the City creates a liability for itself. I think it's a little cleaner to just make a decision on the application without providing the applicant any advice on what happens if we rule against them unless they ask.

Mr. Wagner: We make a decision, the Board?

City Solicitor: Sure, so let's assume we deny a Variance Application. That's as far as you have to go.

Mr. Wagner: Excellent.

14.4

City Solicitor: There are no substantive changes.

14.5

City Solicitor: We made it clear that it is both Appeals and Variance Applications.

Rule 14.5

City Solicitor: There was a substantive change to conform with the way, we actually do things. So, it's an important provision because we've had this happen fairly recently where an applicant for a variance after public notice of the hearing has been made cannot change the application. That's sort of a FIOA requirement that you cannot; if the public gets noticed of what's happening seven days in advance then an applicant can't come here and on the fly change what's being requested. However, an applicant can reduce the variance request. So, in other words, an

applicant can't walk in and say, I have applied for an area variance to allow me to build a little closer to the curve a little closer to the end of my property line and then come in and have multiple variance applications. Then when they come before us they add more and ask for more than what was in the original application. What they can do is reduce the number. They can come in and say, hey, when this was originally filed, I was looking for four different variances. We've worked out two or three of them. Now, I only need one or two. So, what this provision does is make it clear that an applicant can reduce what they're asking for when they come before us, but they can't make additional requests after the agenda has been posted.

14.6

City Solicitor: This is about conduct during the hearing. You see one of the edits is no cross examination of witnesses or applicants will be permitted by the public during the public hearing. The reason we made that change is because the Board is permitted to ask questions of applicants or witnesses and you can do it in the nature of cross examination. We just wanted to make sure that members of the public aren't cross-examining each other during the course of a proceeding. Only the Board can ask those types of questions of the applicants or witnesses.

14.7.

City Solicitor: If you do not believe you have enough information ahead of time or if an applicant requests, you can make a motion and upon approval, you can continue the hearing or vote to leave the record open. So that they won't have to start all over again when they come back. It's consistent with pretty standard practice.

14.8

City Solicitor: We struck the portion that was not consistent with our current practice. It reads "any oral discussion of or vote upon the application by the Board shall be deemed in the nature of preliminary deliberations to the rendering of a final written decision and only the written decision, as adopted by a majority of the Board, shall constitute a decision of the Board." What that makes for you is, your decision is final when it is made after the hearing. When you vote at this hearing on an application, your determination is effective then and it doesn't have to wait until the final written decision. For those of you who have been on since September, you should be getting final decisions from me, but I have not gotten them to you. I have been too backed up. Hopefully within the very near future, you will be getting a final written decision on what you've decided so far. What this provision says is you don't have to wait to get my draft of the written decision to sign off on it. Your decision is final at the time of the hearing when it gets made. That's why we took out that provision. That provision suggested that your decision doesn't take any effect until I get you a proposed written decision and you sign off on it.

14.9

City Solicitor: The blue portion is whether the Board should consider establishing a method for extension of the Board's action. That would require an amendment to the *Zoning Ordinance* and then to consider the establishment of the Administrative Variances. I'm not exactly sure what we discussed concerning extension of the Board's action. He asked Dawn if she had any recollection of that?

Mrs. Melson-Williams: I think that was in our March meeting and I think the concern was adding it in and to not add that into Rules of Procedure until there was an item in the Code that would allow for such extension. If that's something to pursue, Staff will have to work on some Code changes and have that move through a process before you could have that. Right now, the Code says that your Board's action has a basically an approval for one year. We've interpreted that one year and during that time frame, the applicant has to take actions to implement what they're asking for. Whether that's a size of a sign, they have to make their permit submission and move towards getting that sign installed or any other kind of permitting or plan review process subsequent to your action. Extensions that we cannot just drop in your Rules of Procedure, it would have to be actually in the *Zoning Ordinance*.

City Solicitor: Okay, and it looks like that's the same for Administrative Variances.

Mrs. Melson-Williams: Yes, the same thing. There's provisions in *Delaware Code* that allow for Administrative Variances. Currently that is not reflected in the City's *Zoning Ordinance*. It would have to be Code and Text Amendments written and adopted in order to make it part of our process.

City Solicitor: So, we'll keep an eye out for any Code amendments that we would have to incorporate into the Rules.

Rule 15 – Order of Proceeding

15.1

We were discussing this at our last meeting. This is how our meeting can be conducted. The Chairperson and Staff will describe the general nature of the proceeding, whether it's an Appeal or a Variance Application. She'll describe the property. The Staff will also brief the matter and enter the exhibits into the record. So, it's kind of Staff to start the proceeding and to describe the type of application you're going be considering, the land, where it is, and the type of application that is being applied for. And then staff will also state whether any correspondence pertaining to the application has been received. That stuff will typically be in your packet.

15.3 and 15.4

City Solicitor: Sections 15.3 and 15.4 which are really just the description of how the Application will be presented.
There are no real edits to those.

15.5

City Solicitor: We make clear that during the public hearing that any person desiring to make a statement can. The reason why that edit was important because we wanted to distinguish people who are speaking in favor of or are against an application to make sure they are doing it during the presentation of that application and not when we have our public comment portion. So, we have what the comment portion of our meetings; it is not designed to relate to any one particular application. It's just designed usually for members of the public to make general comments about

the Board and about no specific application, but it's really just grievances they have or anything complimentary they have to say. We want to make clear here that if a member of the public is going to speak in favor of or against an application, it is during that presentation of that Application.

The same thing for **15.6**

15.7

City Solicitor: We removed the opportunity for a "sur rebuttal." The manner in which an Application or Appeal is presented goes as follows. Application is presented and the people who are in favor of it speak in favor of it. Once that is completed, then any opponent can speak in opposition to that Application or Appeal. Once the opposition is completed, the original applicant or appellant can then respond to that opposition, but that's it. What this had previously provided for was the opposition to respond again. It's a second bite of the apple, and we took that out. So, its opening, answering, response, and that's it.

15.8, 15.9, and 15.10 no substantive changes

15.12

City Solicitor: We took out the part where the Board can vote to leave the public record open once all of the testimony evidence is presented. Once a public hearing is closed, it's closed. No new testimony or evidence after its closed.

Rule 16 – Delaware Freedom of Information Act.

City Solicitor: It's making clear that we are complying with FOIA.

Rule 17

City Solicitor: We took it out because it said that members of the Board are subject to the statute Officials Code of Conduct. We already know that without having to put it in there. Right here we were referencing the State Code provision, and as you can see in the blue the comment was there has to be a *Dover Code of Ordinance* citation on ethics and any code of conduct references. I think what we decided was there's no reason to keep a separate ethics obligation, you know, rules. These are Rules of Procedure, not any ethical rules of conduct.

Rule 18

City Solicitor: We agreed that once your decision is final, applicants and appellants who lose can't come back and say I want you to hear it again. There is no provision for that in Dover Code of municipal ordinances. Their recourse is an Appeal (to the court).

Rule 19

City Solicitor: The adoption and the effective date that the Rules become effective will be once these are all finalized, they are reviewed and you vote to adopt them. That's when they become

effective. I think we have walked through now all of the proposed edits. We still have some additional ones to make after we discuss them, but I will turn it back to the Chair.

Mrs. Melson-Williams: So again, we've gone through these and the kind of next step are I think we ought to wrap this up. Staff and the City Solicitor still have a little bit more work to do. I'm not sure that we'll have that done by the June meeting. But, what we would probably envision is creating another Draft version and be able to provide that to you at a meeting but not necessarily act upon that at that same meeting. Just kind of say here's the latest and then schedule, formal consideration at a subsequent meeting; if that makes sense.

Mr. Holmes: It does make sense so let's move on.

Mrs. Melson-Williams: Yes. So, we'll work on it again, get you another version of it, and go from there.

Chairman Senato: Thank you.

NEW BUSINESS

Chairman Senato asked if there were any items of New Business?

Mrs. Melson-Williams: Mr. Chair, in the adoption of your agenda, you did not add any items under New Business.

Public Comments Opportunity

Chairman Senato mentioned as the open meeting, the public are given an opportunity to provide comments to the Board of Adjustment for anyone wishing to speak.

Mrs. Melson-Williams mentioned to Mr. Chair that there are no members of the public in the audience and there are no members that have joined us online today. If there were, they would have been given that opportunity to make a brief statement limited to items under the purview of the Board of Adjustment. So, I believe that there are no public comments today.

Chairman Senato: Thank you. He thanked the Board members, City Solicitor, and Staff for hard work that has been put in and probably it still will be another month or two. Thank you very much for that.

Mr. Holmes made a motion to adjourn the meeting. It was seconded by Ms. Brinkley and unanimously carried 4-0.

The meeting was adjourned at 10:59 A.M.

Sincerely,
Maretta Savage-Purnell
Secretary



City of Dover
Board of Adjustment

Meeting of June 17, 2026
Appeal V-26-03

Location: Property at 1131 S. Bay Road, Dover, Delaware
Known as Kings Cliffe Manufactured Home Park
Part of ED-05-086.00-01-080.000-000

Current Property Owners: Kings Cliffe MHP, LLC

Present Zoning: Residential Area: MH (Manufactured Housing Zone)
Part of parcel also in AEOZ (Airport Environs Overlay Zone): Noise Zone A
Non-Residential Area: Part of Parcel in C-4 (Highway Commercial Zone)

Application Date: Appeal Received May 4, 2026 and with Addendum of May 19, 2026
Scheduled for June 17, 2026 Meeting

Appeal Filed By: Peter K. Schaeffer Jr., Esq. as representative of Kings Cliffe MHP, LLC
Application Signed by Robert B. Shue, Manager Director

Appeal Requested: An Appeal Application has been filed by the owner's representative regarding the Zoning Violation issued as Code Enforcement Case #25-00004632 (and associated Case #20-00003344) and the allowance of a non-conforming use for recreational vehicle lots and recreational vehicle lot rentals. This Appeal pertains to a determination of the City of Dover Division of Code Enforcement to prohibit the addition of new non-conforming mobile homes, house trailers or recreational vehicles (RVs) on lots in the community. This Appeal is related to the enforcement of *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8.4 Uses prohibited with Sections 8.41 and 8.42.

Request for Appeal

Kings Cliffe MHP, LLC (as represented by Peter K. Schaeffer, Jr., Esq. of Avenue Law) has filed an Appeal pertaining to a determination of the City of Dover Division of Code Enforcement to prohibit the addition of new non-conforming mobile homes, house trailers or recreational vehicles (RVs) on lots in the community. This is regarding the Zoning Violation issued as Code Enforcement Case #25-00004632 (and associated Case #20-00003344) and the allowance of a non-conforming use for recreational vehicle lots and recreational vehicle lot rentals.

Property Description

The subject property (parcel) is located on the east side of S. Bay Road and south of Lafferty Lane. It is known as the Kings Cliffe Manufactured Home Park (also previously referenced as the Kings Cliffe Mobile Home Park). It consists of individual unit placements (referred to as ‘stands’ and ‘lots’ by the Code) which have lot numbers and may also be referenced by the named internal street network. This portion of the property is zoned MH (Manufactured Housing Zone). There is a portion of the southeast corner of the parcel that is subject to the AEOZ (Airport Environs Overlay Zone): Noise Zone A. The southwest corner of the overall parcel includes other non-residential uses and is zoned C-4 (Highway Commercial Zone).

The development of Kings Cliffe Manufactured Home Park began prior to 1954 and the parcel was part of a larger area annexed into the City of Dover on December 15, 1970 (Application #70-2). In the non-residential area a mini-storage facility was created prior to 1992. See Exhibit 6 – Aerial Map.

Code Citations

Procedures

The Board of Adjustment procedures for Appeals are outlined in the *Zoning Ordinance* and within *Delaware Code*. See the following code citation excerpts.

Dover Code of Ordinances, Appendix B: Zoning, Article 9. Board of Adjustment:
Section 2. Powers and duties:

The board of adjustment shall have the powers and duties as specified in Delaware Code Annotated (22 Del. C. § 301 et seq.) and as articulated below:

2.2 *Appeal of administrative order, requirement, decision, or determination.* The board shall have the authority to hear and decide appeals where it is alleged there is any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance. Appeals to the board may be made by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer.

Zoning Ordinance, Article 9 §3. Procedure further outlines the procedures for both Variance and Appeal applications. Appeals are subject to a Public Hearing before the Board of Adjustment which must be noticed by publication in the newspaper and by mailed notice to property owners within 200 feet of the subject property. The legal ad was published in the Daily State News and BaytoBayNews.com on June 5, 2026 and Planning Staff completed the mailing of the Notice Letter on June 5, 2026.

The Appeal Application must be filed in writing on prescribed forms and is subject to a filing fee. See Exhibit Series 1 for application submission. The filing fee was paid.

It is noted that this fee or part of fee may be returned to the applicant (*Zoning Ordinance, Article 9 §3.4*) under certain provisions:

Article 9 §3.4 The board of adjustment may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal under section 2.2 Appeal of administrative order, requirement, decision, or determination hereof is partially or wholly successful.

The Appeal Applications (submission items of written application and documents as exhibits) as filed shall consist of the following per the *Zoning Ordinance, Article 9 §3.5*:

Article 9 §3.5 Each variance application or appeal shall fully set forth the circumstances of the case. Every variance application or appeal shall refer to the specific provision of the ordinance involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

- **A copy of the Appeal as filed by Kings Cliffe MHP, LLC, is attached as Exhibits 1A and 1D and related document Exhibits 1B and 1C.**
 - **Exhibit 1A – Application to Board of Adjustment for Appeal.**
 - **Cover Letter dated April 30, 2026 from Peter K. Schaeffer, Jr. Esq. of Avenue Law submitting Appeal Application to Board of Adjustment**
 - **Application Form (3 pages), Application for Mailing List Form, Project Contact List Form, Board of Adjustment Checklist Form**
 - **Application Exhibit A – Copy of January 21, 2021 Letter on Action of the Construction and Property Maintenance Code Board of Appeals**
 - **Application Exhibit B – Copy of Violation Detail for Case Number 25-00004632**
 - **Exhibit 1B – Email to Peter K. Schaeffer Jr. from Dawn Melson-Williams (Planning Staff) on Appeal submission receipt and request to clarify**
 - **Exhibit 1C – Letter of May 11, 2026 from Peter K. Schaeffer, Jr. Esq. to Daniel A. Griffith, Esq. on Kings Cliffe MHP, LLC, Appeal of City of Dover Zoning Violation: Case #25-00004632**
 - **Exhibit 1D – Letter of May 19, 2026 from Peter K. Schaeffer, Jr. Esq. of Avenue Law as ADDENDUM TO APPEAL Application with Separate Narrative and Attachments:**
 - **Addendum Exhibit A – Copy of November 23, 2020 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344**
 - **Addendum Exhibit B - Copy of January 21, 2021 Letter on Action of the Construction and Property Maintenance Code Board of Appeals**
 - **Addendum Exhibit C - Copy of October 17, 2025 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 25-00004632**

The provisions of *Delaware Code* (22 Del. C. § 301) also note a procedure for Appeals:

22 Del. C. §324 Appeals to board.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Planning Staff requested transmittal of records from the administrative officer (City of Dover, Division of Code Enforcement.

- **Copies of materials from the Case File of City of Dover Division of Code Enforcement are attached as Exhibits 2A to 2O**
 - **Exhibit 2A – Letter of October 17, 2025 as Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 25-00004632**
 - **Exhibit 2B - Letter of February 15, 2019 on Amendments to *Dover Code of Ordinances* and *Zoning Ordinance* concerning Mobile Homes, Manufacturing Homes, and Land Lease Communities to Kings Cliffe Mobile Home Park from Director of Planning & Community Development**
 - **Exhibit 2C - Construction Code and Property Maintenance Boards of Appeals Meeting Minutes from January 20, 2021 Meeting**
 - **Exhibit 2D - *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8. – Manufactured housing (MH) zone (Section 8.4 highlighted)**
 - **Exhibit 2E - Letter of November 23, 2020 as Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344 to MHP Investments LLC**
 - **Exhibit 2F - Letter of November 23, 2020 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344 to Kings Cliffe Mobile Home Park**
 - **Exhibit 2G - Letter of December 1, 2020 RE; Case #20-00003344 to Mr. Koop, Division of Code Enforcement from Peter K. Schaeffer, Jr. Esq.**
 - **Exhibit 2H - *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 7 – Nonconforming Buildings and Uses (print date 12/02/2020)**
 - **Exhibit 2I - Photograph Series of Recreational Vehicles in Kings Cliffe with photographs dated 11/13/2020, 11/23/2020, 01/04/2021, 01/06/2021**
 - **Exhibit 2J - *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 7 – Nonconforming Buildings and Uses (print date 7/16/2025)**
 - **Exhibit 2K - *Dover Code of Ordinances*, Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities**
 - **Exhibit 2L - *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8. – Manufactured housing (MH) zone (print date 7/16/2025)**
 - **Exhibit 2M - Letter of January 21, 2021 as Letter on Action of the Construction and Property Maintenance Code Board of Appeals**
 - **Exhibit 2N - 42 USC Ch. 70 Manufactured Home Construction and Safety Standards from Title 42 – The Public Health and Welfare**

- **Exhibit 2O -Fax Cover Sheet and Attachments: Letter of November 24, 2025 as Request for Appeal on Case #25-00004632 from Peter K. Schaeffer, Jr. Esq. and Violation Detail Case Number #25-00004682**

Planning Staff requested transmittal of the record from the Construction and Property Maintenance Board of Appeals (CPMBOA). The CPMBOA Board is supported by the City Clerk’s Office.

- **Copies of materials from the January 20, 2021 City of Dover Construction and Property Maintenance Code Board of Appeals Meeting on Appeal of Violation – 131 South Bay Road (MHP Investments, LLC) are attached as Exhibits 3A to 3G**
 - **Exhibit 3A - Email Series on Receiving Appeal Request to Construction Code and Property Maintenance Board of Appeals**
 - **Exhibit 3B - Letter of January 11, 2021 to MHP Investments scheduling the Construction Code and Property Maintenance Board of Appeals Meeting**
 - **Exhibit 3C - Construction Code and Property Maintenance Boards of Appeals Agenda for January 20, 2021 Meeting**
 - **Exhibit 3D - Case Packet for Construction Code and Property Maintenance Boards of Appeals for January 20, 2021 Meeting**
 - **Exhibit 3E - Construction Code and Property Maintenance Boards of Appeals Meeting Minutes from January 20, 2021 Meeting**
 - **Exhibit 3F - Letter of January 21, 2021 as Letter on Action of the Construction and Property Maintenance Code Board of Appeals**
 - **Exhibit 3G - Appeals Procedure – Construction and Property Maintenance Code Board of Appeals (for City Clerk’s Office actions)**

Action by the Board of Adjustment

It is the responsibility of the Board of Adjustment to hear and decide the Appeal where it has been alleged that the determination of the administrative official was in error in the enforcement of the *Zoning Ordinance*. This Appeal is regarding the Zoning Violation issued as Code Enforcement Case #25-00004632 (and associated Case #20-00003344) and the allowance of a non-conforming use for recreational vehicle lots and recreational vehicle lot rentals. The Appeal is of a determination of the City of Dover Division of Code Enforcement to prohibit the addition of new non-conforming mobile homes, house trailers or recreational vehicles (RVs) on lots in the community.

This Appeal is related to the enforcement of *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8.4 Uses prohibited with Sections 8.41 and 8.42. see Code Excerpt below:

Zoning Ordinance, Article 3 – District Regulations, Section 8. – Manufactured Housing (MH) zone.

8.4 *Uses prohibited*. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with [article 7](#).

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with [article 7](#).

Background Information

Code Citations

MH (Manufactured Housing Zone) Zoning District

The MH (Manufactured Housing Zone) zoning district regulations are found in the *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8. See Exhibit 4 for a full copy of this code section.

AEOZ (Airport Environs Overlay Zone) Zoning District

The AEOZ (Airport Environs Overlay Zone) zoning district regulations are found in the *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 22. There is a portion of the southeastern area of the property that is subject to the AEOZ – Noise Zone A. The AEOZ regulations include provisions that limit certain land uses; these are found in Article 3 Section 22.6 Land use compatibility table. Specifically, mobile home parks or courts and manufactured homes are not permitted in Noise Zone A.

Nonconforming Buildings and Uses

Dover Code of Ordinances, Appendix B – Zoning (*Zoning Ordinance*), Article 7.

Nonconforming Buildings and Uses outlines provisions related to buildings and uses that may not conform to the regulations of the *Zoning Ordinance*. See Exhibit 5 for a full copy of this code section.

Definitions

Specific terms are defined in the *Dover Code of Ordinances*, Appendix B – Zoning (*Zoning Ordinance*), Article 12 – Definitions. See below some of the terms related to this Appeal Application.

Zoning Ordinance excerpt of Definitions:

Dwelling unit: A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family, including any domestic servants employed on the premises, and having no enclosed space (other than vestibules, entrance or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boarding[house] or roominghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging, nursing, or other similar home, travel trailer, recreational vehicle, or other similar structures or vehicles shall not be deemed to constitute a dwelling unit.

Dwelling, one-family: A permanent dwelling unit placed on a permanent foundation and designed and intended for use by only one family. One-family dwellings shall not include manufactured homes or mobile homes but shall include modular homes constructed to the standards of the Dover Code of Ordinances, Chapter 22—Buildings and Building Regulations.

Land lease community: A residential development typified by single ownership of the land within the development, with the landowner retaining the rights of ownership. Home sites or individual lots within the community are leased to individual homeowners, who retain customary leasehold rights.

Manufactured home means a factory-built, single-family dwelling:

- a. Transportable in one or more sections, which is either eight body feet or more in width and 40 body feet or more in length, or, when erected on site, has more than 400 square feet in living area; and
- b. Designed to be used as a year-round dwelling when connected to the required utilities; and
- c. Manufactured after June 15, 1976, and built in accordance with manufactured home construction requirements promulgated by the federal Department of Housing and Urban Development (The HUD Code).

Mobile home means a factory-built, single-family dwelling:

- a. Transportable in one or more sections, which is either eight body feet or more in width and 40 body feet or more in length, or, when erected on site, has more than 400 square feet in living area; and
- b. Designed to be used as a year-round dwelling when connected to the required utilities; and
- c. Manufactured before June 15, 1976, and not built in accordance with manufactured home construction requirements promulgated by the federal Department of Housing and Urban Development (The HUD Code). Prior to the HUD code, mobile homes were not subject to uniform construction or safety standards.

Modular Home: A factory built housing unit constructed to the standards of the Dover Code of Ordinances, Chapter 22—Buildings and Building Regulations.

Permanently placed manufactured home means a manufactured home that has been placed upon a permanent, unmovable foundation.

Trailer, house: Any vehicle mounted on wheels, movable either by its own power or by being drawn by another vehicle, and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "house trailer" shall include vehicles if mounted on temporary or permanent foundations with the wheels removed

GUIDE TO EXHIBITS (ATTACHMENTS)

Exhibit	Description/Author	# Pages
1	Appeal Application Documents	
1A Appeal Application	Application to Board of Adjustment for Appeal: <ul style="list-style-type: none"> • Cover Letter dated April 30, 2026 from Peter K. Schaeffer, Jr. Esq. of Avenue Law submitting Appeal Application to Board of Adjustment • Application Form (3 pages), Application for Mailing List Form, Project Contact List Form, Board of Adjustment Checklist Form • Application Exhibit A – Copy of January 21, 2021 Letter on Action of the Construction and Property Maintenance Code Board of Appeals • Application Exhibit B – Copy of Violation Detail for Case Number 25-00004632 (Appellant Submission) 	9
1B Appeal Submission	Email to Peter K. Schaeffer Jr. from Dawn Melson-Williams (Planning Staff) on Appeal submission receipt and request to clarify	2
1C Appeal Submission	Letter of May 11, 2026 from Peter K. Scheaffer, Jr. Esq. to Daniel A. Griffith, Esq. on Kings Cliffe MHP, LLC, Appeal of City of Dover Zoning Violation: Case #25-00004632	2
1D Appeal Application ADDENDUM	Letter of May 19, 2026 from Peter K. Schaeffer, Jr. Esq. of Avenue Law as ADDENDUM TO APPEAL and Attachments: <ul style="list-style-type: none"> • Addendum Exhibit A – Copy of November 23, 2020 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344 • Addendum Exhibit B - Copy of January 21, 2021 Letter on Action of the Construction and Property Maintenance Code Board of Appeals • Addendum Exhibit C - Copy of October 17, 2025 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 25-00004632 (Appellant Submission) 	10
2	Code Enforcement Case File documents	
2A	Letter of October 17, 2025 as Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 25-00004632	3

2B	Letter of February 15, 2019 on Amendments to Dover Code of Ordinances and Zoning Ordinance concerning Mobile Homes, Manufacturing Homes, and Land Lease Communities to Kings Cliffe Mobile Home Park from Director of Planning & Community Development	2
2C	Construction Code and Property Maintenance Boards of Appeals Meeting Minutes from January 20, 2021 Meeting	4
2D	<i>Dover Code of Ordinances</i> , Appendix B – Zoning (<i>Zoning Ordinance</i>), Article 3 Section 8. – Manufactured housing (MH) zone (Section 8.4 highlighted)	3
2E	Letter of November 23, 2020 as Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344 to MHP Investments LLC	2
2F	Letter of November 23, 2020 Letter of Violation from Code Enforcement Officer and Violation Detail of Case Number 20-00003344 to Kings Cliffe Mobile Home Park	2
2G	Letter of December 1, 2020 RE; Case #20-00003344 to Mr. Koop, Division of Code Enforcement from Peter K. Schaeffer, Jr. Esq.	2
2H	<i>Dover Code of Ordinances</i> , Appendix B – Zoning (<i>Zoning Ordinance</i>), Article 7 – Nonconforming Buildings and Uses (print date 12/02/2020)	4
2I	Photograph Series of Recreational Vehicles in Kings Cliffe with photographs dated 11/13/2020, 11/23/2020, 01/04/2021, 01/06/2021	10
2J	<i>Dover Code of Ordinances</i> , Appendix B – Zoning (<i>Zoning Ordinance</i>), Article 7 – Nonconforming Buildings and Uses (print date 7/16/2025)	3
2K	<i>Dover Code of Ordinances</i> , Chapter 66 - Manufactured Homes, Mobile Homes, and Land Lease Communities	6
2L	<i>Dover Code of Ordinances</i> , Appendix B – Zoning (<i>Zoning Ordinance</i>), Article 3 Section 8. – Manufactured housing (MH) zone (print date 7/16/2025)	3
2M	Letter of January 21, 2021 as Letter on Action of the Construction and Property Maintenance Code Board of Appeals	1
2N	42 USC Ch. 70 Manufactured Home Construction and Safety Standards from Title 42 – The Public Health and Welfare	32
2O	Fax Cover Sheet and Attachments: Letter of November 24, 2025 as Request for Appeal on Case #25-00004632 from Peter K. Schaeffer, Jr. Esq. and Violation Detail Case Number #25-00004682	5

3	Construction Code and Property Maintenance Board of Appeals documents	
3A	Email Series on Receiving Appeal Request to Construction Code and Property Maintenance Board of Appeals	5
3B	Letter of January 11, 2021 to MHP Investments scheduling the Construction Code and Property Maintenance Board of Appeals Meeting	2
3C	Construction Code and Property Maintenance Boards of Appeals Agenda for January 20, 2021 Meeting	1
3D	Case Packet for Construction Code and Property Maintenance Boards of Appeals for January 20, 2021 Meeting	28
3E	Construction Code and Property Maintenance Boards of Appeals Meeting Minutes from January 20, 2021 Meeting	4
3F	Letter of January 21, 2021 as Letter on Action of the Construction and Property Maintenance Code Board of Appeals	1
3G	Appeals Procedure – Construction and Property Maintenance Code Board of Appeals (for City Clerk’s Office actions)	3
4	<i>Dover Code of Ordinances, Appendix B – Zoning (Zoning Ordinance), Article 3 Section 8. – Manufactured housing (MH) zone</i>	3
5	<i>Dover Code of Ordinances, Appendix B – Zoning (Zoning Ordinance), Article 7 – Nonconforming Buildings and Uses</i>	3
6	Aerial Map of Kings Cliffe Manufactured Home Park with Location and Zoning Districts (Planning Staff)	1

AVENUE LAW

Bankruptcy | Civil Litigation

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Tel: (302) 674-2210
office@avenuelaw.com

April 30, 2026

Via USPS Priority Mail Express & email

City of Dover
Department of Planning and Inspections
P.O. Box 475
Dover, DE 19903
dmelson@dover.de.us

**RE: Kings Cliffe MHP, LLC
Appeal of Zoning Violation 733, dated 10/17/2025**

Dear Sir or Madam,

I, **Peter K. Schaeffer, Jr., Esq.**, represent Kings Cliffe MHP, LLC regarding the above referenced appeal.

Attached are eight (8) copies of the Board of Adjustment Application with attachments, and filing fee of \$300.00. In addition, a .pdf version was sent via email to Ms. Dawn Melson. Upon receiving, can you please acknowledge, and confirm whether or not this matter may be heard on May 20, 2026.

As to the hearing, I respectfully request that my client and I can attend remotely.

Thank you in advance for your attention to this matter,

/s/ Peter K. Schaeffer, Jr., Esq.
Peter K. Schaeffer, Jr., Esq.

Cc: Shue, Robert
Atch: Board of Adjustment Application w/ attachments
Filing Fee \$300.00 chk. # 12317



Board of Adjustment Application

Application Information

Property Address: King Cliffe Mobile Home Park, 1131 S. Bay Road, Dover, DE 19901

Tax Parcel Number: ED-05-086.00-01-080.000-000

Owner Name: Kings Cliffe MHP, LLC

Property Zoning: MH (Manufactured Housing Zone) per City of Dover Code of Ordinances – Appendix B: Zoning.

Variance (s) Requested: The Applicant (“Kings Cliffe”) is appealing the City of Dover refusal to honor allowance of a nonconforming use for recreational vehicle lots that was granted by the City of Dover on January 21, 2021, attached hereto at Exhibit A. Between January 2021 and October of 2025, Kings Cliffe engaged in recreational vehicle lot rentals per this City of Dover 2021 appellate decision. On October 17, 2025, the same violation for the same Code (Appendix B, Article 3. District Regulations, Section § 8.4) was reissued by the City of Dover, attached hereto at Exhibit B. This violation contradicts the City of Dover 2021 decision allowing Kings Cliffe to provide recreational vehicle lot rentals.

On April 24, 2026, the Delaware Superior Court stated that an appeal be filed with the City of Dover to determine why there was a reversal of the 2021 Appeal decision in favor of Kings Cliffe as to § 8.4. This appeal is filed in order to determine why the City of Dover Division of Code Enforcement reversed the 2021 appeal decision in favor of Kings Cliffe allowing recreational vehicle lot rentals.

*Provide eight (8) copies of any survey, drawings, photos, site plan, etc. that may help support your application, and your response to the criteria. The criteria for a use variance and appeal are on the back of the form.

Eight (8) copies of the City of Dover grant of appeal dated January 21, 2021 are attached, and eight (8) copies of the City of Dover reissuance of zoning violation dated October 17, 2025 are attached.



Board of Adjustment Application- cont.

Use Variance

A use variance shall be evaluated on the following criteria. **Please state how your request meets each of these criteria.**

1. That there are physical conditions applying to the land or building for which the variance is sought, which conditions are peculiar to such land or buildings, and have not resulted from any act of the applicant or any predecessor in title. Response: N/A.

2. That the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of all reasonable use of such land or building and the granting of the variance is necessary of the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish this purpose. Response: Kings Cliffe wishes to enforce the 2021 appeal decision (Exh. A) allowing recreational vehicles on the Kings Cliffe property. Should this appeal show that there has been a change in circumstances upon which the prior appeal was decided in Kings Cliffe's favor, Kings Cliffe asks that such allegations of change be provided to counsel for Kings Cliffe, as the City of Dover has not alleged any such changes to date.

3. That granting of the variance under such conditions as the board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this ordinance, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare. Response: During the 2021 appeal process, evidence was presented regarding use of recreational vehicles on the subject property for decades. There was no evidence that such use was injurious to the neighborhood, nor was a change in character, nor was detrimental to the public welfare. Between 2021 and the 2025, again there are no allegations of detrimental effects to the neighborhood.

Appeal

Please state the administrative order, requirement, decision, or determination that you are appealing. (Provide a copy of the original decision that is being appealed)

Response: Please see Violation 733, dated October 17, 2025, attached hereto at Exh. B.

APPLICATION FOR MAILING LIST

Application is hereby made to the City of Dover's Department of Planning and Inspections for preparation of a listing of the names and mailing addresses of all property owners within the specified feet of the Subject Site indicated below, and further described on the attached Plan, as they appear on the municipal tax roll.

SUBJECT SITE: King Cliffe Mobile Home Park, 1131 S. Bay Road, Dover, DE 19901

(Tax Parcel Number) ED-05-086.00-01-080.000-000

OWNER OF RECORD: Kings Cliffe MHP, LLC, 1131 S. Bay Road, Dover, DE 19901
(Name & Address) _____

This application is made in conjunction with my application for the following on the subject property (Check appropriate item):

N/A: BOARD OF ADJUSTMENT (200 ft.)

N/A: ANNEXATION (200 ft.)

N/A: OTHER- **A fee of \$15.00 will be assessed for the creation and distribution of a mailing list, based on the City of Dover's Data Distribution Policy.**

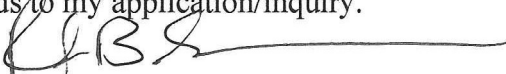
Specify distance _____

Please forward the requested mailing list to the following:

_____ Department of Planning & Inspections Staff _____
_____ City Clerks Office
_____ Other: Send to address below

APPLICANT'S CERTIFICATION

My signature hereon indicates my acknowledgement and understanding of the public notice that will be sent with regards to my application/inquiry.

Applicant's Signature: 

Date: 4-29-26

For Office Use Only	
Date Prepared: _____	Paid: _____
Preparer's Initials: _____	File Number _____
Date Sent: _____	
Sender's Initials: _____	

PROJECT CONTACT LIST

Please print or type the names of individuals who wish to receive correspondence related to the project (D.A.C.) Reports, Meeting Agendas, Decision Notices, etc.

Be sure to include the **name of a contact person** for **ALL** engineering firms, corporations, realtors, etc.

APPLICANT/ OWNER	NAME	ADDRESS	TELEPHONE/FAX E-MAIL
		Avenue Law, 20184 Coastal Hwy., Suite 205, Rehoboth Beach, DE 19971, peter.schaeffer@avnuelaw.com , Counsel for Applicant	
<hr/>			
<hr/>			
<hr/>			
<hr/>			

EQUITABLE
OWNER
N/A

PROFESSIONAL ENGINEER/
ARCHITECT SURVEYOR
N/A

OTHERS

Avenue Law, 20184 Coastal Hwy., Suite 205, Rehoboth Beach, DE 19971, peter.schaeffer@avnuelaw.com, Counsel for Applicant



Board of Adjustment Check List

Copy of Application

Eight (8) copies of submission items:

___ Response to Criteria

___ Survey, Site Plan, Photos, Etc.

Fee (Effective 9.1.2024)

\$325 – residential

\$625 – non- residential

\$300 – appeal

Request for Mailing List Form

Project Contact List Form

Electronic Version

PDF of Survey, Site Plan, Photos, Etc.

Word Document of response to questions.

4-29-26

Name (Signature)

Date

City of  Dover

Item 3.

January 21, 2021

MHP Investments, LLC
1051 Tuckerton Road
Marlton, NJ 08053

Avenue Law
Attn: Peter K. Schaeffer, Jr., Esq.
1073 South Governors Avenue
Dover, DE 19904
peter.schaeffer@avenuelaw.com

Re: Appeal of Violation - Dover City Code of Ordinances - 1131 South Bay Road, Dover, DE Case #: 20-00003344

MHP Investments, LLC:

On Wednesday, January 20, 2020, the Construction and Property Maintenance Code Board of Appeals considered your appeal of the violation of the Dover City Code of Ordinances - Appendix B - Article 3, Section 8.4 - Uses Prohibited at 1131 South Bay Road, Dover Delaware. Section 8.4 of the Dover Code states the following:

Section 8.4 *Uses prohibited.* The following uses are specifically prohibited:

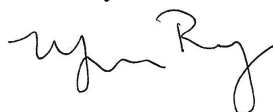
8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

After reviewing the case history and considering your testimony, it was the decision of the Board to grant your appeal.

If you have any questions regarding this matter, please contact the Department of Planning and Inspections at (302) 736-7010.

Sincerely,



Megan Ramsey
Administrative Assistant

TAM/mr

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC\Hearing Action - 1131 S Bay Road - MHP Investments, LLC.wpd

cc: Nicholas Rodriguez, City Solicitor
Gary Junge, Deputy City Solicitor
David Hugg, Director of Planning and Community Development
Ronald Coburn, Inspector
Eddie Kopp, Inspector

VIOLATION DETAIL

CASE NUMBER 25-00004632
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 733
DESCRIPTION: 733 ZONING VIOLATION
LOCATION: PROPERTY

QUANTITY: 1
DATE: 10/17/25

NARRATIVE :

Discontinue the use of mobile homes, house trailers, and recreational vehicles located within the property know as Kings Cliffe MHP, LLC.

No new non conforming mobile home, house trailer or recreational vehicle can be added to the community.

Any mobile home, house trailer or recreational vehicle that was pre-existing prior to September 24, 2018 is deemed non-conforming. The non conforming status is for the vehicle or structure and not for the lot.

Any mobile home, house trailer, or recreational vehicle brought into the community after September 24, 2018 is in violation of Appendix B, Article 3. District Regulations, Section 8.- Manufactured housing (MH) zone. 8.4 Uses prohibited. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

ORDINANCE DESCRIPTION :

City of Dover Zoning violation(s).

CORRECTIVE ACTION REQUIRED :

Correct zoning violation(s) as directed in the time frame provided.

From: [Melson-Williams, Dawn](#)
To: ["Peter Schaeffer"](#); [Griffith, Daniel A.](#)
Cc: [Duca, Sharon](#)
Subject: Receipt of Appeal to City of Dover Board of Adjustment RE: Kings Cliffe Appeal
Date: Tuesday, May 5, 2026 4:44:00 PM
Attachments: [image001.png](#)

Mr. Schaeffer:
RE: Kings Cliffe Appeal

The Planning Office acknowledges receipt of your email of May 4, 2026 with attachments and the hard copies (by Priority Mail Express delivery of 5/4/2026) of the Appeal Application RE: Kings Cliffe MHP, LLC Appeal of Zoning Violation 733 dated 10/17/2025 (Case #25-00004632). This Appeal Application is filed with the City of Dover Board of Adjustment. This submission includes a cover letter, application forms, Exhibits And B, and the filling fee.

The Planning Office will schedule this Appeal for the Board of Adjustment meeting of Wednesday, June 17, 2026 at 9:00am. While we did see that your Letter asked if the matter could be heard on May 20, 2026, this May meeting date of the Board of Adjustment is not available. The May meeting date is not feasible due to the deadlines/tasks needed to complete public notice and other meeting preparations for the Appeal to be heard. The submission was received after the April filing deadline for items to be scheduled for the Board's May Meeting. This submission was received prior to the May 15, 2026 filing deadline for items to appear at the June 17, 2026 Board of Adjustment Meeting and as such will be scheduled for June. The Board of Adjustment Meetings are Hybrid (both In-Person and Virtual) Meetings; however, it is highly encouraged that the Applicant appear in-person at the meeting if possible.

The Planning Staff has noticed in your submission for the Appeal Application that responses were provided on the Application form under the criteria items for Area Variances and Use Variances. The responses in these sections are not where you present information on the Appeal as Area Variances and Use Variances are a different process and criterion consideration before the Board of Adjustment. For Appeals, we suggest that a separate narrative of your Appeal Request (describing the interpretation that is claimed) and referencing the Exhibits A and B be submitted. You may submit this separately by pdf to the Planning Office to be included in the application submission.

In the future, you will receive more detailed information on the Board of Adjustment Meeting for June. If you have any questions on this process, please contact me as Planning Office staff.

Dawn Melson-Williams, AICP
Principal Planner
City of Dover, Delaware
Department of Planning & Inspections
(302) 736-7196 Planning Office phone
(302) 736-4217 fax

dmelson@dover.de.us

From: Peter Schaeffer <peter.schaeffer@avenuelaw.com>
Sent: Monday, May 4, 2026 11:01 AM
To: Griffith, Daniel A. <DGriffith@whitefordlaw.com>; Melson-Williams, Dawn <DMelson@dover.de.us>
Subject: EXTERNAL: Kings Cliffe Appeal

WARNING: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dan and Dawn,

Attached is the .pdf of the Appeal Application. Eight hard-copies and check for \$300.00 were sent to the City of Dover and picked up on May 2, 2026 by J Allen. Thank you in advance for your consideration of this matter.

Peter K. Schaeffer Jr., Esq

Avenue Law
avenuelaw.com

20184 Coastal Highway Ste 205
Rehoboth Beach DE 19971-8020

Email: peter.schaeffer@avenuelaw.com
Phone: 302.674.2210
Fax: 302.674.2099

AVENUE LAW
Bankruptcy | Civil Litigation

The information contained in this e-mail message is intended only for the use of the individual or entity addressed to and may be privileged and/or confidential. If the reader of this message is not the intended recipient, you are hereby notified that any unauthorized dissemination, distribution or copying of this communication is strictly prohibited by law. If you have received this communication in error, please immediately notify us by return e-mail or telephone at **302.674.2210** and destroy the original message.

AVENUE LAW

Bankruptcy | Civil Litigation

20184 Coastal Highway Ste 205 Rehoboth Beach DE 19971-8020
Tel: (302) 674-2210
office@avenuelaw.com

May 11, 2026

Via email

Daniel A. Griffith, Esq.
Courthouse Square
600 North King Street, Suite 300
Wilmington, DE 19801
dgriffith@whitefordlaw.com

**RE: Kings Cliffe MHP, LLC, Appeal of City of Dover Zoning Violation
Case #25-00004632**

Dear Dan:

Thank you for the teleconference last week. I'm writing because of the email I received from Dawn Melson at City of Dover after we talked (you were cc'd). It is my understanding that your representation is involved in this matter, so I am uncomfortable dealing directly with Ms. Melson. I respectfully request that if she/City of Dover has any issues, that such issues are presented to me via you.

Ms. Melson's email yesterday (you were cc'd) does raise some significant issues, as follow:

- A representation was made to Superior Court by you that the appeal process was available, and that appeal hearings occur monthly. As a result of this representation, I timely filed the Appeal Application for a hearing on May 20, 2026. Ms. Melson states that this date is not available. I believe such position contradicts what was stated to Judge Green-Streett.
- Ms. Melson states the Appeal Application requests consideration of area variances and use variances. It does not. On the first page of my client's Appeal Application, the designation "Appeal", not "Area Variance" or "Use Variance", is clearly noted. As my client's request is not asking for changes in area type or use, Ms. Melson's claim that public notice is required appears incorrect. Public notice for a use that has been ongoing for decades and that the City of Dover granted in the 2021 appeal in my Client's favor is unnecessary. No "change" is being requested that would require public notice.
- Ms. Melson's claim that the Appeal Application is incorrect without any mention of specific omissions or unsuitable details appears to be an exercise typically described as "arbitrary and capricious". The pleadings in the Superior Court case filed earlier and the statements in the Appeal Application make it quite clear that Kings Cliffe is seeking City of Dover compliance with its own

decision made in 2021 regarding the use of lots for recreational vehicles. Use of recreational vehicle lots occurred both before and after 2021 as a result of the prior appeal, and the recent self-generated reversal of the City's decision to continue to allow such use was done with no explanation how the City justifies reversal of its own decision.

- 22 *Del.C.* § 325. Per statute, the present appeal stays all proceedings in furtherance of the recent violation regarding recreational vehicles. The City's *ultra vires* suspension of electric utilities, unavailable anywhere else, is a violation of this statute as well as an unconstitutional taking that has been present since October, 2025. I respectfully request that you provide legal advice to your client to resume providing electricity to Kings Cliffe recreational vehicle lots (as well as any necessary electric hardware needed, *i.e.*,) electric meters.

Should the City of Dover refuse to hold a hearing on May 20 and not dispense with the affectation of confusion as to what the appellant is seeking, the most appropriate avenue appears to be a motion to reopen the Superior Court matter. I await a response well prior to May 20, 2026.

Yours,

/s/ Peter K. Schaeffer, Jr., Esq.

Landlord by Peter K. Schaeffer, Jr., Esquire

cc: Kings Cliffe MHP, LLC

AVENUE LAW

Bankruptcy | Civil Litigation

20184 Coastal Highway Ste 205 Rehoboth Beach DE 19971-8020

Tel: (302) 674-2210

office@avenuelaw.com

May 19, 2026

Via USPS Priority Mail Express & email

City of Dover

Department of Planning and Inspections

P.O. Box 475

Dover, DE 19903

dmelson@dover.de.us

**RE: Kings Cliffe MHP, LLC
Appeal of Zoning Violation 733, dated 10/17/2025**

ADDENDUM TO APPEAL APPLICATION

Dear Sir or Madam,

I, **Peter K. Schaeffer, Jr., Esq.**, represent Kings Cliffe MHP, LLC regarding the above-referenced appeal. The Appeal Application was submitted via email on May 4, 2026 with hard-copy via Priority Mail delivered the same day.

On May 5, 2025, the City of Dover responded via email requesting that the information contained in the Appeal Application be presented in a separate narrative to supplement the existing information already provided, which follows:

SEPARATE NARRATIVE

This is an appeal pursuant to the City of Dover Code of Ordinances, APPENDIX B – ZONING, ART. 9. – BOARD OF ADJUSTMENT, Section 2, - Powers and Duties:

2.2 Appeal of administrative order, requirement, decision, or determination. The board shall have the authority to hear and decide appeals where it is alleged there is any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning ordinance. Appeals to the board may be made by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer.

On November 23, 2020, the City of Dover Division of Code Enforcement, via Code Enforcement Officer Eddie Kopp, issued a formal zoning violation (the "2020 Violation") against the Kings Cliffe Manufactured Home Park ("Kings Cliffe").¹ The 2020 Violation (Case Number: 20-00003344) alleged that the continued use of recreational vehicles ("RVs") on Kings Cliffe Manufactured Home Park violated Appendix B, Article 3, Section 8.41 of the City of Dover Code of Ordinances. This specific ordinance provides that mobile homes, house trailers, and recreational vehicles are prohibited as principal uses on a rented lot, stipulating that such structures or vehicles used as dwellings upon the effective date of the ordinance be deemed non-conforming uses.

¹ Exhibit A to Petition.

On January 20, 2021, a formal administrative hearing was held before the City of Dover Construction and Property Maintenance Code Board of Appeals. Following the presentation of comprehensive testimony and evidence - specifically regarding the property's historical, grandfathered use of the RV lots - the Board of Appeals evaluated the merits of the City's application of Section 8.41. On January 21, 2021, the Board of Appeals issued a formal written decision ruling in favor of the property owner, granting the appeal, and effectively overturning the violation, thereby permitting the continued legal use of the RV rentals on the property.²

Four years after the matter was conclusively settled, the City of Dover abruptly and inexplicably reversed course. On October 17, 2025, the City of Dover Division of Code Enforcement, again via Officer Eddie Kopp, issued a new zoning violation to Kings Cliffe (the "2025 Violation").³ A direct comparison of the administrative records reveals that the 2025 Violation (Violation 733, Case Number 25-00004632) is factually, legally, and practically identical to the fully adjudicated 2020 Violation.¹

Point of Comparison	2020 Violation (Adjudicated & Dismissed)	2025 Violation (Currently Contested)
Issuing Authority	City of Dover Div. of Code Enforcement	City of Dover Div. of Code Enforcement

² Exhibit B to Petition.

³ Exhibit C to Petition.

Issuing Officer	Eddie Kopp	Eddie Kopp
Target Property	1131 S. Bay Road, Dover, DE	1131 S. Bay Road, Dover, DE
Code Section Cited	Appendix B, Article 3, Section 8.41	Appendix B, Article 3, Section 8.41
Conduct Targeted	Use of RVs on lots within the community	Use of RVs on lots within the community
Required Action	Discontinue use of RVs	Discontinue use of RVs

It is Kings Cliffe’s position that the current violation is improper because of the 2021 appeal decision permitting use of lots for RVs. Per Delaware precedent, once the decision to allow RV use was made, it cannot be revoked, which is precisely what occurred here.

The rules regarding the finality of decisions in zoning cases are no different from such rules in other areas of the law. In particular, the principles of res judicata and collateral estoppel apply in zoning cases and have resulted in the rule that ordinarily a board of appeals or adjustment has no power to reopen or review its own decision by vacating, revoking, rescinding or altering if after it has been made. *Kollock v. Sussex County Board of Adjustment*, 526 A.2d 569, 572 (Del. Super. Ct. 1987): *citing* 3 A. Rathkopf and D. Rathkopf, *The Law of Zoning and Planning* § 48.01 (4th ed. 1986).

With no explanation, the Division of Code Enforcement reversed the 2021 RV use permission and enforced this violation by refusing electric utilities to all RV lots. Kings Cliffe has no other available source for electricity.

This appeal requests that the Board of Adjustment honor its 2021 decision to allow RV's on lots in Kings Cliffe.

In addition, pursuant to Delaware law, 22 *Del. C.* § 325, the initiation of an appeal process automatically "stays all proceedings in furtherance of the action appealed from," unless the municipality issues a specific, written certification to the board of adjustment that a stay would cause "imminent peril to life or property". The City of Dover issued no such certification, therefore the suspension of electric utilities is illegal.

As to the hearing, I respectfully request that my client and I can attend remotely.

Thank you in advance for your attention to this matter,

/s/ Peter K. Schaeffer, Jr., Esq.
Peter K. Schaeffer, Jr., Esq.

Cc: Shue, Robert
Daniel A. Griffith, Esq.

Division of
Code Enforcement
15 Lockerman Plaza
Dover, DE 19901

City of Dover

Phone: (302) 736-7011
Fax: (302) 736-4217

November 23, 2020

KINGS CLIFF MOBILE HOME PARK
1131 S BAY RD
DOVER DE 19901

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 20-00003344

Dear Sir/Madam:

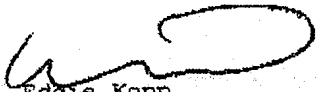
On November 23, 2020, Code Enforcement Officer Eddie Kopp with the City of Dover, Department of Inspections conducted an inspection at 1131 S BAY RD.

Attached are the Code violations found during the inspection.

A follow up inspection must be conducted by December 23, 2020, to ensure compliance.

You are not required to contact this office if the re-inspection is for an exterior violation. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,



Eddie Kopp
Code Enforcement Officer

cc: File

VIOLATION DETAIL

CASE NUMBER 20-00003344
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 255 QUANTITY: 1
DESCRIPTION: 255 REPAIR OR REPLACE DRIVEWAY DATE: 11/23/20
LOCATION: ENTIRE MH PARK

NARRATIVE :

Repair the streets located within the Kings Cliff Mobile Home Park. The streets located within the park are deteriorated and in need of repair and/or paving. A permit may be required to pave the community. Dover Code Of Ordinance Sec. 66-4. - Land lease communities.

(a)The following regulations shall apply to the maintenance of land lease communities:(1)Private road access. It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.

ORDINANCE DESCRIPTION :

SECTION PM 302.3 DRIVEWAY SURFACE

CORRECTIVE ACTION REQUIRED :

REPAIR OR REPLACE DAMAGED AND/OR DETERIORATED DRIVEWAY

VIOLATION: 734 QUANTITY: 1
DESCRIPTION: 734 DCO VIOLATION DATE: 11/23/20
LOCATION: KINGS CLFF MHP

NARRATIVE :

Discontinue adding new non approved homes to the property. Only Department of Housing and Urban Development licensed manufactured homes are permitted to located on the property. No new non approved homes may be added to the property. As of November 23, 2020 the following homes has been recorded as pre-existing: Lot 1, 1A, 42, 54, 60, 74, 89, 108, 109, 110, 132, 138, 142, 147, and 149.

ORDINANCE DESCRIPTION :

Dover City Code of Ordinances

CORRECTIVE ACTION REQUIRED :

Correct violation notice in the time frame provided.

City of Dover

January 21, 2021

MHP Investments, LLC
1051 Tuckerton Road
Marlton, NJ 08053

Avenue Law
Attn: Peter K. Schaeffer, Jr., Esq.
1073 South Governors Avenue
Dover, DE 19904
peter.schaeffer@avenuelaw.com

Re: Appeal of Violation - Dover City Code of Ordinances - 1131 South Bay Road, Dover, DE Case #: 20-00003344

MHP Investments, LLC:

On Wednesday, January 20, 2020, the Construction and Property Maintenance Code Board of Appeals considered your appeal of the violation of the Dover City Code of Ordinances - Appendix B - Article 3, Section 8.4 - Uses Prohibited at 1131 South Bay Road, Dover Delaware. Section 8.4 of the Dover Code states the following:

Section 8.4 *Uses prohibited.* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

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After reviewing the case history and considering your testimony, it was the decision of the Board to grant your appeal.

If you have any questions regarding this matter, please contact the Department of Planning and Inspections at (302) 736-7010.

Sincerely,



Megan Ramsey
Administrative Assistant

TAM/mr

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC\Hearing Action - 1131 S Bay Road - MHP Investments, LLC.wpd

- cc: Nicholas Rodriguez, City Solicitor
- Gary Junge, Deputy City Solicitor
- David Hugg, Director of Planning and Community Development
- Ronald Coburn, Inspector
- Eddie Kopp, Inspector

City of Dover



Division of
Code Enforcement
15 Lobckerman Plaza
Dover, DE 19901

Phone: (302) 736-7011
Fax: (302) 736-4217

October 17, 2025

LLC KINGS CLIFFE MHP
13 MCKEAN ST.
REHOBOTH BEACH, DE 19971

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 25-00004632

Dear Sir/Madam:

On October 15, 2025, a Code Enforcement Officer with the City of Dover, Department of Inspections, inspected 1131 S BAY RD.

Attached are the Code violations found during the inspection.

A follow-up inspection must be conducted by **November 17, 2025**, to ensure compliance. Failure to comply will result in citation(s) being issued.

It is the responsibility of the property owner/agent to contact this office to schedule all inspections.

Please contact this office with a date and time convenient for you to conduct the re-inspection. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,

Eddie Kopp

Eddie Kopp
Code Enforcement Officer

cc: File

VIOLATION DETAIL

CASE NUMBER 28-00004632
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 733
DESCRIPTION: 733 ZONING VIOLATION QUANTITY: 1
LOCATION: PROPERTY DATE: 10/17/25

NARRATIVE :

Discontinue the use of mobile homes, house trailers and recreational vehicles located within the property know as Kings Cliffe MHP, LLC.

No new non conforming mobile home, house trailer or recreational vehicle can be added to the community.

Any mobile home, house trailer or recreational vehicle that was pre-existing prior to September 24, 2018 is deemed non-conforming. The non conforming status is for the vehicle or structure and not for the lot.

Any mobile home, house trailer, or recreational vehicle brought into the community after September 24, 2018 is in violation of Appendix B, Article 3, District Regulations, Section 8 - Manufactured housing (MH) Zone 8.4 Uses prohibited. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

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ORDINANCE DESCRIPTION :

City of Dover zoning violation(s).

CORRECTIVE ACTION REQUIRED :

Correct zoning violation(s) as directed in the time frame provided.

Division of
Code Enforcement
15 Loockerman Plaza
Dover, DE 19901

City of Dover



Phone: (302) 736-7011
Fax: (302) 736-4217

October 17, 2025

LLC KINGS CLIFFE MHP
13 MCKEAN ST
REHOBOTH BEACH DE 19971

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 25-00004632

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Please contact this office with a date and time convenient for you to conduct the re-inspection. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,

Eddie Kopp

Eddie Kopp
Code Enforcement Officer

cc: File

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p>												
<p>1. Article Addressed to:</p> <p>LLC KINGS CLIFFE MHP 13 MCKEAN ST REHOBOTH BEACH DE 19971</p>	<p>B. Received by (Printed Name) C. Date of Delivery</p>												
 9590 9402 7900 2234 9579 12	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center;">EK 25-4632</p>												
<p>2. Article Number (Transfer from envelope label)</p> <p>9589 0710 5270 1820 9569 94</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td></td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery	
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<p>PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt</p>													

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$
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LLC KINGS CLIFFE MHP
13 MCKEAN ST
REHOBOTH BEACH DE 19971

Postmark Here: **DOVER DE 19907**
OCT 21 2025

INSPECTIONS DEPARTMENT
EK
25-4632

for Instructions

CASE NUMBER 25-00004632
PROPERTY ADDRESS 1131 S BAY RD

Item 3.

VIOLATION: 733 QUANTITY: 1
DESCRIPTION: 733 ZONING VIOLATION DATE: 10/17/25
LOCATION: PROPERTY

NARRATIVE :

Discontinue the use of mobile homes, house trailers, and recreational vehicles located within the property know as Kings Cliffe MHP, LLC.

No new non conforming mobile home, house trailer or recreational vehicle can be added to the community.

Any mobile home, house trailer or recreational vehicle that was pre-existing prior to September 24, 2018 is deemed non-conforming. The non conforming status is for the vehicle or structure and not for the lot.

Any mobile home, house trailer, or recreational vehicle brought into the community after September 24, 2018 is in violation of Appendix B, Article 3. District Regulations, Section 8.- Manufactured housing (MH) zone.

8.4 Uses prohibited. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

ORDINANCE DESCRIPTION :

City of Dover Zoning violation(s).

CORRECTIVE ACTION REQUIRED :

Correct zoning violation(s) as directed in the time frame provided.



February 15, 2019

Kings Cliffe Mobile Home Park
1131 S. Bay Rd.
Dover, DE 19901

Re: Amendments to the Dover Code of Ordinances and the Dover Zoning Ordinance Concerning Mobile Homes, Manufactured Homes, and Land Lease Communities

To whom it may concern,

On September 24, 2018, the Dover City Council adopted Ordinance #2018-01- **Manufactured Homes**. This ordinance follows on previous updates made to the *Dover Code of Ordinances* through Ordinance #2016-16, which was adopted on August 8, 2016. Together these two ordinances update standards and terminology throughout the *Dover Code* related to manufactured homes and mobile homes. They also enact standards for management and maintenance of land lease communities, a type of community which includes manufactured home parks.

As the owner of a land lease community/manufactured home park, you are encouraged to review the two major sections of the *Dover Code of Ordinances* pertaining to manufactured homes and land lease communities. These are the *Dover Code of Ordinances, Chapter 66-Manufactured Homes, Mobile Homes, and Land Lease Communities*, and the *Zoning Ordinance, Article 3 Section 8- Manufactured Housing Zone*. Both sections have been heavily restructured since 2016, so they are worth reading in their entirety to understand how manufactured homes and land lease communities are now regulated in Dover. The sections are enclosed with this letter; they may also be found together with the full *Dover Code* by going to www.cityofdover.com and clicking on the "municipal code" link.

The Planning Office would in particular like to draw your attention to several updated standards for the management and maintenance of land lease communities, described below.

The following are the maintenance responsibilities of owners of land lease communities, unless they are specifically delegated to a homeowner or other party*:

- Maintaining all private streets, access of driveways to these streets, access to fire hydrants, and access to central mailboxes. Streets must be clear of obstructions, including potholes, snow piles, and debris.
- Keeping all common areas in good repair and free of debris. Debris must especially be cleared if they create a fire hazard or potential pest control problem.
- Keeping community landscape areas in good repair and free of overgrowth. Trees over 25 feet in height must also be maintained by the owner. Note that this does not require removal of plant debris produced naturally (i.e. fallen leaves) nor does it compel the owner to enter rented lots without permission of the homeowner.

P. O. Box 475 Dover, DE 19903
Community Excellence Through Quality Service

Notification of Ordinance #2018-01- Manufactured Homes
 February 15, 2019
 Page | 2

- Keeping all water, electrical, plumbing, gas, septic, sewer, and other utilities provided by the owner to tenants in good working order. The owner must also maintain the community's stormwater management facilities so that standing water does not accumulate outside of designated retention basins or ponds. Flowing water or water that dissipates within 48 hours is not considered standing water.

*Limitations on what responsibilities can be delegated apply. Please see *Dover Code of Ordinances* Chapter 66 Section 66-4(a)(5).

The following additional requirements also apply:

- Each community must have an associated office within the community, elsewhere in Dover, or elsewhere in Kent County. This office must be open to tenants and others at least 20 hours a week, including at least five hours between the hours of 7am and 8am and/or 5pm and midnight. The office hours must be posted and clearly communicated to residents of the community.
- Each community must have a 24-hour emergency contact available to residents.
- Receipts must be given to tenants for their rent payments. Tenants paying in cash must be given a receipt immediately. Tenants paying by any other method must receive a receipt within two days.
- The community must keep a record of all receipts given for cash payments of rent. Individual records in the record book must be kept for at least three years.
- The community must annually report to the City of Dover (by July 1st) a record of all homes within the community, including the name of the owner of each home, the address of each home, and each owner's address, if different from the home address. A sample report is enclosed with this letter.
- The owner or operator of each community must obtain or keep current an annual business license from the City of Dover to operate the park.
- Only Department of Housing and Urban Development-licensed manufactured homes are permitted to locate to manufactured home parks within Dover. Older mobile home models as well as recreational vehicles may remain if already in a park, but no new ones may be moved in.

Please note that while all the above regulations are effective immediately, the City recognizes that communities may need some time to put into action needed changes to meet the regulations. Please cooperate with City Code Enforcement Staff to resolve any disputes. Please also contact the City's Planning Office at (302) 736-7196 if you have any questions.

Sincerely,
 Department of Planning & Inspections



David S. Hugg III
 Director, Planning & Community Development

Ed/DSH

CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS

The Construction and Property Maintenance Code Board of Appeals meeting was held on January 20, 2021 at 3:31 p.m. with Chairman Anderson presiding. Members present were Mr. Neil, Mr. Martin and Mr. Rocha. Ms. Steger was absent. Staff members present were Mr. Hugg, Mr. Coburn, Mr. Kopp, Ms. Bowen, Mr. Junge, Ms. Tauchus, and Mrs. Ramsey.

Adoption of Agenda

Mr. Neil moved for approval of the agenda, seconded by Mr. Rocha and unanimously carried.

Due to Mr. Anderson's limited access, Mr. Rocha presided over the remainder of the Construction and Property Maintenance Code Board of Appeals meeting.

Property Maintenance Code Citation (Appendix B - Zoning, Article 3 - District Regulations, Section 8.4 - Uses Prohibited) - Appeal of Violation - 1131 South Bay Road (MHP Investments, LLC)

Mr. Neil stated that he and Mr. Peter Schaeffer, Avenue Law, had a professional relationship. He explained that Mr. Schaeffer had done work for him, the previous owner of the property, which is Kings Cliff. Mr. Neil stated that he was an investigator of a complaint that was made on a change in the leases for the folks there that ended up costing him a large amount of money before it was sold. Mr. Neil asked Mr. Junge if he should recuse himself from this item due to his familiarity with that particular property and with Mr. Schaeffer on the other side, who he regarded as a friend.

Responding to Mr. Neil, Mr. Junge suggested that Mr. Neil recuse himself due to his friendship with Mr. Schaeffer. Mr. Neil recused himself from consideration of this item due to the conflict of interest at 3:34 p.m.

Mr. Schaeffer of Avenue Law and serving as legal representation for MHP Investments, LLC, reviewed the history of 1131 South Bay Road. Mr. Schaeffer introduced Mr. Kevin Vallen, owner of MHP Investments, LLC, who purchased Kings Cliff in June 2016. Mr. Schaeffer stated that on Mr. Vallen's knowledge and belief, he obtained, in negotiating, the purchase of Kings Cliff, recreational vehicle lot rentals, was a continuous use of the property for approximately the past three decades with no interruption in use.

Mr. Schaeffer stated that the City of Dover Ordinance #2018-01, Section 8.4, imposed a ban on year-round dwelling of RV's in a manufactured housing zone. All references to dwelling seemed to indicate that the term was defined as a year-round residential arrangement. He noted that RV's are typically not used as year-round dwellings, and that they are short-term lot rentals of less than six months, as such, there appears to be no violation under ordinance #2018-01. Mr. Schaeffer stated that even if temporary RV lot rentals fit into the definition of dwelling, Appendix B - Zoning, Article 7 - Non-conforming Buildings and Uses, states that any non-conforming use, except those non-conforming uses specified in Subsection 1.5, may be continued indefinitely. He noted that the non-conforming uses not permitted by this indefinite allowance are parking lots, junkyards, or open storage yards for materials and equipments which do not apply to RV lot rentals. Mr. Schaeffer stated that Kings Cliff rents the RV lots on a short-term basis, no longer than six months.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

PAGE 2

Mr. Schaeffer stated that he previously discussed with Mr. Junge, the purpose statement of ordinance #2018-1, which states that the ordinance is intended to supplement rather than replace Delaware State law, Title 25 - Property, Part VI - Manufactured Home Communities, Chapter 70 - Manufactured homes and Manufactured Home Communities Act, which govern manufactured home community management and Title 24 - Professions and Occupations, Chapter 44 - Manufactured Home Installation, which governs mobile home installation. He stated that neither of these Delaware laws forbid RV lot rentals in an area containing mobile homes.

Mr. Eddie Kopp, Code Enforcement, reviewed the City of Dover Code of Ordinances, Appendix B - Zoning, Article 3 - District Regulations, Section 8.4 - Uses prohibited. He stated that RV's are not considered a manufactured home, there is a difference between a mobile home and a trailer and that what is in Kings Cliff is mixed use. He advised that there are vehicles which are RV's, and mobile homes. Mr. Kopp stated that was where they were running into the conflict.

Responding to Mr. Hugg, Mr. Junge stated that he and Mr. Schaeffer had discussed whether this is continued use. Mr. Junge advised that Mr. Schaeffer's stance was that it is because it was still an RV. He stated that he was not sure that was true. Mr. Junge stated that Mr. Schaeffer's interpretation may prevail if it was appealed to the Supreme Court, but that this was an analogy to a shed being on a property that becomes non-conforming. Mr. Junge stated, regarding Mr. Kopp's statement, that if there was a mobile home on one of the lots that did not meet the current code, it would be grandfathered in until such time as they moved the mobile home. Mr. Junge advised that it does not mean one can move another mobile home on that lot that does not conform with the current code. He stated that he believed the City was on safe footing by saying that because the RV lots are no longer allowed by code, once the RV moves off of that lot, another one cannot be put there.

Responding to Mr. Anderson, Mr. Kopp stated that this violation was complaint driven and that since issuing this violation, he had received two other complaints from tenants.

Responding to Mr. Anderson, Mr. Junge stated that this was not about any particular RV, it was about the use and that it was one interpretation. Mr. Junge stated that this case was open to interpretation, but his take was that since the RV's are there for a period of time, once they left it would no longer be non-conforming, however, that there was no case law on this situation other than the case that Mr. Schaeffer previously mentioned which was not exactly analogous to this case.

Responding to Mr. Rocha, Mr. Junge stated that he was not aware of any code sections dealing with short term rentals. Mr. Junge noted that the lack of case law was not necessarily a detriment. He explained that cases go to court all the time where there is no definitive case law either way. Mr. Junge stated that is what the courts are for, when it enter gray areas, the courts decide, then they have case law moving forward. He stated that if the City did have to go to court and lost, it would not mean that they made the wrong decision, it would just mean the court wanted a different decision.

Responding to Mr. Martin, Mr. Schaeffer stated that 17 lots are utilized for RV's at any one time and that number had not changed since 2016 when it was purchased and presumably that was the same number of lots it had for decades.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

PAGE 3

Mr. Martin stated that it seemed like a continued use for those lots, but he felt that they would be grandfathered uses since it was that way before there was a change.

Responding to Mr. Rocha, Mr. Kopp stated that the initial complaint was a safety issue. He stated that the complaints he had received were an RV electrical box sparking at lot 152, trash and debris within the community, and the regular coming and going of RV's in the community. Mr. Kopp stated, regarding short-term use, that some of the RV's were well established with skirting around them and appeared to have been there for several years, much more than six months.

Responding to Mr. Rocha, Mr. Kopp stated that the code had been written in 1976 and that it was written based on a manufactured home, which an RV is not, so it does not meet the standard of manufactured home. He stated that there is not a dedicated section in the community for RV's, instead they are mixed in with the manufactured homes.

Responding to Mr. Rocha, Mr. Schaeffer stated that he imagined that there were records of when a RV arrived and left, however that was not in the issue, which instead was whether RV lots could be used at all within a manufactured home community. Mr. Schaeffer stated they could try to get records on specific separate transactions at least from 2016.

Mr. Anderson stated that a few years ago there was a committee to examine non-conforming use and one of the things they found was that if the use of the property is done consistently without an interruption of a year, that the non-conforming use stays valid. He stated that there are non-conforming uses as old as him and at the time, they understood it to be used. He noted that with that in the records, he was weary of changing that interpretation at all.

Mr. Anderson moved to grant the appeal made by MHP Investments, LLC. The motion was seconded by Mr. Martin and unanimously carried.

Property Maintenance Code Citation (Chapter 22 - Buildings and Building Regulations, and the 2009 International Property Maintenance Code) - Appeal of Citation and Fines - 8 South New Street (James Sloven)

Ms. Velvet Bowen, Code Enforcement, reviewed the case history for 8 South New Street.

Mrs. Ramsey advised that she received correspondence from Mr. James Sloven, prior to the meeting, stating he would be unable to attend the meeting and that he would pay the \$100.00 fine and continue to make the necessary repairs to the property (**Attachment #1**).

Mr. Anderson moved that the \$100.00 fine be reinstated, but that it would be frozen at \$100.00. The case would start over again and it would be up to everybody to make sure the repairs were being made. The motion was seconded by Mr. Neil and unanimously carried.

Mr. Martin moved for adjournment, seconded by Mr. Neil and unanimously carried.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

PAGE 4

Meeting adjourned at 4:16 p.m.

Gerald L. Rocha
Construction and Property Maintenance Code
Board of Appeals Member

GLR/MR/jt

S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXHMisc-Minutes\CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS\2021\01-20-2021
CPMCBA.wpd

Attachments

Attachment #1 - Correspondence dated January 20, 2021 from Mr. James Sloven

Section 8. Manufactured housing (MH) zone.¹

- 8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any uses, except the following:
- 8.11 Manufactured homes on individual lots, held in any type of ownership.
- 8.12 Multiple manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium, including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.13 Permanently placed manufactured homes on individual lots, provided that the home and the lot are under common ownership.
- 8.14 Multiple permanently placed manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 permanently placed manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 permanently placed manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a permanently placed manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.15 One-family detached homes on individual lots, held in any type of ownership.
- 8.2 *Conditional uses.* Conditional uses shall be consistent with those conditionally permitted in the one-family residence zones.
- 8.3 *Accessory uses.* Accessory uses shall be consistent with those permitted in the one-family residence zones, with the following additions and exceptions:
- 8.31 Management facilities. The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:
- (a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;

¹Editor's note(s)—Ord. No. 2016-16, adopted August 8, 2016, in effect, repealed § 8 and enacted a new § 8 as set out herein. Former § 8 pertained to similar subject matter and derived from Ord. of 10-13-1981; Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and Ord. No. 2010-29, adopted January 10, 2011.

- (b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and equipment;
- (c) Laundry facilities equipped with washing machines and dryers;
- (d) Community building facilities, including indoor recreation areas;
- (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood commercial zone, limited to one such establishment per lot;
- (f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the one-family residence zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited.* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length.* No lot or home site within the manufactured housing zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land lease communities.* The following regulations shall apply to land lease communities within the MH zone:

8.61 The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the state dealing with unit properties and condominiums.

8.62 *Changes to site plan.* After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards.* All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the fire marshal's office.

8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured Homes, Mobile Homes, and Land Lease Communities.

8.9 *Maximum density.* The gross residential density in an MH zone shall not exceed six dwelling units per acre.

8.10 *Signs.* Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section 4—Supplementary Sign Regulations.

(Ord. No. 2016-16, 8-8-2016; Ord. No. 2018-01, 9-24-2018)



**Division of
Code Enforcement**
15 Loockerman Plaza
Dover, DE 19901

Phone: (302) 736-7011
Fax: (302) 736-4217

November 23, 2020

MHP INVESTMENTS LLC
1051 TUCKERTON RD
MARLTON NJ 08053

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 20-00003344

Dear Sir/Madam:

On November 23, 2020, Code Enforcement Officer Eddie Kopp with the City of Dover, Department of Inspections conducted an inspection at 1131 S BAY RD.

Attached are the Code violations found during the inspection.

A follow up inspection must be conducted by **December 23, 2020**, to ensure compliance.

You are not required to contact this office if the re-inspection is for an exterior violation. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,

Eddie Kopp
Code Enforcement Officer

cc: File

VIOLATION DETAIL

CASE NUMBER 20-00003344
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 255 QUANTITY: 1
DESCRIPTION: 255 REPAIR OR REPLACE DRIVEWAY DATE: 11/23/20
LOCATION: ENTIRE MH PARK

NARRATIVE :

Repair the streets located within the Kings Cliff Mobile Home Park. The streets located within the park are deteriorated and in need of repair and/or paving. A permit may be required to pave the community. Dover Code Of Ordinance Sec. 66-4. - Land lease communities.

(a)The following regulations shall apply to the maintenance of land lease communities:(1)Private road access. It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.

ORDINANCE DESCRIPTION :

SECTION PM 302.3 DRIVEWAY SURFACE

CORRECTIVE ACTION REQUIRED :

REPAIR OR REPLACE DAMAGED AND/OR DETERIORATED DRIVEWAY

VIOLATION: 734 QUANTITY: 1
DESCRIPTION: 734 DCO VIOLATION DATE: 11/23/20
LOCATION: KINGS CLFF MHP

NARRATIVE :

Discontinue adding new non approved homes to the property. Only Department of Housing and Urban Development licensed manufactured homes are permitted to located on the property. No new non approved homes may be added to the property. As of November 23, 2020 the following homes has been recorded as pre-existing: Lot 1, 1A, 42, 54, 60, 74, 89, 108, 109, 110, 132, 138, 142, 147, and 149.

ORDINANCE DESCRIPTION :

Dover City Code of Ordinances

CORRECTIVE ACTION REQUIRED :

Correct violation notice in the time frame provided.

Division of
Code Enforcement
15 Loockerman Plaza
Dover, DE 19901



Phone: (302) 736-7011
Fax: (302) 736-4217

November 23, 2020

KINGS CLIFF MOBILE HOME PARK
1131 S BAY RD
DOVER DE 19901

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 20-00003344

Dear Sir/Madam:

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Attached are the Code violations found during the inspection.

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Sincerely,


Eddie Kopp
Code Enforcement Officer

cc: File

VIOLATION DETAIL

CASE NUMBER 20-00003344
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 255 QUANTITY: 1
DESCRIPTION: 255 REPAIR OR REPLACE DRIVEWAY DATE: 11/23/20
LOCATION: ENTIRE MH PARK

NARRATIVE :

Repair the streets located within the Kings Cliff Mobile Home Park. The streets located within the park are deteriorated and in need of repair and/or paving. A permit may be required to pave the community. Dover Code Of Ordinance Sec. 66-4. - Land lease communities.

(a)The following regulations shall apply to the maintenance of land lease communities:(1)Private road access. It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.

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SECTION PM 302.3 DRIVEWAY SURFACE

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DESCRIPTION: 734 DCO VIOLATION DATE: 11/23/20
LOCATION: KINGS CLFF MHP

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ORDINANCE DESCRIPTION :

Dover City Code of Ordinances

CORRECTIVE ACTION REQUIRED :

Correct violation notice in the time frame provided.

EXHIBIT 2G

Avenue Law
1073 South Governors Avenue
Dover, DE 19904-6901

Tel: (302) 674-2210
Fax: (302) 674-2099
office@avenuelaw.com

Peter K. Schaeffer, Jr., Esq.

Via 1st Class U.S. Mail and Facsimile

City of Dover
Division of Code Enforcement
15 Loockerman Plaza
Dover, DE 19901
attn: Eddie Kopp
facsimile: 302.736.4217

RE: Case Number: 20-00003344
Kings Cliff Mobile Home Park
1131 S. Bay Road
Dover, DE 19901
City of Dover Letter dated November 23, 2020

Dear Mr. Kopp,

The property owned by MHP Investments, LLC Tax Parcel Number: ED-05-086.00-01-080.000-000, was purchased from prior owners in June, 2016. At the time of purchase, the prior owner, Richard Thomas, had a manufactured home community in addition to twelve recreational vehicle sites that were set up with electric and sewage specifically for recreational vehicles ("RV's"). It is our understanding that the prior owner began the lot in question as an RV site, and only later obtained permission to operate in addition as a manufactured home community. Therefore, the lots outfitted for RV's were improved specifically for such use, and have been in existence for decades, used solely as RV sites.

I reviewed the City of Dover Code of Ordinances, Chapter 66, as well as 25 *Del.C.* § 7001 *et seq.* and do not see any prohibitions on use of lots for RV's on the cited property. Furthermore, 25 *Del.C.* § 7004 specifically excludes RV's from any requirements imposed on manufactured home communities and does not forbid RV rental lots in conjunction with manufactured home lot rental.

MHP Investments, LLC respectfully contests any finding that RV's must conform to manufactured home requirements as specified by the Department of Housing and Urban Development, and are therefore not subject to prohibitions applied to manufactured homes under Title 25 of the Delaware Code or City of Dover Code of Ordinances specific to manufactured home communities. The application of code sections, whether those of the City

¶

of Dover or Title 25, do not apply to RV's, therefore the prohibition of long-standing RV lot rentals from further use, as stated in Violation 734, is without basis in law.

We respectfully ask that you remove Violation 734. We do not contest Violation 255, and MHP Investments, LLC is currently in progress of compliance with Dover Code of Ordinance § 66-4.

Please feel free to contact Avenue Law regarding any questions or concerns by the City of Dover regarding Violation 734.

Respectfully Yours,

/s/ Peter K. Schaeffer, Jr., Esq.

Peter K. Schaeffer, Jr., Esq. (I.D. 005255)

December 1, 2020

Cc: MHP Investments, LLC

ARTICLE 7. - NONCONFORMING BUILDINGS AND USES

Section 1. - Nonconforming buildings and uses.

The following provisions shall apply to all buildings and uses existing on the effective date of this ordinance, which buildings and uses do not conform to the requirements set forth in this ordinance; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this ordinance and the zoning map which is a part thereof; and to all conforming buildings housing nonconforming uses:

- 1.1 Any nonconforming use, except those nonconforming uses specified in [sub] section 1.5, may be continued indefinitely, but:
 - 1.11 Shall not be enlarged, extended, reconstructed or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this ordinance, nor shall any external evidence of such use such as traffic, noise, vibration, smoke, dust, odor, heat or glare be increased by any means whatsoever; or
 - 1.12 Shall not be changed to another nonconforming use without a special permit from the board of adjustment, and then only to a use which, in the opinion of said board, is of the same or a more restricted nature; or
 - 1.13 Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- 1.2 Except as provided in paragraph [subsection] 1.4 below, no building which houses a non-conforming use shall be:
 - 1.21 Structurally altered or enlarged; or
 - 1.22 Moved to another location where such use would be nonconforming; or
 - 1.23 Restored for other than a conforming use after damage from any cause exceeding 75 percent of the replacement cost of such building, exclusive of foundations. Any such building damage[d] to a lesser extent may be restored, but not enlarged, and the nonconforming use reinstated within one year of such damage; [however,] if the restoration of such building is not completed

within the said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

- 1.3 Normal maintenance and repair, structural alteration in, and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, front yard, side yard, rear yard, maximum height, maximum lot coverage, or minimum livable floor area per dwelling is permitted if the same does not increase the degree of, or create any new nonconformity with such regulations in such building.
- 1.4 Nothing in this article shall be deemed to prevent normal maintenance and repair of any building, or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the city planner shall state the precise reason why such alterations were deemed necessary.
- 1.5 Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the city to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this ordinance; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.
- 1.51 In any residence zone, any nonconforming use of open land, including such uses as a parking lot, junkyard, or open storage yard for materials or equipment, may be continued for three years after the effective date of this ordinance, or after annexation of the property into the City of Dover, provided that, after the expiration of that period, such nonconforming use shall be terminated (see also [article 6](#), section 1.12). Any "mobile home" as that term is defined in [article 12](#) hereof, that was located within the limits of the City of Dover at the effective date of this ordinance [November 22, 1976], or that was in place on any land subsequently annexed into the City of Dover, shall constitute a nonconforming use and shall be permitted to be maintained as a

nonconforming use indefinitely. However, such mobile home shall be required to connect to city sewer and water mains, if available, and such mobile home shall be subject to and shall comply with all other city codes and ordinances applicable to structures and residences.

1.52 In any residence zone, any sign not of a type permitted, or of a permitted type, but greater than two times the maximum permitted size may be continued for one year following the effective date of this ordinance, provided that, after the expiration of that period, such nonconforming use shall be terminated.

1.53 In any residence zone, any non-conforming use of buildings which is not permitted under the provisions of this ordinance may be continued for a period of:

- (a) Twenty years after the effective date of this ordinance, or
- (b) Forty years after the initial construction of the building containing such use or of any addition thereto adding 50 percent or more to the floor area occupied by such use,

whichever is the longer period, provided that, after the expiration of that period, such nonconforming use shall be terminated. However, no such nonconforming use shall be permitted to continue for a period exceeding two years, unless such use shall be operated in conformance with performance standards established in article 5, section 8.

1.6 Residential occupancies that meet the definition of "student home," as provided in article 12 of this ordinance, that can be proven to have been in existence as a student home use prior to the enactment of regulations governing student homes, shall be permitted to remain as legal nonconforming uses as to location and shall not be subject to the conditional use approval requirements set forth in article 10, section 2, provided that all such uses shall be made to conform with all other provisions of article 3, section 2.4, subsection (b), with regard to licensing as a student home, off-street parking requirements and number of students in residence in the student home, within six months of the effective date of the ordinance amendment establishing article 3, section 2.4, subsection (b). Documentation to prove that a student home use existed prior to the enactment of this ordinance shall be limited to executed lease agreements, City of Dover

licensing data, and/or [a] sworn legal affidavit from the owner of record of the property. Failure to bring a nonconforming student home use into compliance within the specified six-month period shall be deemed a violation of this ordinance and subject to penalties as set forth in article 8 of the zoning ordinance [this appendix] and all applicable provisions of [the] Dover Code of Ordinances. Any student home use that existed prior to the enactment of this ordinance, that ceases to exist or that is changed to any form of occupancy other than a student home use for a period in excess of 120 days, shall not be reactivated as a student home use without conditional use approval as set forth in article 3, section 2.4 and article 10, section 1 of this ordinance.

(Ord. of 11-22-1976, § 1; Ord. of 7-12-1993, § 12; Ord. of 2-12-2001; Ord. of 1-13-2003; Ord. of 4-28-2008(2); Ord. No. 2016-16, 8-8-2016)



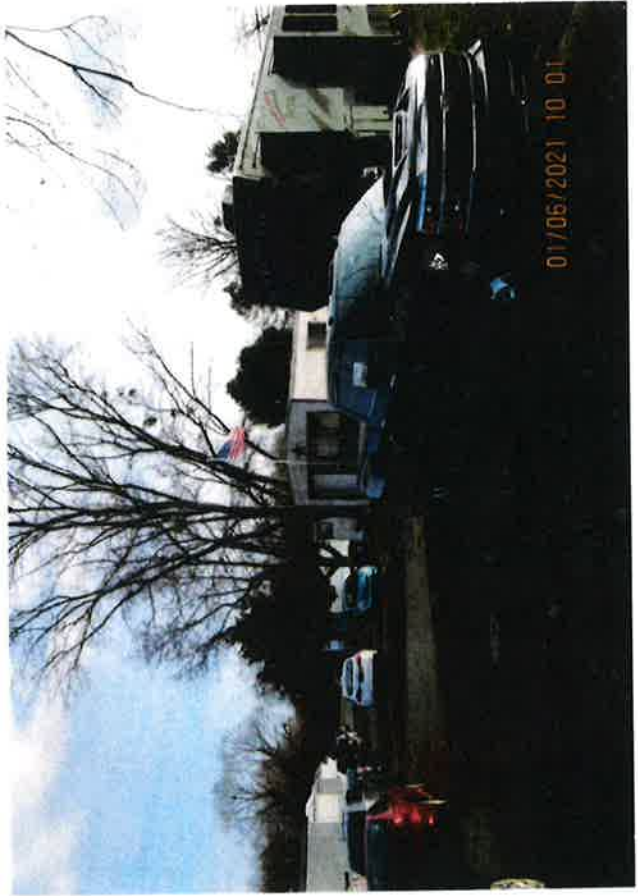




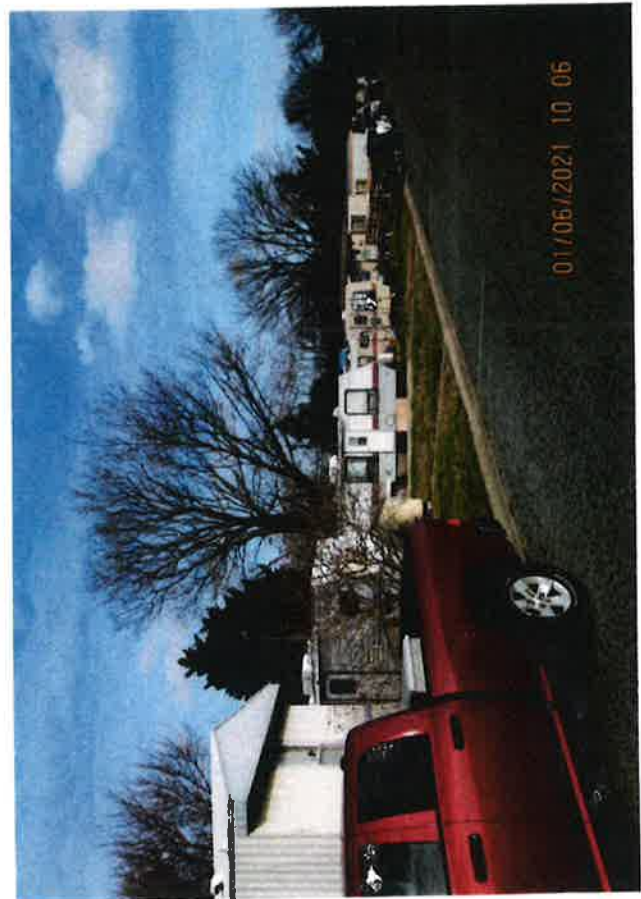
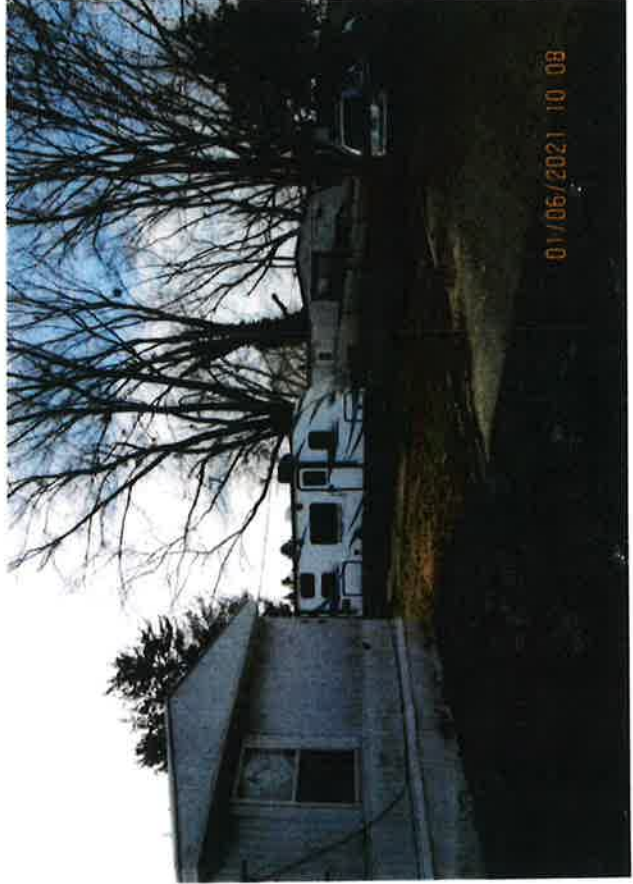














PART II - CODE OF ORDINANCES
 APPENDIX B - ZONING
 ARTICLE 7. NONCONFORMING BUILDINGS AND USES

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Section 1. Nonconforming buildings and uses.

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 - 1.11 Shall not be enlarged, extended, reconstructed or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this ordinance, nor shall any external evidence of such use such as traffic, noise, vibration, smoke, dust, odor, heat or glare be increased by any means whatsoever; or
 - 1.12 Shall not be changed to another nonconforming use without a special permit from the board of adjustment, and then only to a use which, in the opinion of said board, is of the same or a more restricted nature; or
 - 1.13 Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
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 - 1.21 Structurally altered or enlarged; or
 - 1.22 Moved to another location where such use would be nonconforming; or
 - 1.23 Restored for other than a conforming use after damage from any cause exceeding 75 percent of the replacement cost of such building, exclusive of foundations. Any such building damage[d] to a lesser extent may be restored, but not enlarged, and the nonconforming use reinstated within one year of such damage; [however,] if the restoration of such building is not completed within the said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.
- 1.3 Normal maintenance and repair, structural alteration in, and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, front yard, side yard, rear yard, maximum height, maximum lot coverage, or minimum livable floor area per dwelling is permitted if the same does not increase the degree of, or create any new nonconformity with such regulations in such building.
- 1.4 Nothing in this article shall be deemed to prevent normal maintenance and repair of any building, or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the city planner shall state the precise reason why such alterations were deemed necessary.

- 1.5 Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the city to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this ordinance; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.
- 1.51 In any residence zone, any nonconforming use of open land, including such uses as a parking lot, junkyard, or open storage yard for materials or equipment, may be continued for three years after the effective date of this ordinance, or after annexation of the property into the City of Dover, provided that, after the expiration of that period, such nonconforming use shall be terminated (see also article 6, section 1.12). Any "mobile home" as that term is defined in article 12 hereof, that was located within the limits of the City of Dover at the effective date of this ordinance [November 22, 1976], or that was in place on any land subsequently annexed into the City of Dover, shall constitute a nonconforming use and shall be permitted to be maintained as a nonconforming use indefinitely. However, such mobile home shall be required to connect to city sewer and water mains, if available, and such mobile home shall be subject to and shall comply with all other city codes and ordinances applicable to structures and residences.
- 1.52 In any residence zone, any sign not of a type permitted, or of a permitted type, but greater than two times the maximum permitted size may be continued for one year following the effective date of this ordinance, provided that, after the expiration of that period, such nonconforming use shall be terminated.
- 1.53 In any residence zone, any non-conforming use of buildings which is not permitted under the provisions of this ordinance may be continued for a period of:
- (a) Twenty years after the effective date of this ordinance, or
 - (b) Forty years after the initial construction of the building containing such use or of any addition thereto adding 50 percent or more to the floor area occupied by such use,
- whichever is the longer period, provided that, after the expiration of that period, such nonconforming use shall be terminated. However, no such nonconforming use shall be permitted to continue for a period exceeding two years, unless such use shall be operated in conformance with performance standards established in article 5, section 8.
- 1.6 Residential occupancies that meet the definition of "student home," as provided in article 12 of this ordinance, that can be proven to have been in existence as a student home use prior to the enactment of regulations governing student homes, shall be permitted to remain as legal nonconforming uses as to location and shall not be subject to the conditional use approval requirements set forth in article 10, section 2, provided that all such uses shall be made to conform with all other provisions of article 3, section 2.4, subsection (b), with regard to licensing as a student home, off-street parking requirements and number of students in residence in the student home, within six months of the effective date of the ordinance amendment establishing article 3, section 2.4, subsection (b). Documentation to prove that a student home use existed prior to the enactment of this ordinance shall be limited to executed lease agreements, City of Dover licensing data, and/or [a] sworn legal affidavit from the owner of record of the property. Failure to bring a nonconforming student home use into compliance within the specified six-month period shall be deemed a violation of this ordinance and subject to penalties as set forth in article 8 of the zoning ordinance [this appendix] and all applicable provisions of [the] Dover Code of Ordinances.
- Any student home use that existed prior to the enactment of this ordinance, that ceases to exist or that is changed to any form of occupancy other than a student home use for a period in excess of 120 days,

shall not be reactivated as a student home use without conditional use approval as set forth in article 3, section 2.4 and article 10, section 1 of this ordinance.

PART II - CODE OF ORDINANCES
Chapter 66 MANUFACTURED HOMES, MOBILE HOMES, AND LAND LEASE COMMUNITIES

Chapter 66 MANUFACTURED HOMES, MOBILE HOMES, AND LAND LEASE COMMUNITIES¹

Sec. 66-1. Purpose statement.

The City of Dover recognizes that manufactured homes are a unique housing type with their own history of placement and ownership traditions arising from their origins as mobile homes. A modern manufactured home does not resemble a vehicle, and once placed is rarely moved. However, most manufactured homes are owned as if they were vehicles, separate from the land they are placed on, and may theoretically be moved at any time. Because of this the city recognizes that consistent standards are needed for placement, licensing, and tracking of manufactured homes, in order to ensure the homes' orderly movement into, out of, and around the city.

The city further recognizes that land lease communities, which may give ground lease to manufactured homes or other types of housing, typify a use of land which does not align perfectly with either apartments or residential subdivisions. Because of this, areas of responsibility on the part of residents, owners, and the city with regard to maintenance, communication, and taxation can be unclear without the adoption of consistent standards governing these areas of responsibility. The city recognizes that where responsibility is not clearly claimed detrimental conditions can arise for residents.

This chapter therefore lays out consistent standards needed for manufactured homes and land lease communities, while updating and consolidating earlier city regulations regarding mobile homes and mobile home parks. The standards are intended to be applicable to all land lease communities currently in the city or which may be established in the future. They are also intended to cover both manufactured homes and permanently placed manufactured homes, and the issues unique to each. They are intended to supplement, rather than replace, all state laws regulating manufactured homes, including, but not limited to, those found in 25 Del. C., Chapter 70, and 24 Del. C., Chapter 44.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Land lease community means a residential development typified by single ownership of the land within the development, with the landowner retaining the rights of ownership. Home sites or individual lots within the community are leased to individual homeowners, who retain customary leasehold rights. A manufactured home park is considered a type, but not the only type, of land lease community.

¹Editor's note(s)—Ord. No. 2018-01, adopted September 24, 2018, repealed ch. 66, §§ 66-1—66-8 and enacted a new ch. 66 as set out herein. Former ch. 66 pertained to similar subject matter and derived from an ordinance adopted February 23, 1970; an ordinance adopted July 28, 1975; an ordinance adopted May 24, 1976; an ordinance adopted March 27, 1980; the Code of 1981; an ordinance adopted November 10, 1986; an ordinance adopted August 8, 1993; Ord. No. 2009-09, adopted June 22, 2009; and Ord. No. 2016-16, adopted August 8, 2016.

Land lease community operator means any person designated by contractual arrangement with the land lease community owner to supervise or maintain a land lease community and interact with its residents.

Land lease community owner means the owner of two or more home sites offered for rent within a land lease community. It includes a lessor, sublessor, park owner or receiver of two or more home sites offered for rent, as well as any person, other than a lender not in possession, who directly or indirectly receives rents for two or more home sites offered for rent and who has no obligation to deliver such rents to another person.

Manufactured home means a factory-built, single-family dwelling:

- a. Transportable in one or more sections, which is either eight body feet or more in width and 40 body feet or more in length, or, when erected on site, has more than 400 square feet in living area; and
- b. Designed to be used as a year-round dwelling when connected to the required utilities; and
- c. Manufactured after June 15, 1976, and built in accordance with manufactured home construction requirements promulgated by the federal department of housing and urban development (The HUD Code).

Mobile home means a factory-built, single-family dwelling:

- a. Transportable in one or more sections, which is either eight body feet or more in width and 40 body feet or more in length, or, when erected on site, has more than 400 square feet in living area; and
- b. Designed to be used as a year-round dwelling when connected to the required utilities; and
- c. Manufactured before June 15, 1976, and not built in accordance with manufactured home construction requirements promulgated by the federal department of housing and urban development (The HUD Code). Prior to the HUD code, mobile homes were not subject to uniform construction or safety standards.

Owner of a manufactured home or mobile home means the person designated in the vehicle title of the manufactured home or mobile home, whether the title is issued by this state or by some other state.

Owner of a permanently placed manufactured home means the person designated in the vehicle or real property title of the permanently placed manufactured home, whether the title is issued by this state or by some other state.

Permanently placed manufactured home means a manufactured home that has been placed upon a permanent, unmovable foundation.

Utility means a service provided by a land lease community owner, the city, or others to a tenant for a commodity such as water, sewer, electricity, fuel, propane, cable television or trash.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-3. Manufactured and mobile homes.

- (a) *Placement permit.* Every owner of a manufactured home shall apply for and obtain from the city planner or his/her authorized agent a placement permit for such manufactured home prior to placement of the home within the city. The owner of the manufactured home shall pay a fee for such permit as provided for in Appendix F—Fees and Fines. No certificate of occupancy shall be issued for a newly placed manufactured home that has not also been issued a placement permit.
- (b) *Inspection.* Prior to the issuance of a certificate of occupancy for any manufactured home, the home shall pass inspection by a city building inspector licensed as a manufactured home inspector by the state. The owner of the manufactured home shall cause a manufactured home installer licensed by the state to firmly

attach the home to the ground by means of a permanent foundation or anchors, and cause any open space beneath the unit to be skirted or enclosed with material approved by the building inspector.

- (c) *License.* The owner of any mobile home or manufactured home that is not placed on a permanent foundation shall obtain an annual license for it. The owner of the mobile home or manufactured home shall pay an annual fee for such license as provided for in Appendix F—Fees and Fines. Any manufactured home owned by the community owner or assignee that is purchased or repossessed by the community owner or assignee in the community must be re-inspected for habitability before being sold or rented to any person to remain in the community and no certificate of occupancy or license shall be approved unless inspected and certified by a city building inspector. This is the sole responsibility of the community owner or assignee and if this subsection is not complied with, the community owner or assignee shall be assessed fees and fines in accordance with Appendix F, each day the home is occupied without it being approved for resale or rental. If such manufactured home is newly moved into the city, the owner of the manufactured home shall obtain the license and shall pay the license fee within seven days of issuance of a certificate of occupancy for the home. Payment of the license fee shall be prorated on a quarterly basis for each fractional part of a year during which the manufactured home is in the city.
- (d) *Conditions for license.* No license for a new manufactured home shall be issued until the home has passed inspection and received a certificate of occupancy as required by this section.
- (e) *Moving within or out of city.* When the owner of a mobile home or manufactured home removes the home from its current site or lot, the owner shall obtain a demolition permit for the removal.
- (f) *Use of city utilities.* Owners of all types of manufactured homes shall coordinate with city departments during the permitting and licensing process regarding the appropriate times to transfer responsibility for utilities and activate service.
- (g) The owner of the home will have in their possession a Delaware Motor Vehicle Title. The community owner or assignee will have on file all Delaware Motor Vehicle Titles for rental homes owned by said community.
- (h) In addition to city fines for violations, should the city uncover any fraudulent practices it must be reported to the department of justice for investigation.

(Ord. No. 2018-01, 9-24-2018; Ord. No. 2022-08, 10-24-2022)

Sec. 66-4. Land lease communities.

- (a) The following regulations shall apply to the maintenance of land lease communities:
 - (1) *Private road access.* It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.
 - (2) *Debris clearance.* It shall be the responsibility of land lease community owners to ensure that all facilities and common areas within the community are kept in good repair and maintained in such a manner as to prevent the accumulation of materials which could cause a fire hazard or would cause insect or rodent breeding and harborage.
 - (3) *Landscaping.* The land lease community owner shall keep the community free of species of weeds or plant growth which are noxious or detrimental to the health of the residents. In addition, the land lease community owner shall maintain, care for, and, if necessary, remove any trees planted within the community that are over 25 feet in height or have a main stem/trunk over six inches in diameter. Maintenance shall be performed per standard horticultural practices in accordance with the standards as set forth by the American Association of Nurserymen, and shall not require removal of any plant material normally produced by the tree as part of its lifecycle. The landlord must respect the privacy of

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tenants and not enter any rented lot to maintain, care for, and/or remove landscaping without the permission of the tenant or an adult resident unless emergency circumstances exist and entry is required to prevent injury to person or damage to property.

- (4) *Utilities.* The land lease community owner shall keep all water, electrical, plumbing, gas, septic, sewer, and other utilities they provide to tenants in good working order. Stormwater management facilities shall be maintained so as to be free of blockage and to prevent the accumulation of standing water that does not dissipate within 48 hours, except in facilities approved for retention of water. These utilities and facilities shall be repaired within 48 hours of written notification of a maintenance problem, or as soon thereafter as is practicable if a repair within 48 hours is not practicable. Community owners shall coordinate with the City of Dover regarding utility services and equipment.
 - (5) *Delegation of maintenance duties.* Maintenance responsibilities may be delegated by the land lease community owner to leaseholders, a homeowner's association, a land lease community operator, or other parties, provided that the delegated party's specific responsibilities are detailed in a rental agreement, property management contract, or other contract as appropriate. The following exceptions apply:
 - a. Maintenance responsibilities delegated to individual leaseholders shall not include physical responsibility over any streets, common areas, or utilities. Community owners may still require payments from leaseholders to contribute to these areas' upkeep.
 - b. Maintenance responsibilities shall not be delegated if doing so would violate any state laws regulating the content of any of the above types of contracts.
 - c. Any maintenance responsibilities not specifically delegated shall be retained by the land lease community owner.
- (b) The following regulations shall be the reporting, record-keeping, and licensing requirements of land lease communities:
- (1) *Office hours.* To facilitate communication between tenants of the community and the owner, the land lease community owner or operator shall be present at an office within the City of Dover or Kent County, Delaware, accessible to tenants during regular, fixed hours to be communicated to residents and posted at the office. The office hours shall be no less than 20 hours per week, shall include at least five hours before 8:00 a.m. or after 5:00 p.m., and shall not be between the hours of midnight and 7:00 a.m. A 24-hour emergency contact shall also be available to residents.
 - (2) *Receipt for lot payment.* The land lease community operator or owner shall provide a written receipt or electronic receipt at the time a cash payment for rent payment has been made. If a land lease community owner accepts a form of payment other than cash, the community owner shall, within two days, give to the tenant a receipt for that payment. The community owner or operator shall, for a period of three years, maintain a record of all cash receipts for rent.
 - (3) *Homeowner record.* To assist in keeping city license records and tax records up to date, and to assist in code enforcement, land lease community owners who lease land to two or more persons for home sites shall maintain a record of all persons owning homes on their land, specifying each home's address, the name of the owner of each manufactured home, and each homeowner's address, if different from the home address. This record shall be reported to the city planner before July 1 of each year, and shall also be open for inspection by the city planner at all other reasonable times.
 - (4) *Required license for landowners.* The owner of any land leased out as part of a land lease community shall obtain an annual land lease community operator business license under the provisions of Chapter 26—Businesses, or direct the land lease community operator to obtain this license. Only one business license shall be required per land lease community. The fee for such license shall be based on the total

number of lots or home sites in the community, including both vacant and occupied lots and sites, in accordance with Appendix F—Fees and Fines, Chapter 26-Businesses.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-5. Real property taxes.

A permanently placed manufactured home as defined in section 66-1, and the lot upon which it is located shall be considered as being real property for purposes of valuation, assessment and taxation in accordance with section 47 of the Charter. Manufactured homes that are not permanently placed shall not be taxed but shall pay the annual license fee required by this chapter in lieu of taxes.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-6. Enforcement and penalties.

- (a) *Licenses and permits.* Enforcement of licensing and permitting requirements shall be as follows:
- (1) *Obtaining manufactured home licenses.* If the owner of a mobile home or manufactured home not permanently placed fails to obtain or renew the annual license required by this chapter, a fine pursuant to Appendix F—Fees and Fines may be assessed on the owner of the home, if the home has not been removed from the city.
 - (2) *Obtaining placement permits.* An owner of a manufactured home who places their home without obtaining a placement permit to do so shall have the standard penalties imposed for failure to obtain a building permit as outlined in Chapter 22—Buildings and Building Regulations of the Dover Code.
 - (3) *Obtaining land lease community operator business licenses.* A land lease community owner who does not obtain an annual business license as required by this chapter shall have the standard penalties imposed for failure to obtain a business license as outlined in Chapter 26—Businesses of the Dover Code.
- (b) *Land lease community maintenance requirements.* Enforcement of community maintenance requirements shall be as follows:
- (1) Any land lease community owner found to be in violation of the provisions of section 66-4(a) may be assessed a fine pursuant to Appendix F—Fees and Fines. If required, the City of Dover may perform maintenance to correct the violation in the owner's stead, and add the cost of maintenance, including a 15 percent administrative charge, to the fine to be assessed.
 - (2) If a land-lease community owner has via rental agreement, property management contract, or other contractual agreement delegated maintenance responsibilities over the portion of the property in violation to a leaseholder or homeowners association, any fines assessed pursuant to subsections 66-6 (b)(i) above shall instead be imposed on that party.
- (c) *Reporting and record-keeping requirements.* Enforcement of reporting and record-keeping requirements shall be as follows:
- (1) *Provision of homeowner record.* If the owner of a land-lease community fails to provide a homeowner record before July 1 of the year, a fine pursuant to Appendix F—Fees and Fines may be assessed on the owner of the land-lease community.
 - (2) *Provision of office hours.* The City of Dover may inspect the office of a land lease community, and upon finding that hours are not posted, or a representative is not on site during posted office hours, assess a

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(Supp. No. 42)

fine pursuant to Appendix F—Fees and Fines. A finding that a land lease community's 24-hour emergency line is not functioning may also be cause to assess the same fine.

- (3) *Provision of receipts.* If a leaseholder requests a receipt for payment of rent from a land lease community owner or operator and does not receive one within two days, the leaseholder may ask the City of Dover to request the same. If a receipt is not provided to the city within an additional seven days, a fine pursuant to Appendix F—Fees and Fines may be assessed on the owner of the land-lease community.
- (d) *Official notice.* As part of any fine assessed pursuant to section 66-6, the City of Dover shall give official notice to the violator. Policy and procedures for timing of official notices and fines shall be developed by the planning and inspections department.
- (e) *Action on business licenses.* If violation of any city ordinance by a land lease community is of a nature that the community's business license may need to be suspended or revoked, the procedures given in Chapter 26—Businesses, Article II, Sections 26-59 through 26-65 applying to all city businesses shall be adhered to. Summary action on a business license shall not be taken unless the conduct of the licensee, or any associated agent or employee, is so inimical to the public health, safety, and general welfare as to constitute a nuisance and thus give rise to an emergency. If a community's business license is suspended or revoked, the city shall notify all leaseholders in the community of the city's action within three days.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-7. Exemptions.

This chapter shall not apply to:

- (1) *Dealers.* Unoccupied manufactured homes located on a dealer's display lot; or
- (2) *Manufactured homes in transit.* Unoccupied manufactured homes temporarily occupying the public right-of-way prior to placement on a lot or home site.

(Ord. No. 2018-01, 9-24-2018)

Sec. 66-8. Preemption and severability.

- (a) In the event of any conflict between the requirements of this ordinance and the requirements of the 25 Del. C., Chapter 70—Manufactured Homes and Manufactured Home Communities, or 24 Del. C., Chapter 44—Manufactured Home Installation, or any other section of the Delaware Code, the requirements of the state code shall prevail.
- (b) Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

(Ord. No. 2018-01, 9-24-2018)

Section 8. Manufactured housing (MH) zone.¹

- 8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any uses, except the following:
- 8.11 Manufactured homes on individual lots, held in any type of ownership.
- 8.12 Multiple manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium, including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.13 Permanently placed manufactured homes on individual lots, provided that the home and the lot are under common ownership.
- 8.14 Multiple permanently placed manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 permanently placed manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 permanently placed manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a permanently placed manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.15 One-family detached homes on individual lots, held in any type of ownership.
- 8.2 *Conditional uses.* Conditional uses shall be consistent with those conditionally permitted in the one-family residence zones.
- 8.3 *Accessory uses.* Accessory uses shall be consistent with those permitted in the one-family residence zones, with the following additions and exceptions:
- 8.31 Management facilities. The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:
- (a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;

¹Editor's note(s)—Ord. No. 2016-16, adopted August 8, 2016, in effect, repealed § 8 and enacted a new § 8 as set out herein. Former § 8 pertained to similar subject matter and derived from Ord. of 10-13-1981; Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and Ord. No. 2010-29, adopted January 10, 2011.

- (b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and equipment;
- (c) Laundry facilities equipped with washing machines and dryers;
- (d) Community building facilities, including indoor recreation areas;
- (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood commercial zone, limited to one such establishment per lot;
- (f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the one-family residence zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited.* The following uses are specifically prohibited:

- 8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.
- 8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length.* No lot or home site within the manufactured housing zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land lease communities.* The following regulations shall apply to land lease communities within the MH zone:

- 8.61 The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the state dealing with unit properties and condominiums.
- 8.62 *Changes to site plan.* After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards.* All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

-
- 8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the fire marshal's office.
- 8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured Homes, Mobile Homes, and Land Lease Communities.
- 8.9 *Maximum density.* The gross residential density in an MH zone shall not exceed six dwelling units per acre.
- 8.10 *Signs.* Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section 4—Supplementary Sign Regulations.
- (Ord. No. 2016-16, 8-8-2016; Ord. No. 2018-01, 9-24-2018)



January 21, 2021

MHP Investments, LLC
1051 Tuckerton Road
Marlton, NJ 08053

Avenue Law
Attn: Peter K. Schaeffer, Jr., Esq.
1073 South Governors Avenue
Dover, DE 19904
peter.schaeffer@avenuelaw.com

Re: Appeal of Violation - Dover City Code of Ordinances - 1131 South Bay Road, Dover, DE Case #: 20-00003344

MHP Investments, LLC:

On Wednesday, January 20, 2020, the Construction and Property Maintenance Code Board of Appeals considered your appeal of the violation of the Dover City Code of Ordinances - Appendix B - Article 3, Section 8.4 - Uses Prohibited at 1131 South Bay Road, Dover Delaware. Section 8.4 of the Dover Code states the following:

Section 8.4 *Uses prohibited*. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

After reviewing the case history and considering your testimony, it was the decision of the Board to grant your appeal.

If you have any questions regarding this matter, please contact the Department of Planning and Inspections at (302) 736-7010.

Sincerely,

Megan Ramsey
Administrative Assistant

TAM/mr

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC\Hearing Action - 1131 S Bay Road - MHP Investments, LLC.wpd

cc: Nicholas Rodriguez, City Solicitor
Gary Junge, Deputy City Solicitor
David Hugg, Director of Planning and Community Development
Ronald Coburn, Inspector
Eddie Kopp, Inspector

42 USC Ch. 70: MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS
From Title 42—THE PUBLIC HEALTH AND WELFARE

CHAPTER 70—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

Sec.	
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§5401. Findings and purposes

(a) Findings

Congress finds that—

- (1) manufactured housing plays a vital role in meeting the housing needs of the Nation; and
- (2) manufactured homes provide a significant resource for affordable homeownership and rental housing accessible to all Americans.

(b) Purposes

The purposes of this chapter are—

- (1) to protect the quality, durability, safety, and affordability of manufactured homes;
- (2) to facilitate the availability of affordable manufactured homes and to increase homeownership for all Americans;
- (3) to provide for the establishment of practical, uniform, and, to the extent possible, performance-based Federal construction standards for manufactured homes;
- (4) to encourage innovative and cost-effective construction techniques for manufactured homes;
- (5) to protect residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages in manufactured housing, consistent with the other purposes of this section;

(6) to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes and related regulations for the enforcement of such standards; Item 3.

(7) to ensure uniform and effective enforcement of Federal construction and safety standards for manufactured homes; and

(8) to ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement.

(Pub. L. 93–383, title VI, §602, Aug. 22, 1974, 88 Stat. 700; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §602, Dec. 27, 2000, 114 Stat. 2997.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally. Prior to amendment, text read as follows: "The Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes. Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for manufactured homes and to authorize manufactured home safety research and development."

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title VI, §612, Dec. 27, 2000, 114 Stat. 3012, provided that: "The amendments made by this title [see Short Title of 2000 Amendment note below] shall take effect on the date of the enactment of this Act [Dec. 27, 2000], except that the amendments shall have no effect on any order or interpretative bulletin that is issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and published as a proposed rule pursuant to section 553 of title 5, United States Code, on or before that date of the enactment."

EFFECTIVE DATE

Pub. L. 93–383, title VI, §627, formerly §628, Aug. 22, 1974, 88 Stat. 714, renumbered §627, Pub. L. 106–569, title VI, §611(2), Dec. 27, 2000, 114 Stat. 3012, provided that: "The provisions of this title [enacting this chapter and provisions set out as a note under this section] shall take effect upon the expiration of 180 days following the date of enactment of this title [Aug. 22, 1974]."

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–569, title VI, §601(a), Dec. 27, 2000, 114 Stat. 2997, provided that: "This title [amending this section and sections 5402 to 5404, 5406, 5407, 5409, 5412 to 5415, 5419, 5422, and 5426 of this title, repealing section 5425 of this title, and enacting and amending provisions set out as notes under this section] may be cited as the 'Manufactured Housing Improvement Act of 2000'."

SHORT TITLE

Pub. L. 93–383, title VI, §601, Aug. 22, 1974, 88 Stat. 700, as amended by Pub. L. 96–399, title III, §308(c)(5), Oct. 8, 1980, 94 Stat. 1641, provided that: "This title [enacting this chapter and provisions set out as a note under this section] may be cited as the 'National Manufactured Housing Construction and Safety Standards Act of 1974'."

SAVINGS PROVISIONS

Pub. L. 106–569, title VI, §613, Dec. 27, 2000, 114 Stat. 3012, provided that:

"(a) STANDARDS AND REGULATIONS.—The Federal manufactured home construction and safety standards (as such term is defined in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5402]) and all regulations pertaining thereto in effect on the day before the date of the enactment of this Act [Dec. 27, 2000] shall apply until the effective date of a standard or regulation modifying or superseding the existing standard or regulation that is promulgated under subsection (a) or (b) of section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended by this title [42 U.S.C. 5403(a), (b)]."

"(b) **CONTRACTS.**—Any contract awarded pursuant to a Request for Proposal issued before the date of the enactment of this Act [Dec. 27, 2000] shall remain in effect until the earlier of—

Item 3.

"(1) the expiration of the 2-year period beginning on the date of the enactment of this Act; or

"(2) the expiration of the contract term."

§5402. Definitions

As used in this chapter, the term—

(1) "manufactured home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(2) "retailer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of manufactured homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale;

(6) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle;

(7) "Federal manufactured home construction and safety standard" means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety;

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(9) "imminent safety hazard" means an imminent and unreasonable risk of death or severe personal injury;

(10) "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale;

(11) "Secretary" means the Secretary of Housing and Urban Development;

(12) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(13) "United States district courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa;

(14) "administering organization" means the recognized, voluntary, private sector, consensus standards body with specific experience in developing model residential building codes and standards involving all disciplines regarding construction and safety that administers the consensus standards through a development process;

(15) "consensus committee" means the committee established under section 5403(a)(3) of this title;

(16) "consensus standards development process" means the process by which additions, revisions, and interpretations to the Federal manufactured home construction and safety standards and enforcement regulations shall be developed and recommended to the Secretary by the consensus committee;

(17) "primary inspection agency" means a State agency or private organization that has been approved by the Secretary to act as a design approval primary inspection agency or a production inspection primary inspection agency, or both;

(18) "design approval primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate and either approve or disapprove manufactured home designs and quality control procedures;

(19) "installation standards" means reasonable specifications for the installation of a manufactured home, at the place of occupancy, to ensure proper siting, the joining of all sections of the home, and the installation of stabilization, support, or anchoring systems;

(20) "monitoring" means the process of periodic review of the primary inspection agencies, by the Secretary or by a State agency under an approved State plan pursuant to section 5422 of this title, in accordance with regulations promulgated under this chapter, giving due consideration to the recommendations of the consensus committee under section 5403(b) of this title, which process shall be for the purpose of ensuring that the primary inspection agencies are discharging their duties under this chapter; and

(21) "production inspection primary inspection agency" means a State agency or private organization that has been approved by the Secretary to evaluate the ability of manufactured home manufacturing plants to comply with

approved quality control procedures and with the Federal manufactured home construction and safety standards promulgated hereunder, including the inspection of homes in the plant. Item 3.

(Pub. L. 93–383, title VI, §603, Aug. 22, 1974, 88 Stat. 700; Pub. L. 96–399, title III, §308(c)(4), (d), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 105–276, title V, §599A(a), Oct. 21, 1998, 112 Stat. 2660; Pub. L. 106–569, title VI, §603(a), Dec. 27, 2000, 114 Stat. 2998.)

EDITORIAL NOTES

REFERENCES IN TEXT

For definition of Canal Zone, referred to in pars. (12) and (13), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Par. (2). Pub. L. 106–569, §603(a)(1), substituted "retailer" for "dealer".

Pars. (14) to (21). Pub. L. 106–569, §603(a)(2)–(4), added pars. (14) to (21).

1998—Par. (6). Pub. L. 105–276 inserted before semicolon at end "; and except that such term shall not include any self-propelled recreational vehicle".

1980—Pars. (1), (2), (3). Pub. L. 96–399, §308(c)(4), substituted "manufactured home" for "mobile home" wherever appearing.

Par. (6). Pub. L. 96–399, §308(c)(4), (d), substituted "manufactured home" for "mobile home", substituted "in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet" for "is eight body feet or more in width and is thirty-two body feet or more in length", and inserted exception relating to inclusion of any structure meeting all requirements of this paragraph except size and with respect to which a certification is voluntarily filed and standards complied with.

Pars. (7), (8), (10). Pub. L. 96–399, §308(c)(4), substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §599A(b), Oct. 21, 1998, 112 Stat. 2660, provided that: "The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5403. Construction and safety standards

(a) Establishment

(1) Authority

The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards, each of which—

(A) shall—

- (i) be reasonable and practical;
- (ii) meet high standards of protection consistent with the purposes of this chapter; and
- (iii) be performance-based and objectively stated, unless clearly inappropriate; and

(B) except as provided in subsection (b), shall be established in accordance with the consensus standards development process.

(2) Consensus standards and regulatory development process**(A) Initial agreement**

Not later than 180 days after December 27, 2000, the Secretary shall enter into a contract with an administering organization. The contractual agreement shall—

- (i) terminate on the date on which a contract is entered into under subparagraph (B); and
- (ii) require the administering organization to—
 - (I) recommend the initial members of the consensus committee under paragraph (3);
 - (II) administer the consensus standards development process until the termination of that agreement; and
 - (III) administer the consensus development and interpretation process for procedural and enforcement regulations and regulations specifying the permissible scope and conduct of monitoring until the termination of that agreement.

(B) Competitively procured contract

Upon the expiration of the 4-year period beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the Secretary shall, using competitive procedures (as such term is defined in section 132 of title 41), enter into a competitively awarded contract with an administering organization. The administering organization shall administer the consensus process for the development and interpretation of the Federal standards, the procedural and enforcement regulations, and regulations specifying the permissible scope and conduct of monitoring, in accordance with this chapter.

(C) Performance review

The Secretary—

- (i) shall periodically review the performance of the administering organization; and
- (ii) may replace the administering organization with another qualified technical or building code organization, pursuant to competitive procedures, if the Secretary determines in writing that the administering organization is not fulfilling the terms of the agreement or contract to which the administering organization is subject or upon the expiration of the agreement or contract.

(3) Consensus committee**(A) Purpose**

There is established a committee to be known as the "consensus committee", which shall, in accordance with this chapter—

- (i) provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards in accordance with this subsection;
- (ii) provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring in accordance with subsection (b);
- (iii) be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation; and
- (iv) be deemed to be an advisory committee not composed of Federal employees.

(B) Membership

The consensus committee shall be composed of—

- (i) twenty-one voting members appointed by the Secretary, after consideration of the recommendations of the administering organization, from among individuals who are qualified by background and experience to participate in the work of the consensus committee; and
- (ii) one nonvoting member appointed by the Secretary to represent the Secretary on the consensus committee.

(C) Disapproval

The Secretary shall state, in writing, the reasons for failing to appoint any individual recommended under paragraph (2)(A)(ii)(I).

(D) Selection procedures and requirements

Each member of the consensus committee shall be appointed in accordance with selection procedures, which shall be based on the procedures for consensus committees promulgated by the American National Standards Institute (or successor organization), except that the American National Standards Institute interest categories shall be modified for purposes of this paragraph to ensure equal representation on the consensus committee of the following interest categories:

Item 3.

(i) Producers

Seven producers or retailers of manufactured housing.

(ii) Users

Seven persons representing consumer interests, such as consumer organizations, recognized consumer leaders, and owners who are residents of manufactured homes.

(iii) General interest and public officials

Seven general interest and public official members.

(E) Balancing of interests**(i) In general**

In order to achieve a proper balance of interests on the consensus committee, the Secretary, in appointing the members of the consensus committee—

(I) shall ensure that all directly and materially affected interests have the opportunity for fair and equitable participation without dominance by any single interest; and

(II) may reject the appointment of any one or more individuals in order to ensure that there is not dominance by any single interest.

(ii) Dominance defined

In this subparagraph, the term "dominance" means a position or exercise of dominant authority, leadership, or influence by reason of superior leverage, strength, or representation.

(F) Additional qualifications**(i) Financial independence**

No individual appointed under subparagraph (D)(ii) shall have, and three of the individuals appointed under subparagraph (D)(iii) shall not have—

(I) a significant financial interest in any segment of the manufactured housing industry; or

(II) a significant relationship to any person engaged in the manufactured housing industry.

(ii) Post-employment ban

Each individual described in clause (i) shall be subject to a ban disallowing compensation from the manufactured housing industry during the period of, and during the 1-year following, the membership of the individual on the consensus committee.

(G) Meetings**(i) Notice; open to public**

The consensus committee shall provide advance notice of each meeting of the consensus committee to the Secretary and cause to be published in the Federal Register advance notice of each such meeting. All meetings of the consensus committee shall be open to the public.

(ii) Reimbursement

Members of the consensus committee in attendance at meetings of the consensus committee shall be reimbursed for their actual expenses as authorized by section 5703 of title 5 for persons employed intermittently in Government service.

(H) Administration

The consensus committee and the administering organization shall—

(i) operate in conformance with the procedures established by the American National Standards Institute for the development and coordination of American National Standards; and

(ii) apply to the American National Standards Institute and take such other actions as may be necessary to obtain accreditation from the American National Standards Institute.

(I) Staff and technical support

The administering organization shall, upon the request of the consensus committee—

(i) provide reasonable staff resources to the consensus committee; and

(ii) furnish technical support in a timely manner to any of the interest categories described in subparagraph (D) represented on the consensus committee, if—

(I) the support is necessary to ensure the informed participation of the consensus committee members; and

(II) the costs of providing the support are reasonable.

(J) Date of initial appointments

The initial appointments of all the members of the consensus committee shall be completed not later than Item 3. days after the date on which a contractual agreement under paragraph (2)(A) is entered into with the administering organization.

(4) Revisions of standards

(A) In general

Beginning on the date on which all members of the consensus committee are appointed under paragraph (3), the consensus committee shall, not less than once during each 2-year period—

- (i) consider revisions to the Federal manufactured home construction and safety standards; and
- (ii) submit proposed revised standards, if approved in a vote of the consensus committee by two-thirds of the members, to the Secretary in the form of a proposed rule, including an economic analysis.

(B) Publication of proposed revised standards

(i) Publication by the Secretary

The consensus committee shall provide a proposed revised standard under subparagraph (A)(ii) to the Secretary who shall, not later than 30 days after receipt, cause such proposed revised standard to be published in the Federal Register for notice and comment in accordance with section 553 of title 5. Unless clause (ii) applies, the Secretary shall provide an opportunity for public comment on such proposed revised standard in accordance with such section 553 and any such comments shall be submitted directly to the consensus committee, without delay.

(ii) Publication of rejected proposed revised standards

If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for rejection, and any recommended modifications set forth.

(C) Presentation of public comments; publication of recommended revisions

(i) Presentation

Any public comments, views, and objections to a proposed revised standard published under subparagraph (B) shall be presented by the Secretary to the consensus committee upon their receipt and in the manner received, in accordance with procedures established by the American National Standards Institute.

(ii) Publication by the Secretary

The consensus committee shall provide to the Secretary any revision proposed by the consensus committee, which the Secretary shall, not later than 30 calendar days after receipt, cause to be published in the Federal Register a notice of the recommended revisions of the consensus committee to the standards, a notice of the submission of the recommended revisions to the Secretary, and a description of the circumstances under which the proposed revised standards could become effective.

(iii) Publication of rejected proposed revised standards

If the Secretary rejects the proposed revised standard, the Secretary shall cause to be published in the Federal Register the rejected proposed revised standard, the reasons for rejection, and any recommended modifications set forth.

(5) Review by the Secretary

(A) In general

The Secretary shall either adopt, modify, or reject a standard, as submitted by the consensus committee under paragraph (4)(A).

(B) Timing

Not later than 12 months after the date on which a standard is submitted to the Secretary by the consensus committee, the Secretary shall take action regarding such standard under subparagraph (C).

(C) Procedures

If the Secretary—

- (i) adopts a standard recommended by the consensus committee, the Secretary shall—
 - (I) issue a final order without further rulemaking; and
 - (II) cause the final order to be published in the Federal Register;
- (ii) determines that any standard should be rejected, the Secretary shall—
 - (I) reject the standard; and
 - (II) cause to be published in the Federal Register a notice to that effect, together with the reason or reasons for rejecting the proposed standard; or

(iii) determines that a standard recommended by the consensus committee should be modified, the Secretary shall—

(I) cause to be published in the Federal Register the proposed modified standard, together with an explanation of the reason or reasons for the determination of the Secretary; and

(II) provide an opportunity for public comment in accordance with section 553 of title 5.

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(D) Final order

Any final standard under this paragraph shall become effective pursuant to subsection (c).

(6) Failure to act

If the Secretary fails to take final action under paragraph (5) and to cause notice of the action to be published in the Federal Register before the expiration of the 12-month period beginning on the date on which the proposed revised standard is submitted to the Secretary under paragraph (4)(A)—

(A) the Secretary shall appear in person before the appropriate housing and appropriations subcommittees and committees of the House of Representatives and the Senate (referred to in this paragraph as the "committees") on a date or dates to be specified by the committees, but in no event later than 30 days after the expiration of that 12-month period, and shall state before the committees the reasons for failing to take final action as required under paragraph (5); and

(B) if the Secretary does not appear in person as required under subparagraph (A), the Secretary shall thereafter, and until such time as the Secretary does appear as required under subparagraph (A), be prohibited from expending any funds collected under authority of this title in an amount greater than that collected and expended in the fiscal year immediately preceding December 27, 2000, indexed for inflation as determined by the Congressional Budget Office.

(b) Other orders

(1) Regulations

The Secretary may issue procedural and enforcement regulations and revisions to existing regulations as necessary to implement the provisions of this chapter. The consensus committee may submit to the Secretary proposed procedural and enforcement regulations and recommendations for the revision of such regulations.

(2) Interpretative bulletins

The Secretary may issue interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation. The consensus committee may submit to the Secretary proposed interpretative bulletins to clarify the meaning of any Federal manufactured home construction and safety standard or procedural and enforcement regulation.

(3) Review by consensus committee

Before issuing a procedural or enforcement regulation or an interpretative bulletin—

(A) the Secretary shall—

(i) submit the proposed procedural or enforcement regulation or interpretative bulletin to the consensus committee; and

(ii) provide the consensus committee with a period of 120 days to submit written comments to the Secretary on the proposed procedural or enforcement regulation or the interpretative bulletin; and

(B) if the Secretary rejects any significant comment provided by the consensus committee under subparagraph (A), the Secretary shall provide a written explanation of the reasons for the rejection to the consensus committee; and

(C) following compliance with subparagraphs (A) and (B), the Secretary shall—

(i) cause the proposed regulation or interpretative bulletin and the consensus committee's written comments, along with the Secretary's response thereto, to be published in the Federal Register; and

(ii) provide an opportunity for public comment in accordance with section 553 of title 5.

(4) Required action

Not later than 120 days after the date on which the Secretary receives a proposed regulation or interpretative bulletin submitted by the consensus committee, the Secretary shall—

(A) approve the proposal and cause the proposed regulation or interpretative bulletin to be published for public comment in accordance with section 553 of title 5; or

(B) reject the proposed regulation or interpretative bulletin and—

(i) provide to the consensus committee a written explanation of the reasons for rejection; and

(ii) cause to be published in the Federal Register the rejected proposed regulation or interpretative bulletin, the reasons for rejection, and any recommended modifications set forth.

(5) Authority to act and emergency

If the Secretary determines, in writing, that such action is necessary to address an issue on which the Secretary determines that the consensus committee has not made a timely recommendation following a request by the Secretary, or in order to respond to an emergency that jeopardizes the public health or safety, the Secretary may issue an order that is not developed under the procedures set forth in subsection (a) or in this subsection, if the Secretary—

(A) provides to the consensus committee a written description and sets forth the reasons why action is necessary and all supporting documentation; and

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(B) issues the order after notice and an opportunity for public comment in accordance with section 553 of title 5, and causes the order to be published in the Federal Register.

(6) Changes

Any statement of policies, practices, or procedures relating to construction and safety standards, regulations, inspections, monitoring, or other enforcement activities that constitutes a statement of general or particular applicability to implement, interpret, or prescribe law or policy by the Secretary is subject to subsection (a) or this subsection. Any change adopted in violation of subsection (a) or this subsection is void.

(7) Transition

Until the date on which the consensus committee is appointed pursuant to subsection (a)(3), the Secretary may issue proposed orders, pursuant to notice and comment in accordance with section 553 of title 5 that are not developed under the procedures set forth in this section for new and revised standards.

(c) Effective date of orders establishing standards

Each order establishing a Federal manufactured home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

(d) Supremacy of Federal standards

Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer.

(e) Considerations in establishing and interpreting standards and regulations

The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—

- (1) consider relevant available manufactured home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;
- (2) consult with such State or interstate agencies (including legislative committees) as he deems appropriate;
- (3) consider whether any such proposed standard is reasonable for the particular type of manufactured home or for the geographic region for which it is prescribed;
- (4) consider the probable effect of such standard on the cost of the manufactured home to the public; and
- (5) consider the extent to which any such standard will contribute to carrying out the purposes of this chapter.

(f) Coverage; exclusion

The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

- (1) designed only for erection or installation on a site-built permanent foundation;
- (2) not designed to be moved once so erected or installed;
- (3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act [12 U.S.C. 1707 et seq.]; and
- (4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

(g) Manufactured housing construction and safety standards

(1) The Federal manufactured home construction and safety standards established by the Secretary under this section shall include preemptive energy conservation standards in accordance with this subsection.

(2) The energy conservation standards established under this subsection shall be cost-effective energy conservation performance standards designed to ensure the lowest total of construction and operating costs.

(3) The energy conservation standards established under this subsection shall take into consideration the design and factory construction techniques of manufactured homes and shall provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards.

(h) New performance standards for hardboard siding

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The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (e). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from October 28, 1992, the Secretary shall update the standards for hardboard siding.

(Pub. L. 93-383, title VI, §604, Aug. 22, 1974, 88 Stat. 701; Pub. L. 95-128, title IX, §902(a), Oct. 12, 1977, 91 Stat. 1149; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 98-479, title II, §204(l), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100-242, title V, §568, Feb. 5, 1988, 101 Stat. 1948; Pub. L. 102-550, title IX, §907, Oct. 28, 1992, 106 Stat. 3873; Pub. L. 106-569, title VI, §604, Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES**REFERENCES IN TEXT**

The National Housing Act, referred to in subsec. (f)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the National Housing Act is classified principally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

In subsec. (a)(2)(B), "section 132 of title 41" substituted for "section 4 of the Office of Federal Procurement Policy Act" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-569, §604(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction."

Subsec. (b). Pub. L. 106-569, §604(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "All orders issued under this section shall be issued after notice and an opportunity for interested persons to participate are provided in accordance with the provisions of section 553 of title 5."

Subsec. (d). Pub. L. 106-569, §604(2), inserted at end "Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section nor the Federal superintendence of the manufactured housing industry as established by this chapter. Subject to section 5404 of this title, there is reserved to each State the right to establish standards for the stabilizing and support systems of manufactured homes sited within that State, and for the foundations on which manufactured homes sited within that State are installed, and the right to enforce compliance with such standards, except that such standards shall be consistent with the purposes of this chapter and shall be consistent with the design of the manufacturer."

Subsec. (e). Pub. L. 106-569, §604(3), (4), redesignated subsec. (f) as (e), inserted heading, substituted "The consensus committee, in recommending standards, regulations, and interpretations, and the Secretary, in establishing standards or regulations or issuing interpretations under this section, shall—" for "In establishing standards under this section, the Secretary shall—" in introductory provisions, and struck out former subsec. (e) which read as follows: "The Secretary may by order amend or revoke any Federal manufactured home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, that an earlier or later date is in the public interest, and publishes his reasons for such finding."

Subsec. (f). Pub. L. 106-569, §604(7), redesignated subsec. (h) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 106-569, §604(5), (7), redesignated subsec. (i) as (g) and struck out former subsec. (g) which read as follows: "The Secretary shall issue an order establishing initial Federal manufactured home construction and safety standards not later than one year after August 22, 1974."

Subsec. (h). Pub. L. 106-569, §604(7), redesignated subsec. (j) as (h). Former subsec. (h) redesignated as (f).

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Subsec. (i). Pub. L. 106-569, §604(7), redesignated subsec. (i) as (g).

Subsec. (j). Pub. L. 106-569, §604(6), (7), substituted "subsection (e)" for "subsection (f)" and redesignated subsec. (j) as (h).

1992—Subsec. (j). Pub. L. 102-550 added subsec. (j).

1988—Subsec. (i). Pub. L. 100-242 added subsec. (i).

1984—Subsec. (e). Pub. L. 98-479 substituted "that" for "than" before "an earlier or later date".

1980—Subsecs. (a), (c) to (g). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

1977—Subsec. (h). Pub. L. 95-128 added subsec. (h).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

EXCEPTION TO FEDERAL PREEMPTION FOR THERMAL INSULATION AND ENERGY EFFICIENCY STANDARDS

Pub. L. 102-486, title I, §104(c), Oct. 24, 1992, 106 Stat. 2792, provided that: "If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act [Oct. 24, 1992], final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled 'Energy Efficient Design of Low-Rise Residential Buildings' and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act."

§5404. Manufactured home installation

(a) Provision of installation design and instructions

A manufacturer shall provide with each manufactured home, design and instructions for the installation of the manufactured home that have been approved by a design approval primary inspection agency. After establishment of model standards under subsection (b)(2), a design approval primary inspection agency may not give such approval unless a design and instruction provides equal or greater protection than the protection provided under such model standards.

(b) Model manufactured home installation standards

(1) Proposed model standards

Not later than 18 months after the date on which the initial appointments of all the members of the consensus committee are completed, the consensus committee shall develop and submit to the Secretary proposed model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency; and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

(2) Establishment of model standards

Not later than 12 months after receiving the proposed model standards submitted under paragraph (1), the Secretary shall develop and establish model manufactured home installation standards, which shall, to the maximum extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

extent practicable, taking into account the factors described in section 5403(e) of this title, be consistent with—

(A) the manufactured home designs that have been approved by a design approval primary inspection agency and

(B) the designs and instructions for the installation of manufactured homes provided by manufacturers under subsection (a).

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(3) Factors for consideration

(A) Consensus committee

In developing the proposed model standards under paragraph (1), the consensus committee shall consider the factors described in section 5403(e) of this title.

(B) Secretary

In developing and establishing the model standards under paragraph (2), the Secretary shall consider the factors described in section 5403(e) of this title.

(4) Issuance

The model manufactured home installation standards shall be issued after notice and an opportunity for public comment in accordance with section 553 of title 5.

(c) Manufactured home installation programs

(1) Protection of manufactured housing residents during initial period

During the 5-year period beginning on December 27, 2000, no State or manufacturer may establish or implement any installation standards that, in the determination of the Secretary, provide less protection to the residents of manufactured homes than the protection provided by the installation standards in effect with respect to the State or manufacturer, as applicable, on December 27, 2000.

(2) Installation standards

(A) Establishment of installation program

Not later than the expiration of the 5-year period described in paragraph (1), the Secretary shall establish an installation program that meets the requirements of paragraph (3) for the enforcement of installation standards in each State described in subparagraph (B) of this paragraph.

(B) Implementation of installation program

Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the installation program established under subparagraph (A) in each State that does not have an installation program established by State law that meets the requirements of paragraph (3).

(C) Contracting out of implementation

In carrying out subparagraph (B), the Secretary may contract with an appropriate agent to implement the installation program established under that subparagraph, except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this chapter.

(3) Requirements

An installation program meets the requirements of this paragraph if it is a program regulating the installation of manufactured homes that includes—

(A) installation standards that, in the determination of the Secretary, provide protection to the residents of manufactured homes that equals or exceeds the protection provided to those residents by—

(i) the model manufactured home installation standards established by the Secretary under subsection (b)(2); or

(ii) the designs and instructions provided by manufacturers under subsection (a), if the Secretary determines that such designs and instructions provide protection to the residents of manufactured homes that equals or exceeds the protection provided by the model manufactured home installation standards established by the Secretary under subsection (b)(2);

(B) the training and licensing of manufactured home installers; and

(C) inspection of the installation of manufactured homes.

(Pub. L. 93–383, title VI, §605, Aug. 22, 1974, 88 Stat. 702; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §605(a), Dec. 27, 2000, 114 Stat. 3006.)

EDITORIAL NOTES

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally, substituting provisions relating to manufactured home installation for provisions relating to National Manufactured Home Advisory Co. Item 3.

1980—Subsecs. (a) to (c). Pub. L. 96–399 substituted "Manufactured Home" for "Mobile Home" and "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5405. Judicial review of orders establishing standards; petition; additional evidence before Secretary; certified copy of transcript

(a)(1) In a case of actual controversy as to the validity of any order under section 5403 of this title, any person who may be adversely affected by such order when it is effective may at any time prior to the sixtieth day after such order is issued file a petition with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for judicial review of such order. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or other officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

(3) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the order in accordance with the provisions of sections 701 through 706 of title 5, and to grant appropriate relief.

(4) The judgment of the court affirming or setting aside, in whole or in part, any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(5) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(6) The remedies provided for in this subsection shall be in addition to and not in substitution for any other remedies provided by law.

(b) A certified copy of the transcript of the record and proceedings under this section shall be furnished by the Secretary to any interested party at his request and payment of the costs thereof, and shall be admissible in any criminal, exclusion of imports, or other proceeding arising under or in respect of this chapter, irrespective of whether proceedings with respect to the order have previously been initiated or become final under subsection (a).

(Pub. L. 93–383, title VI, §606, Aug. 22, 1974, 88 Stat. 702.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5406. Submission of cost or other information by manufacturer

(a) Purpose of submission; detail of information

Whenever any manufacturer is opposed to any action of the Secretary under section 5403 of this title or under any other provision of this chapter on the grounds of increased cost or for other reasons, the manufacturer shall submit to the Secretary such cost and other information (in such detail as the Secretary may by rule or order prescribe) as may be necessary in order to properly evaluate the manufacturer's statement. The Secretary shall submit such cost and other information to the consensus committee for evaluation.

(b) Conditions upon availability to public of submitted information

Such information shall be available to the public unless the manufacturer establishes that it contains a trade secret or that disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage. Notice of the availability of such information shall be published promptly in the Federal Register. If the Secretary determines that any portion of such information contains a trade secret or that the disclosure of any portion of such information would put the manufacturer at a substantial competitive disadvantage, such portion may be disclosed to the public only in such manner as to preserve the confidentiality of such trade secret or in such combined or summary form so as not to disclose the identity of any individual manufacturer, except that any such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(c) "Cost information" defined

For purposes of this section, "cost information" means information with respect to alleged cost increases resulting from action by the Secretary, in such a form as to permit the public, the consensus committee, and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(d) Power of Secretary to obtain or require submission of information under other provisions unaffected

Nothing in this section shall be construed to restrict the authority of the Secretary to obtain or require submission of information under any other provision of this chapter.

(Pub. L. 93-383, title VI, §607, Aug. 22, 1974, 88 Stat. 703; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §606, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES**AMENDMENTS**

2000—Subsec. (a). Pub. L. 106-569, §606(1), inserted "to the Secretary" after "manufacturer shall submit" and inserted at end "The Secretary shall submit such cost and other information to the consensus committee for evaluation."

Subsec. (c). Pub. L. 106-569, §606(3), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "If the Secretary proposes to establish, amend, or revoke a Federal manufactured home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty days in advance of making a final determination, in order to allow interested parties an opportunity to comment."

Subsec. (d). Pub. L. 106-569, §606(3), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 106-569, §606(2), inserted ", the consensus committee," after "permit the public".

Subsec. (e). Pub. L. 106-569, §606(3), redesignated subsec. (e) as (d).

1980—Subsec. (c). Pub. L. 96-399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5407. Research, testing, development, and training by Secretary

(a) Scope

The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

- (1) collecting data from any source for the purpose of determining the relationship between manufactured home performance characteristics and (A) accidents involving manufactured homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;
- (2) procuring (by negotiation or otherwise) experimental and other manufactured homes for research and testing purposes;
- (3) selling or otherwise disposing of test manufactured homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this chapter;
- (4) encouraging the government-sponsored housing entities to actively develop and implement secondary market securitization programs for the FHA manufactured home loans and those of other loan programs, as appropriate, thereby promoting the availability of affordable manufactured homes to increase homeownership for all people in the United States; and
- (5) reviewing the programs for FHA manufactured home loans and developing any changes to such programs to promote the affordability of manufactured homes, including changes in loan terms, amortization periods, regulations, and procedures.

(b) Contracts and grants with States, interstate agencies, and independent institutions

The Secretary is authorized to conduct research, testing, development, and training as authorized to be carried out by subsection (a) of this section by contracting for or making grants for the conduct of such research, testing, development, and training to States, interstate agencies, and independent institutions.

(c) Definitions

For purposes of this section, the following definitions shall apply:

(1) Government-sponsored housing entities

The term "government-sponsored housing entities" means the Government National Mortgage Association of the Department of Housing and Urban Development, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(2) FHA manufactured home loan

The term "FHA manufactured home loan" means a loan that—

(A) is insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.] and is made for the purpose of financing alterations, repairs, or improvements on or in connection with an existing manufactured home, the purchase of a manufactured home, the purchase of a manufactured home and a lot on which to place the home, or the purchase only of a lot on which to place a manufactured home; or

(B) is otherwise insured under the National Housing Act [12 U.S.C. 1701 et seq.] and made for or in connection with a manufactured home.

(Pub. L. 93–383, title VI, §608, Aug. 22, 1974, 88 Stat. 704; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §607, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (c)(2), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. Title I of the Act is classified generally to subchapter I (§1702 et seq.) of chapter 13 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

CODIFICATION

References to "mobile homes", wherever appearing in subsec. (a)(1) to (3), changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (a)(4), (5). Pub. L. 106–569, §607(a), added pars. (4) and (5).

Subsec. (c). Pub. L. 106–569, §607(b), added subsec. (c).

1980—Subsec. (a)(1). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5408. Cooperation by Secretary with public and private agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

- (1) manufactured home construction and safety standards; and
- (2) methods for inspecting and testing to determine compliance with manufactured home standards.

(Pub. L. 93–383, title VI, §609, Aug. 22, 1974, 88 Stat. 704; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5409. Prohibited acts; exemptions

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any manufactured home which is manufactured on or after the effective date of any applicable Federal manufactured home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b), where such manufacture, lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

(2) fail or refuse to permit access to or copying of records, or fail to make reports or provide information, or fail or refuse to permit entry or inspection, as required under section 5413 of this title;

(3) fail to furnish notification of any defect as required by section 5414 of this title;

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a manufactured home conforms to all applicable Federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this chapter;

(6) issue a certification pursuant to subsection (h) of section 5403 of this title, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect; or

(7) after the expiration of the period specified in section 5404(c)(2)(B) of this title, fail to comply with the requirements for the installation program required by section 5404 of this title in any State that has not adopted or implemented a State installation program. Item 3.

(b)(1) Paragraph (1) of subsection (a) shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such manufactured home is not in conformity with applicable Federal manufactured home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such manufactured home to the effect that such manufactured home conforms to all applicable Federal manufactured home construction and safety standards, unless such person knows that such manufactured home does not so conform.

(3) A manufactured home offered for importation in violation of paragraph (1) of subsection (a) shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such manufactured home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such manufactured home will be brought into conformity with any applicable Federal manufactured home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) shall not apply in the case of a manufactured home intended solely for export, and so labeled or tagged on the manufactured home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal manufactured home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

(Pub. L. 93-383, title VI, §610, Aug. 22, 1974, 88 Stat. 704; Pub. L. 95-128, title IX, §902(b), Oct. 12, 1977, 91 Stat. 1149; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §608, Dec. 27, 2000, 114 Stat. 3009.)

EDITORIAL NOTES

AMENDMENTS

2000—Subsec. (a)(7). Pub. L. 106-569 added par. (7).

1980—Subsecs. (a)(1), (4), (b)(1) to (5), (c). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

1977—Subsec. (a)(6). Pub. L. 95-128 added par. (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5410. Civil and criminal penalties

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order issued thereunder, shall be liable to the United States for a civil penalty of not to exceed \$1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed \$1,000,000 for any related series of violations occurring within one year from the date of the first violation.

(b) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates section 540 of this title in a manner which threatens the health or safety of any purchaser shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Item 3.

(Pub. L. 93–383, title VI, §611, Aug. 22, 1974, 88 Stat. 705; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5411. Injunctive relief

(a) Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views

The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any manufactured home which is determined, prior to the first purchase of such manufactured home in good faith for purposes other than resale, not to conform to applicable Federal manufactured home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

(b) Criminal contempt proceedings; conduct of trial

In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, which violation also constitutes a violation of this chapter, trial shall be by the court or, upon demand of the accused, by a jury. Such trial shall be conducted in accordance with the practice and procedure applicable in the case of proceedings subject to the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

(c) Venue

Actions under subsection (a) of this section and section 5410 of this title may be brought in the district wherein any act or transaction constituting the violation occurred, or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found.

(d) Subpenas

In any action brought by the United States under subsection (a) of this section or section 5410 of this title, subpoenas by the United States for witnesses who are required to attend at United States district court may run into any other district.

(e) Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation

It shall be the duty of every manufacturer offering a manufactured home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

EDITORIAL NOTES**REFERENCES IN TEXT**

Rule 65 of the Federal Rules of Civil Procedure, referred to in subsec. (a), is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 42 of the Federal Rules of Criminal Procedure, referred to in subsec. (b), is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1980—Subsecs. (a), (e). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE**

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5412. Noncompliance with standards or defective nature of manufactured home; administrative or judicial determination; repurchase by manufacturer or repair by distributor or retailer; reimbursement of expenses, etc., by manufacturer; injunctive relief against manufacturer for failure to comply; jurisdiction and venue; damages; period of limitation

(a) If the Secretary or a court of appropriate jurisdiction determines that any manufactured home does not conform to applicable Federal manufactured home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such manufactured home by a manufacturer to a distributor or a retailer and prior to the sale of such manufactured home by such distributor or retailer to a purchaser—

(1) the manufacturer shall immediately repurchase such manufactured home from such distributor or retailer at the price paid by such distributor or retailer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or retailer the required conforming part or parts or equipment for installation by the distributor or retailer on or in such manufactured home, and for the installation involved the manufacturer shall reimburse such distributor or retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or retailer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court pursuant to the provisions of subsection (b).

(b) If any manufacturer fails to comply with the requirements of subsection (a), then the distributor or retailer, as the case may be, to whom such manufactured home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

(Pub. L. 93-383, title VI, §613, Aug. 22, 1974, 88 Stat. 706; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106-569, title VI, §603(b)(1), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

Item 3.

AMENDMENTS

- 2000**—Subsecs. (a), (b). Pub. L. 106–569 substituted "retailer" for "dealer" wherever appearing.
- 1980**—Subsecs. (a), (b). Pub. L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

(a) Authority of Secretary; results furnished to Attorney General and Secretary of the Treasury for appropriate action

The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this chapter or otherwise to carry out his duties under this chapter. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with such standards for appropriate action.

(b) Designation by Secretary of persons to enter and inspect factories, etc.; presentation of credentials; reasonableness and scope of inspection

(1) For purposes of enforcement of this chapter, persons duly designated by the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, are authorized—

(A) to enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held, for sale; and

(B) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or establishment, and to inspect such books, papers, records, and documents as are set forth in subsection (c). Each such inspection shall be commenced and completed with reasonable promptness.

(2) The Secretary is authorized to contract with State and local governments and private inspection organizations to carry out his functions under this subsection.

(c) Powers of Secretary

For the purpose of carrying out the provisions of this chapter, the Secretary is authorized—

(1) to hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the Secretary or such officer or employee deems advisable. Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States;

(2) to examine and copy any documentary evidence of any person having materials or information relevant to any function of the Secretary under this chapter;

(3) to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe;

(4) to request from any Federal agency any information he deems necessary to carry out his functions under this chapter, and each such agency is authorized and directed to cooperate with the Secretary and to furnish such information upon request made by the Secretary, and the head of any Federal agency is authorized to detail, on a reimbursable basis, any personnel of such agency to assist in carrying out the duties of the Secretary under this chapter; and

(5) to make available to the public any information which may indicate the existence of a defect which relates to the manufacture of a manufactured home construction or safety or of the failure of a manufactured home to comply with applicable manufactured home construction and safety standards. The Secretary shall disclose so much of other information obtained under this subsection to the public as he determines will assist in carrying out this chapter; but he shall not (under the authority of this sentence) make available or disclosure to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purpose of this chapter.

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(d) Refusal to obey subpoena or order of Secretary; order of compliance by district court; failure to obey order of compliance punishable as contempt

Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary issued under paragraph (1) or paragraph (3) of subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Submission by manufacturer of building plans for manufactured homes; certification by manufacturer of conformity of building plans to standards

Each manufacturer of manufactured homes shall submit the building plans for every model of such manufactured homes to the Secretary or his designee for the purpose of inspection under this section. The manufacturer must certify that each such building plan meets the Federal construction and safety standards in force at that time before the model involved is produced.

(f) Records, reports and information from manufacturers, distributors and retailers of manufactured homes; inspection and examination of relevant books, papers, records and documents by designated person

Each manufacturer, distributor, and retailer of manufactured homes shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and Federal manufactured home construction and safety standards prescribed pursuant to this chapter and shall, upon request of a person duly designated by the Secretary, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor, or retailer has acted or is acting in compliance with this chapter and manufactured home construction and safety standards prescribed pursuant to this chapter.

(g) Performance and technical data from manufacturer; persons required to receive notification of data

Each manufacturer of manufactured homes shall provide to the Secretary such performance data and other technical data related to performance and safety as may be required to carry out the purposes of this chapter. These shall include records of tests and test results which the Secretary may require to be performed. The Secretary is authorized to require the manufacturer to give notification of such performance and technical data to—

(1) each prospective purchaser of a manufactured home before its first sale for purposes other than resale, at each location where any such manufacturer's manufactured homes are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the Secretary to be appropriate, which may include, but is not limited to, printed matter (A) available for retention by such prospective purchaser, and (B) sent by mail to such prospective purchaser upon his request; and

(2) the first person who purchases a manufactured home for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home.

(h) Disclosure of confidential information and trade secrets

All information reported to or otherwise obtained by the Secretary or his representative pursuant to subsection (b), (c), (f), or (g) which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out this chapter or when relevant in any proceeding under this chapter. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of the Congress.

(Pub. L. 93–383, title VI, §614, Aug. 22, 1974, 88 Stat. 707; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106–569, title VI, §603(b)(2), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section

339B(c) of Pub. L. 97-35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile home" and "manufactured homes", respectively. Item 3.

AMENDMENTS

2000—Subsec. (f). Pub. L. 106-569 substituted "retailer" for "dealer" wherever appearing.

1980—Subsecs. (a), (c)(5), (f), (g). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5414. Notification and correction of defects by manufacturer

(a) Notice to purchaser within reasonable time after discovery of defect

Every manufacturer of manufactured homes shall furnish notification of any defect in any manufactured home produced by such manufacturer which he determines, in good faith, relates to a Federal manufactured home construction or safety standard or contains a defect which constitutes an imminent safety hazard to the purchaser of such manufactured home, within a reasonable time after such manufacturer has discovered such defect.

(b) Notification by mail

The notification required by subsection (a) shall be accomplished—

(1) by mail to the first purchaser (not including any retailer or distributor of such manufacturer) of the manufactured home containing the defect, and to any subsequent purchaser to whom any warranty on such manufactured home has been transferred;

(2) by mail to any other person who is a registered owner of such manufactured home and whose name and address has been ascertained pursuant to procedures established under subsection (f); and

(3) by mail or other more expeditious means to the retailer or retailers of such manufacturer to whom such manufactured home was delivered.

(c) Form and requisites of notification

The notification required by subsection (a) shall contain a clear description of such defect or failure to comply, an evaluation of the risk to manufactured home occupants' safety reasonably related to such defect, and a statement of the measures needed to repair the defect. The notification shall also inform the owner whether the defect is a construction or safety defect which the manufacturer will have corrected at no cost to the owner of the manufactured home under subsection (g) or otherwise, or is a defect which must be corrected at the expense of the owner.

(d) Copy to Secretary of all notices, bulletins, and communications sent by manufacturer to retailers and purchasers concerning defects; disclosure to public by Secretary

Every manufacturer of manufactured homes shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the retailers of such manufacturer or purchasers of manufactured homes of such manufacturer regarding any defect in any such manufactured home produced by such manufacturer. The Secretary shall disclose to the public so much of the information contained in such notices or other information obtained under section 5413 of this title as he deems will assist in carrying out the purposes of this chapter, but he shall not disclose any information which contains or relates to a trade secret, or which, if disclosed, would put such manufacturer at a substantial competitive disadvantage, unless he determines that it is necessary to carry out the purposes of this chapter.

(e) Notice by Secretary to manufacturers of noncompliance with standards or defective nature of manufactured home; contents of notice; presentation by manufacturer of views; notice to purchasers of defects

If the Secretary determines that any manufactured home—

- (1) does not comply with an applicable Federal manufactured home construction and safety standard prescribed pursuant to section 5403 of this title; or
- (2) contains a defect which constitutes an imminent safety hazard,

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then he shall immediately notify the manufacturer of such manufactured home of such defect or failure to comply. The notice shall contain the findings of the Secretary and shall include all information upon which the findings are based. The Secretary shall afford such manufacturer an opportunity to present his views and evidence in support thereof, to establish that there is no failure of compliance. If after such presentation by the manufacturer the Secretary determines that such manufactured home does not comply with applicable Federal manufactured home construction or safety standards, or contains a defect which constitutes an imminent safety hazard, the Secretary shall direct the manufacturer to furnish the notification specified in subsections (a) and (b) of this section.

(f) Maintenance by manufacturers of record of names and addresses of first purchasers of manufactured homes; procedures for ascertaining names and addresses of subsequent purchasers; establishment and reasonableness of procedures for maintaining records

Every manufacturer of manufactured homes shall maintain a record of the name and address of the first purchaser of each manufactured home (for purposes other than resale), and, to the maximum extent feasible, shall maintain procedures for ascertaining the name and address of any subsequent purchaser thereof and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each home produced by a manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and retailers to assist manufacturers to secure the information required by this subsection. Such procedures shall be reasonable for the particular type of manufactured home for which they are prescribed.

(g) Correction of defects by manufacturer; conditions; procedures; contract or legal rights of purchasers or other persons unaffected

A manufacturer required to furnish notification of a defect under subsection (a) or (e) shall also bring the manufactured home into compliance with applicable standards and correct the defect or have the defect corrected within a reasonable period of time at no expense to the owner, but only if—

- (1) the defect presents an unreasonable risk of injury or death to occupants of the affected manufactured home or homes;
- (2) the defect can be related to an error in design or assembly of the manufactured home by the manufacturer.

The Secretary may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(h) Submission to Secretary by manufacturer of plan for notifying owners of defects and repair of defects; approval of manufacturer's remedy plan; effectuation and implementation of remedy plan

The manufacturer shall submit his plan for notifying owners of the defect and for repairing such defect (if required under subsection (g)) to the Secretary for his approval before implementing such plan. Whenever a manufacturer is required under subsection (g) to correct a defect, the Secretary shall approve with or without modification, after consultation with the manufacturer of the manufactured home involved, such manufacturer's remedy plan including the date when, and the method by which, the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date of discovery or determination of the defect or failure to comply, unless the Secretary grants an extension of such period for good cause shown and publishes a notice of such extension in the Federal Register. Such manufacturer is bound to implement such remedy plan as approved by the Secretary.

(i) Defective or inadequately repaired manufactured homes; replacement with new or equivalent home or refund of purchase price

Where a defect or failure to comply in a manufactured home cannot be adequately repaired within sixty days from the date of discovery or determination of the defect, the Secretary may require that the manufactured home be replaced with a new or equivalent home without charge, or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the home has been in the possession of the owner for more than one year.

(Pub. L. 93-383, title VI, §615, Aug. 22, 1974, 88 Stat. 709; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106-569, title VI, §603(b)(3), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) section 308(c)(4) of Pub. L. 96-399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97-35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively. Item 3.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106-569, §603(b)(3)(A), substituted "retailer" for "dealer".
 Subsec. (b)(3). Pub. L. 106-569, §603(b)(3)(B), substituted "retailer or retailers" for "dealer or dealers".
 Subsecs. (d), (f). Pub. L. 106-569, §603(b)(3)(C), substituted "retailers" for "dealers".
1980—Subsecs. (a) to (i). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5415. Certification by manufacturer of conformity of manufactured home with standards; form and placement of certification

Every manufacturer of manufactured homes shall furnish to the distributor or retailer at the time of delivery of each such manufactured home produced by such manufacturer certification that such manufactured home conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of a label or tag permanently affixed to each such manufactured home.

(Pub. L. 93-383, title VI, §616, Aug. 22, 1974, 88 Stat. 711; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106-569, title VI, §603(b)(4), Dec. 27, 2000, 114 Stat. 2999.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96-399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97-35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Pub. L. 106-569 substituted "retailer" for "dealer".
1980—Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title. Item 3.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5416. Consumer's manual; contents

The Secretary shall develop guidelines for a consumer's manual to be provided to manufactured home purchasers by the manufacturer. These manuals should identify and explain the purchasers' responsibilities for operation, maintenance, and repair of their manufactured homes.

(Pub. L. 93–383, title VI, §617, Aug. 22, 1974, 88 Stat. 711; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97–35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417.)

EDITORIAL NOTES

CODIFICATION

References to "mobile homes", wherever appearing in text, changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96–399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93–383, set out as a note under section 5401 of this title.

§5417. Effect upon antitrust laws

Nothing contained in this chapter shall be deemed to exempt from the antitrust laws of the United States any conduct that would otherwise be unlawful under such laws, or to prohibit under the antitrust laws of the United States any conduct that would be lawful under such laws. As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 14, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894, as amended.

(Pub. L. 93–383, title VI, §618, Aug. 22, 1974, 88 Stat. 711.)

EDITORIAL NOTES

REFERENCES IN TEXT

Act of July 2, 1890, as amended, referred to in text, is act [July 2, 1890, ch. 647](#), 26 Stat. 209, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 14, 1914, as amended, referred to in text, is act [Oct. 15, 1914, ch. 323](#), 38 Stat. 730, known as the Clayton Act which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in text, is act Sept. 26, 1914, ch. 311, 38 Stat. 717, is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15. For complete classification Act to the Code, see section 58 of Title 15 and Tables. Item 3.

Sections 73 and 74 of the Act of August 27, 1894, referred to in text, are classified to sections 8 and 9 of Title 15.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5418. Use of services, research and testing facilities of public agencies and independent laboratories

The Secretary, in exercising the authority under this chapter, shall utilize the services, research and testing facilities of public agencies and independent testing laboratories to the maximum extent practicable in order to avoid duplication.

(Pub. L. 93-383, title VI, §619, Aug. 22, 1974, 88 Stat. 711.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5419. Authority to collect fee

(a) In general

In carrying out inspections under this chapter, in developing standards and regulations pursuant to section 5403 of this title, and in facilitating the acceptance of the affordability and availability of manufactured housing within the Department, the Secretary may—

(1) establish and collect from manufactured home manufacturers a reasonable fee, as may be necessary to offset the expenses incurred by the Secretary in connection with carrying out the responsibilities of the Secretary under this chapter, including—

(A) conducting inspections and monitoring;

(B) providing funding to States for the administration and implementation of approved State plans under section 5422 of this title, including reasonable funding for cooperative educational and training programs designed to facilitate uniform enforcement under this chapter, which funds may be paid directly to the States or may be paid or provided to any person or entity designated to receive and disburse such funds by cooperative agreements among participating States, provided that such person or entity is not otherwise an agent of the Secretary under this chapter;

(C) providing the funding for a noncareer administrator within the Department to administer the manufactured housing program;

(D) providing the funding for salaries and expenses of employees of the Department to carry out the manufactured housing program;

(E) administering the consensus committee as set forth in section 5403 of this title;

(F) facilitating the acceptance of the quality, durability, safety, and affordability of manufactured housing within the Department; and

(G) the administration and enforcement of the installation standards authorized by section 5404 of this title in States in which the Secretary is required to implement an installation program after the expiration of the 5-year period set forth in section 5404(c)(2)(B) of this title, and the administration and enforcement of a dispute resolution program described in section 5422(c)(12) of this title in States in which the Secretary is required to implement such a program after the expiration of the 5-year period set forth in section 5422(g)(2) of this title; and

(2) subject to subsection (e), use amounts from any fee collected under paragraph (1) of this subsection to pay expenses referred to in that paragraph, which shall be exempt and separate from any limitations on the Department regarding full-time equivalent positions and travel.

(b) Contractors

In using amounts from any fee collected under this section, the Secretary shall ensure that separate and independent contractors are retained to carry out monitoring and inspection work and any other work that may be delegated to a contractor under this chapter.

(c) Prohibited use

No amount from any fee collected under this section may be used for any purpose or activity not specifically authorized by this chapter, unless such activity was already engaged in by the Secretary prior to December 27, 2000.

(d) Modification

Beginning on December 27, 2000, the amount of any fee collected under this section may only be modified—

- (1) as specifically authorized in advance in an annual appropriations Act; and
- (2) pursuant to rulemaking in accordance with section 553 of title 5.

(e) Appropriation and deposit of fees**(1) In general**

There is established in the Treasury of the United States a fund to be known as the "Manufactured Housing Fees Trust Fund" for deposit of amounts from any fee collected under this section. Such amounts shall be held in trust for use only as provided in this chapter.

(2) Appropriation

Amounts from any fee collected under this section shall be available for expenditure only to the extent approved in advance in an annual appropriations Act. Any change in the expenditure of such amounts shall be specifically authorized in advance in an annual appropriations Act.

(3) Payments to States

On and after the effective date of the Manufactured Housing Improvement Act of 2000, the Secretary shall continue to fund the States having approved State plans in the amounts which are not less than the allocated amounts, based on the fee distribution system in effect on the day before such effective date.

(Pub. L. 93–383, title VI, §620, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96–153, title III, §320, Dec. 21, 1979, 93 Stat. 1119; Pub. L. 96–399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 106–569, title VI, §609, Dec. 27, 2000, 114 Stat. 3010.)

EDITORIAL NOTES**REFERENCES IN TEXT**

For the effective date of the Manufactured Housing Improvement Act of 2000, referred to in subsec. (e) (3), see section 612 of Pub. L. 106–569, set out as an Effective Date of 2000 Amendment note under section 5401 of this title.

AMENDMENTS

2000—Pub. L. 106–569 amended section catchline and text generally. Prior to amendment, text read as follows: "In carrying out the inspections required under this chapter, the Secretary may establish and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by him in conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except that this section shall not apply in any State which has in effect a State plan under section 5422 of this title."

1980—Pub. L. 96–399 substituted "manufactured home" for "mobile home".

1979—Pub. L. 96–153 substituted "conducting such inspections, and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections, except" for "conducting such inspections, except".

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106–569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106–569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

Item 3.

FINAL RULEMAKING ON MANUFACTURED HOUSING PAYMENTS

Pub. L. 116-94, div. H, title II, Dec. 20, 2019, 133 Stat. 2994, provided in part: "That the Secretary of Housing and Urban Development shall issue a final rule to complete rulemaking initiated by the proposed rule entitled 'Manufactured Housing Program: Minimum Payments to the States' published in the Federal Register on December 16, 2016 (81 Fed. Reg. 91083)".

MANUFACTURED HOUSING

Pub. L. 107-18, §1, July 5, 2001, 115 Stat. 152, provided that:

"(a) AVAILABILITY OF FEES.—Notwithstanding section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)), any fees collected under that Act, including any fees collected before the date of enactment of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701 note) [Dec. 27, 2000] and remaining unobligated on the date of enactment of this Act [July 5, 2001], shall be available for expenditure to offset the expenses incurred by the Secretary under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), otherwise in accordance with section 620 of that Act.

"(b) DURATION.—The authority for the use of fees provided for in subsection (a) shall remain in effect during the period beginning in fiscal year 2001 and ending on the effective date of the first appropriations Act referred to in section 620(e)(2) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419(e)(2)) that is enacted with respect to a fiscal year after fiscal year 2001."

§5420. Failure to report violations; penalties

Any person, other than an officer or employee of the United States, or a person exercising inspection functions under a State plan pursuant to section 5422 of this title, who knowingly and willfully fails to report a violation of any construction or safety standard established under section 5403 of this title may be fined up to \$1,000 or imprisoned for up to one year, or both.

(Pub. L. 93-383, title VI, §621, Aug. 22, 1974, 88 Stat. 712.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5421. Prohibition on waiver of rights

The rights afforded manufactured home purchasers under this chapter may not be waived, and any provision of a contract or agreement entered into after August 22, 1974, to the contrary shall be void.

(Pub. L. 93-383, title VI, §622, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES

AMENDMENTS

1980—Pub. L. 96-399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5422. State enforcement

(a) Jurisdiction of State agency or court under State law

Nothing in this chapter shall prevent any State agency or court from asserting jurisdiction under State law over any manufactured home construction or safety issue with respect to which no Federal manufactured home construction and safety standard has been established pursuant to the provisions of section 5403 of this title.

(b) Assumption of responsibility for enforcement of Federal standards; submission of enforcement plan to Secretary

Any State which, at any time, desires to assume responsibility for enforcement of manufactured home safety and construction standards relating to any issue with respect to which a Federal standard has been established under section 5403 of this title, shall submit to the Secretary a State plan for enforcement of such standards.

(c) Criteria for approval of State plan by Secretary

The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

- (1) designates a State agency or agencies as the agency or agencies responsible for administering the plan throughout the State;
- (2) provides for the enforcement of manufactured home safety and construction standards promulgated under section 5403 of this title;
- (3) provides for a right of entry and inspection of all factories, warehouses, or establishments in such State in which manufactured homes are manufactured and for the review of plans, in a manner which is identical to that provided in section 5413 of this title;
- (4) provides for the imposition of the civil and criminal penalties under section 5410 of this title;
- (5) provides for the notification and correction procedures under section 5414 of this title;
- (6) provides for the payment of inspection fees by manufacturers in amounts adequate to cover the costs of inspections;
- (7) contains satisfactory assurances that the State agency or agencies have or will have the legal authority and qualified personnel necessary for the enforcement of such standards;
- (8) give satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards;
- (9) requires manufacturers, distributors, and retailers in such State to make reports to the Secretary in the same manner and to the same extent as if the State plan were not in effect;
- (10) provides that the State agency or agencies will make such reports to the Secretary in such form and containing such information as the Secretary shall from time to time require;
- (11) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for an installation program established by State law that meets the requirements of section 5404(c)(3) of this title;
- (12) with respect to any State plan submitted on or after the expiration of the 5-year period beginning on December 27, 2000, provides for a dispute resolution program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured homes regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured homes that are reported during the 1-year period beginning on the date of installation; and
- (13) complies with such other requirements as the Secretary may by regulation prescribe for the enforcement of this chapter.

(d) Notice and hearing prior to rejection by Secretary of State plan

If the Secretary rejects a plan submitted under subsection (b), he shall afford the State submitting the plan due notice and opportunity for a hearing before so doing.

(e) Discretionary enforcement by Secretary of standards in State having approved plan

After the Secretary approves a State plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under this chapter with respect to enforcement of manufactured home construction and safety standards in the State involved.

(f) Annual evaluation by Secretary of execution of State plan; basis of evaluation; submission of evaluation and data to Congress; determination by Secretary of improper administration, etc., of State plan; procedure; effect of determination

The Secretary shall, on the basis of reports submitted by the designated State agency and his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Such evaluation shall be made by the Secretary at least annually for each State, and the results of such evaluation and the inspection reports on which it is based shall be promptly submitted to the appropriate committees of the Congress. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan or that the State plan has become inadequate, he shall notify the State agency or agencies of his withdrawal of approval of such

plan. Upon receipt of such notice by such State agency or agencies such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce manufacturing home standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan. Item 3.

(g) Enforcement of dispute resolution standards

(1) Establishment of dispute resolution program

Not later than the expiration of the 5-year period beginning on December 27, 2000, the Secretary shall establish a dispute resolution program that meets the requirements of subsection (c)(12) for dispute resolution in each State described in paragraph (2) of this subsection. The order establishing the dispute resolution program shall be issued after notice and opportunity for public comment in accordance with section 553 of title 5.

(2) Implementation of dispute resolution program

Beginning on the expiration of the 5-year period described in paragraph (1), the Secretary shall implement the dispute resolution program established under paragraph (1) in each State that has not established a dispute resolution program that meets the requirements of subsection (c)(12).

(3) Contracting out of implementation

In carrying out paragraph (2), the Secretary may contract with an appropriate agent to implement the dispute resolution program established under paragraph (2), except that such agent shall not be a person or entity other than a government, nor an affiliate or subsidiary of such a person or entity, that has entered into a contract with the Secretary to implement any other regulatory program under this chapter.

(Pub. L. 93-383, title VI, §623, Aug. 22, 1974, 88 Stat. 712; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417; Pub. L. 106-569, title VI, §§603(b)(5), 605(b), 610, Dec. 27, 2000, 114 Stat. 2999, 3008, 3011.)

EDITORIAL NOTES

CODIFICATION

Reference to "mobile homes", appearing in subsec. (c)(3), changed to "manufactured homes" in view of the amendment of title VI of the Housing and Community Development Act of 1974 (this chapter) by section 308(c)(4) of Pub. L. 96-399 requiring the substitution of "manufactured home" for "mobile home" wherever appearing in title VI of the Housing and Community Development Act of 1974, and section 339B(c) of Pub. L. 97-35 (set out as a note under section 1703 of Title 12, Banks and Banking) providing that the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively.

AMENDMENTS

2000—Subsec. (c)(9). Pub. L. 106-569, §603(b)(5), substituted "retailers" for "dealers".
 Subsec. (c)(11). Pub. L. 106-569, §605(b)(1), (3), added par. (11). Former par. (11) redesignated (13).
 Subsec. (c)(12). Pub. L. 106-569, §610(1), added par. (12).
 Subsec. (c)(13). Pub. L. 106-569, §605(b)(2), redesignated par. (11) as (13).
 Subsec. (g). Pub. L. 106-569, §610(2), added subsec. (g).
1980—Subsecs. (a), (b), (c)(2), (e), (f). Pub. L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, except that amendment has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as a note under section 5401 of this title.

EFFECTIVE DATE

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5423. Grants to States

(a) Purposes

The Secretary is authorized to make grants to the States which have designated a State agency under section of this title to assist them—

- (1) in identifying their needs and responsibilities in the area of manufactured home construction and safety standards; or
- (2) in developing State plans under section 5422 of this title.

(b) Designation by Governor of State agency for receipt of grant

The Governor of each State shall designate the appropriate State agency for receipt of any grant made by the Secretary under this section.

(c) Submission of application by State agency to Secretary; review by Secretary

Any State agency designated by the Governor of a State desiring a grant under this section shall submit an application therefor to the Secretary. The Secretary shall review and either accept or reject such application.

(d) Amount of Federal share; equality of distribution of funds

The Federal share for each State grant under subsection (a) of this section may not exceed 90 per centum of the total cost to the State in identifying its needs and developing its plan. In the event the Federal share for all States under such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(Pub. L. 93-383, title VI, §624, Aug. 22, 1974, 88 Stat. 713; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641.)

EDITORIAL NOTES**AMENDMENTS**

1980—Subsec. (a)(1). Pub. L. 96-399 substituted "manufactured home" for "mobile home".

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE**

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

§5424. Rules and regulations

The Secretary is authorized to issue, amend, and revoke such rules and regulations as he deems necessary to carry out this chapter.

(Pub. L. 93-383, title VI, §625, Aug. 22, 1974, 88 Stat. 713.)

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE**

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

REGULATIONS AND PROCEDURES WITH REGARD TO MANUFACTURED HOMES

Pub. L. 96-399, title III, §308(c)(7), Oct. 8, 1980, 94 Stat. 1641, provided that: "In adopting regulations and procedures in accordance with this subsection [see Tables for classification] the Secretary of Housing and Urban Development shall have discretion to take actions in a manner which he deems necessary to insure that the public is fully aware of the distinctions between the various types of factory-built housing."

§5425. Repealed. Pub. L. 106-569, title VI, §611(1), Dec. 27, 2000, 114 Stat. 3012

Section, Pub. L. 93-383, title VI, §626, Aug. 22, 1974, 88 Stat. 714; Pub. L. 95-557, title IX, §901, Oct. 31, 1978, 92 Stat. 2124; Pub. L. 96-399, title III, §308(c)(4), Oct. 8, 1980, 94 Stat. 1641; Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417, related to reports to Congress.

STATUTORY NOTES AND RELATED SUBSIDIARIES

Item 3.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 27, 2000, except that repeal has no effect on any order or interpretative bulletin issued under this chapter and published as a proposed rule pursuant to 5 U.S.C. 553 on or before Dec. 27, 2000, see section 612 of Pub. L. 106-569, set out as an Effective Date of 2000 Amendment note under section 5401 of this title.

§5426. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter. (Pub. L. 93-383, title VI, §626, formerly §627, Aug. 22, 1974, 88 Stat. 714; renumbered §626, Pub. L. 106-569, title VI, §611(2), Dec. 27, 2000, 114 Stat. 3012.)

EDITORIAL NOTES**PRIOR PROVISIONS**

A prior section 626 of Pub. L. 93-383 was classified to section 5425 of this title, prior to repeal by Pub. L. 106-569.

STATUTORY NOTES AND RELATED SUBSIDIARIES**EFFECTIVE DATE**

Section effective upon the expiration of 180 days following Aug. 22, 1974, see section 627 of Pub. L. 93-383, set out as a note under section 5401 of this title.

Fax

From

To

Zoning Violation, C.A.
25-00004632

Number of pages

5

Message

ATTN: EDDIE COPP

Dear Mr. Kopp,

Please see the attached Request for Appeal in the above-referenced case.

Peter K. Schaeffer Jr., Esq

Avenue Law

avenuelaw.com<<http://avenuelaw.com/>>

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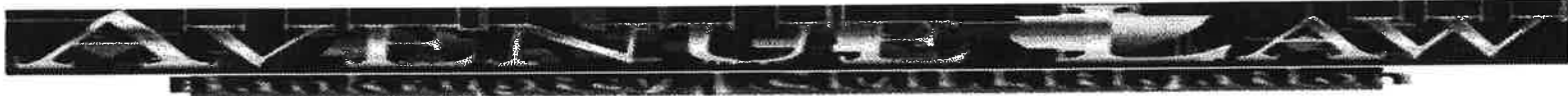
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Item 3.



AVENUE LAW

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November 14, 2025

Via 1st Class U.S. Mail and Facsimile

City of Dover

Division of Code Enforcement

15 Loockerman Plaza

Dover, DE 19901

attn: Eddie Kopp

facsimile: 302.736.4217

RE: Case Number: 25-00004632
Kings Cliffe MHP, LLC ("Kings Cliffe")
1131 S. Bay Road
Tax Parcel Number: ED-05-086.00-01-080.000-000
Dover, DE 19901
City of Dover Violation Detail dated October 17, 2025

REQUEST FOR APPEAL

Dear Mr. Kopp,

I represent Kings Cliffe MHP, LLC regarding their manufactured home community at 1131 S. Bay Road, Dover, DE 19901. I've reached out to you by phone, and have reached out to Daniel Griffith via phone and email but have not received a response.

On behalf of my client, I request an appeal of Violation 733 cited in the attached Violation Detail.

I'd also like to point out that the subject property was issued a Violation on November 23, 2020, for the same Code section. After an appeal hearing and testimony on January 21, 2021, the City Council ruled in favor of use of RV rentals on the subject property. This current matter is based on the same violation and appears subject to issue preclusion as the matter has already been decided. Instead of going through an appeal with the attendant costs and expenses, I would ask that the City of Dover withdraw the current violation.

I also point out that the 2021 decision by City Council allowing RV rentals on the subject property formed a material basis for the relatively recent purchase of the manufactured home community by Kings Cliffe.

I respectfully ask that you reconsider the present Violation based on the City Council finding on the same code section on January 21, 2021. If not, then please let me know of the appeal hearing date.

Thank you in advance for your consideration of this matter.

Thank you for your consideration,

/s/Peter K Schaeffer Jr. Esq.

cc: Kings Cliffe MHP, LLC
Daniel Griffith, Esq.

attch: City of Dover Violation Detail, 10/17/25

VIOLATION DETAIL

PAGE

Item 3.

CASE NUMBER 25-00004632
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 733 QUANTITY: 1
DESCRIPTION: 733 ZONING VIOLATION DATE: 10/17/25
LOCATION: PROPERTY

NARRATIVE :

Discontinue the use of mobile homes, house trailers, and recreational vehicles located within the property know as Kings Cliffe MHP, LLC.

No new non conforming mobile home, house trailer or recreational vehicle can be added to the community. Any mobile home, house trailer or recreational vehicle that was pre-existing prior to September 24, 2018 is deemed non-conforming. The non conforming status is for the vehicle or structure and not for the lot.

Any mobile home, house trailer, or recreational vehicle brought into the community after September 24, 2018 is in violation of Appendix B, Article 3. District Regulations, Section 8.- Manufactured housing (MH) zone.

8.4 Uses prohibited. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

ORDINANCE DESCRIPTION :

City of Dover Zoning violation(s).

CORRECTIVE ACTION REQUIRED :

Correct zoning violation(s) as directed in the time frame provided.

From: [Kopp, Eddie L](#)
To: [Taachus, Janella M](#)
Cc: [City Clerks Office](#); [Hugg, Dave](#); [Coburn, Ron](#)
Subject: Request for Appeal 20-00003344
Date: Wednesday, January 6, 2021 9:18:57 AM
Attachments: [Scanned Files_001.pdf](#)

Good Morning,

I have received a request for an appeal for case 20-00003344. The property address is 1131 S Bay Rd Kings Cliff Mobile Home Park.

Eddie L. Kopp

City of Dover Code Enforcement
15 Loockerman Plaza
Dover DE 19901
Phone (302)760-4929
Fax (302) 736-4217
E-Mail: ekopp@dover.de.us

From: [Kopp, Eddie L](#)
To: [Ramsey, Megan R.](#)
Subject: RE: Request for Citation - Review of Appeal - 1131 S Bay Rd - Peter Schaeffer Jr.
Date: Wednesday, January 6, 2021 12:15:50 PM

I have uploaded the case 20-00003344 into docuware. It will not allow me to send the PDF file I have created do to the size. I can send it to you in pieces if I need be just let me know.

Eddie L. Kopp

City of Dover Code Enforcement

15 Loockerman Plaza

Dover DE 19901

Phone (302)760-4929

Fax (302) 736-4217

E-Mail: ekopp@dover.de.us

From: Ramsey, Megan R. <mramsey@dover.de.us>
Sent: Wednesday, January 6, 2021 10:12 AM
To: Kopp, Eddie L <ekopp@dover.de.us>
Cc: City Clerks Office <CityClerk@dover.de.us>; Hugg, Dave <dhugg@dover.de.us>; Coburn, Ron <RCoburn@dover.de.us>
Subject: Request for Citation - Review of Appeal - 1131 S Bay Rd - Peter Schaeffer Jr.

Good Morning,

Attached please find an appeal that has been received by the City Clerk's Office from Peter Schaeffer Jr., Esq. in regard to the property located at 1131 S Bay Rd. Please provide the citation which was issued in this matter so that we may determine if this appeal should be heard by the Construction and Property Maintenance Code Board of Appeals.

Thank you,

Megan Ramsey

Administrative Assistant

City of Dover, Delaware

Email: mramsey@dover.de.us

Phone: 736-4462

Fax: 736-5068

From: [Kopp, Eddie L](#)
To: [Ramsey, Megan R.](#)
Cc: [Coburn, Ron](#); [Hugg, Dave](#)
Subject: 20-00003344
Date: Wednesday, January 6, 2021 2:22:38 PM
Attachments: [20-00003344 Appeal.pdf](#)

I was able to compress the file. Here is the documents I am submitting for the appeal.

Eddie L. Kopp

City of Dover Code Enforcement

15 Loockerman Plaza

Dover DE 19901

Phone (302)760-4929

Fax (302) 736-4217

E-Mail: ekopp@dover.de.us

From: [Ramsey, Megan R.](#)
To: gjunge@schmittrod.com; "Nick Rodriguez"
Cc: [City Clerks Office](#)
Subject: RE: Construction and Property Maintenance Code Board of Appeals Legal Opinion Needed
Date: Monday, January 11, 2021 9:45:45 AM
Importance: High

Good Morning Mr. Junge,

The Construction and Property Maintenance Code Board of Appeals will be hearing this appeal in the meeting scheduled for Wednesday, January 20, 2021 at 3:30pm via WebEx. Can you please advise who has the right of appeal?

Thank you,

Megan Ramsey

Administrative Assistant

City of Dover, Delaware

Email: mramsey@dover.de.us

Phone: 736-4462

Fax: 736-5068

From: gjunge@schmittrod.com <gjunge@schmittrod.com>
Sent: Wednesday, January 6, 2021 4:16 PM
To: Ramsey, Megan R. <mramsey@dover.de.us>; 'Nick Rodriguez' <nrodriguez@schmittrod.com>
Cc: City Clerks Office <CityClerk@dover.de.us>
Subject: RE: Construction and Property Maintenance Code Board of Appeals Legal Opinion Needed

Megan,

It should go forward. He was discussing the issue with me. He was attempting to settle the matter in good faith but had to file the appeal one it was determined we couldn't come to an agreement.

Gary

Gary E Junge | Attorney

Schmittinger & Rodriguez

414 South State Street

Dover, DE 19901

T: (302) 674-0140

This message is intended for the exclusive use of the named addressee and may contain information that is privileged or confidential or otherwise legally exempt from disclosure. If you have received this message in error or are not the named addressee or his or her authorized agent, please notify me immediately by e-mail, discard any paper copies and delete all electronic files of this message.

From: Ramsey, Megan R. <mramsey@dover.de.us>
Sent: Wednesday, January 6, 2021 3:33 PM

To: Nick Rodriguez <nrodriguez@schmittrod.com>; 'gjunge@schmittrod.com' <gjunge@schmittrod.com>

Cc: City Clerks Office <CityClerk@dover.de.us>

Subject: Construction and Property Maintenance Code Board of Appeals Legal Opinion Needed

Importance: High

Mr. Rodriguez:

We have received an appeal for the Construction and Property Maintenance Code Board of Appeals from Mr. Peter Schaeffer which I have attached to this email as well as supporting documentation provided by the Code Enforcement Office. Upon reviewing the case history, the original violation was discovered by Mr. Kopp on November 23, 2020. The appeal was received by Mr. Kopp on January 5, 2021.

Below please see Section 22-1b of the Dover Code:

(b) *Appeals:* Whenever any person is aggrieved by a decision of the building inspector with respect to the provision of this chapter, it is the right of that person to appeal to the construction and property maintenance code board of appeals. Such appeal must be filed, in writing, within 30 days after the determination by the building inspector.

Our interpretation of the code is that the determination was made by the building inspector on November 23, 2020 and therefore is outside of the 30 day window allotted. Can you please provide a legal opinion as to whether or not this violation can be appealed?

Thank you,

Megan Ramsey

Administrative Assistant

City of Dover, Delaware

Email: mramsey@dover.de.us

Phone: 736-4462

Fax: 736-5068



January 11, 2021

MHP Investments, LLC
1051 Tuckerton Road
Marlton, NJ 08053

Avenue Law
Attn: Peter K. Schaeffer, Jr., Esq.
1073 South Governors Avenue
Dover, DE 19904
peter.schaeffer@avenuelaw.com

Re: Appeal of Violation - Dover City Code of Ordinances - 1131 South Bay Road, Dover, DE Case #: 20-00003344

MHP Investments, LLC:

I have received your request to appeal the violation of the Dover City Code of Ordinances - Appendix B - Article 3, Section 8.4 - Uses Prohibited at 1131 South Bay Road, Dover Delaware. Per your letter dated December 1, 2020, Violation 255 is uncontested and will not be considered in this meeting. Section 8.4 of the Dover Code states the following:

Section 8.4 *Uses prohibited*. The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

A meeting of the Construction and Property Maintenance Code Board of Appeals has been scheduled for Wednesday, January 20, 2020 at 3:30 p.m. to hear your appeal. This meeting will be held through WebEx and may be accessed through a computer, smart phone or through a telephone call. Below I have listed the information needed to access the meeting.

Please feel free to contact me by email at cityclerk@dover.de.us or by phone at (302) 736-7008 if you have any questions or concerns.

Dial: 1-408-419-9388

Link: <https://cityofdoverde.webex.com/cityofdoverde/onstage/g.php?MTID=eab13c222214d26e8eb9f8599e7d76756>

Event Number/Access Code: 179 001 7731

Event Password: DOVER

Sincerely,

Megan Ramsey
Administrative Assistant

TAM/mr

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC Receipt of Appeal - Property Maintenance - Exterior - 1161 South Bay Road.wpd

Construction and Property Maintenance Code Board of Appeals Agenda



January 20, 2021 - 3:30 p.m.

This meeting will be held electronically. Public participation information is as follows:

Dial: 1-408-418-9388

Link:

<https://cityofdoverde.webex.com/cityofdoverde/onstage/g.php?MTID=eab13c222214d26e8eb9f8599e7d76756>

Event number/Access code: 179 001 7731

Event password: DOVER (if needed)

If you are new to WebEx get the app now at <https://www.webex.com/> to be ready when the meeting starts

Adoption of Agenda

1. **Property Maintenance Code Citation (Appendix B - Zoning, Article 3 - District Regulations, Section 8.4 - Uses Prohibited) - Appeal of Violation - 1131 South Bay Road (MHP Investments, LLC)**
2. **Property Maintenance Code Citation (Chapter 114 - Vegetation, Article II - Weeds, Section 114-32 - Maximum Height, Chapter 22 - Buildings and Building Regulations, and the 2009 International Property Maintenance Code) - Appeal of Citation and Fines - 8 South New Street (James Sloven)**
3. **Adjournment**

/mr

S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Misc-Agendas\CPMCBA\2021\01-20-2021 CPMCBA AGENDA.wpd

Division of
Code Enforcement
15 Loockerman Plaza
Dover, DE 19901

City of Dover



Phone: (302) 736-7011
Fax: (302) 736-4217

November 23, 2020

MHP INVESTMENTS LLC
1051 TUCKERTON RD
MARLTON NJ 08053

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 20-00003344

Dear Sir/Madam:

On November 23, 2020, Code Enforcement Officer Eddie Kopp with the City of Dover, Department of Inspections conducted an inspection at 1131 S BAY RD.

Attached are the Code violations found during the inspection.

A follow up inspection must be conducted by **December 23, 2020**, to ensure compliance.

You are not required to contact this office if the re-inspection is for an exterior violation. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,

Eddie Kopp
Code Enforcement Officer

cc: File

CASE NUMBER 20-00003344
PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 255 QUANTITY: 1
DESCRIPTION: 255 REPAIR OR REPLACE DRIVEWAY DATE: 11/23/20
LOCATION: ENTIRE MH PARK

NARRATIVE :

Repair the streets located within the Kings Cliff Mobile Home Park. The streets located within the park are deteriorated and in need of repair and/or paving. A permit may be required to pave the community.

Dover Code Of Ordinance Sec. 66-4. - Land lease communities.

(a)The following regulations shall apply to the maintenance of land lease communities:(1)Private road access. It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.

ORDINANCE DESCRIPTION :
SECTION PM 302.3 DRIVEWAY SURFACE

CORRECTIVE ACTION REQUIRED :
REPAIR OR REPLACE DAMAGED AND/OR DETERIORATED DRIVEWAY

VIOLATION: 734 QUANTITY: 1
DESCRIPTION: 734 DCO VIOLATION DATE: 11/23/20
LOCATION: KINGS CLFF MHP

NARRATIVE :

Discontinue adding new non approved homes to the property. Only Department of Housing and Urban Development licensed manufactured homes are permitted to located on the property. No new non approved homes may be added to the property. As of November 23, 2020 the following homes has been recorded as pre-existing: Lot 1, 1A, 42, 54, 60, 74, 89, 108, 109, 110, 132, 138, 142, 147, and 149.

ORDINANCE DESCRIPTION :
Dover City Code of Ordinances

CORRECTIVE ACTION REQUIRED :
Correct violation notice in the time frame provided.

Division of
Code Enforcement
15 Loockerman Plaza
Dover, DE 19901



Phone: (302) 736-7011
Fax: (302) 736-4217

November 23, 2020

KINGS CLIFF MOBILE HOME PARK
1131 S BAY RD
DOVER DE 19901

RE: Property address: 1131 S BAY RD
Tax Parcel Number: ED-05-086.00-01-080.000-000
Case Number: 20-00003344

Dear Sir/Madam:

On November 23, 2020, Code Enforcement Officer Eddie Kopp with the City of Dover, Department of Inspections conducted an inspection at 1131 S BAY RD.

Attached are the Code violations found during the inspection.

A follow up inspection must be conducted by **December 23, 2020**, to ensure compliance.

You are not required to contact this office if the re-inspection is for an exterior violation. If you have any questions or would like to schedule your inspection or appeal this notice, please contact me at (302) 736-7011.

Sincerely,



Eddie Kopp
Code Enforcement Officer

cc: File

CASE NUMBER 20-00003344
 PROPERTY ADDRESS 1131 S BAY RD

VIOLATION: 255 QUANTITY: 1
 DESCRIPTION: 255 REPAIR OR REPLACE DRIVEWAY DATE: 11/23/20
 LOCATION: ENTIRE MH PARK

NARRATIVE :

Repair the streets located within the Kings Cliff Mobile Home Park. The streets located within the park are deteriorated and in need of repair and/or paving. A permit may be required to pave the community.
 Dover Code Of Ordinance Sec. 66-4. - Land lease communities.

(a)The following regulations shall apply to the maintenance of land lease communities:(1)Private road access. It shall be the responsibility of land lease community owners to maintain all private streets, driveway access to such streets, access to fire hydrants, and access to central mailboxes so as to be clear from obstructions, including, but not limited to, potholes, snow piles, and debris.

ORDINANCE DESCRIPTION :
 SECTION PM 302.3 DRIVEWAY SURFACE

CORRECTIVE ACTION REQUIRED :
 REPAIR OR REPLACE DAMAGED AND/OR DETERIORATED DRIVEWAY

VIOLATION: 734 QUANTITY: 1
 DESCRIPTION: 734 DCO VIOLATION DATE: 11/23/20
 LOCATION: KINGS CLFF MHP

NARRATIVE :

Discontinue adding new non approved homes to the property. Only Department of Housing and Urban Development licensed manufactured homes are permitted to located on the property. No new non approved homes may be added to the property. As of November 23, 2020 the following homes has been recorded as pre-existing: Lot 1, 1A, 42, 54, 60, 74, 89, 108, 109, 110, 132, 138, 142, 147, and 149.

ORDINANCE DESCRIPTION :
 Dover City Code of Ordinances

CORRECTIVE ACTION REQUIRED :
 Correct violation notice in the time frame provided.

Peter K. Schaeffer, Jr., Esq.

Avenue Law
1073 South Governors Avenue
Dover, DE 19904-6901

Tel: (302) 674-2210
Fax: (302) 674-2099
office@avenuelaw.com

Via 1st Class U.S. Mail and Facsimile

City of Dover
Division of Code Enforcement
15 Loockerman Plaza
Dover, DE 19901
attn: Eddie Kopp
facsimile: 302.736.4217

RE: Case Number: 20-00003344
Kings Cliff Mobile Home Park
1131 S. Bay Road
Dover, DE 19901
City of Dover Letter dated November 23, 2020

REQUEST FOR APPEAL

Dear Mr. Kopp,

Since my prior letter of December 1, 2020, I have been contacted by the City of Dover solicitor Gary E. Junge, Esq. Although attempts were made to come to a resolution, yesterday Mr. Junge gave me notice that the City is of the position that the issue of recreational vehicle lot rentals is a non-conforming use. On behalf of my client, MHP Investments, LLC, we respectfully request an appeal of Violation # 734.

I have cc'd Mr. Junge on this letter, and ask that we schedule a mutually agreeable time to further contest the aforementioned violation.

Thank you in advance for your consideration of this matter.

Respectfully Yours,

/s/ Peter K. Schaeffer, Jr., Esq.
Peter K. Schaeffer, Jr., Esq. (I.D. 005255)

January 5, 2021

Cc: MHP Investments, LLC
Gary E. Junge, Esq.

Item 3.

Fax

From

To

Kings Cliffe Mobil Home
Park, Case Number
20-00003344

Number of pages

2

Message

Eddie and Gary,

Please see the attached letter requesting an appeal
for the above matter.
Happy New Year,

Peter K. Schaeffer Jr., Esq

Avenue Law
www.avenuelaw.com<<http://www.avenuelaw.com/>>
1073 South Governors Avenue
Dover DE 19904-6901

New Email address
Email: peter.schaeffer@avenuelaw.com
Phone: 302.674.2210
Fax: 302.674.2099

Avenue Law COVID-19 Update - 11-4-2020

Due to recent developments with COVID-19, it is out of an abundance of caution that Avenue Law has closed our offices to the public until the public health threat is eliminated. Our attorneys and staff will work during this time and will be available via phone, fax and email between the hours of 8:00am - 4:00pm, Monday through Friday. If you have any questions, please reach out to our staff to discuss your options. Please deliver all documents via fax, email (pdf) or mail We will forward pertinent

160

Peter K. Schaeffer, Jr., Esq.

Avenue Law
1073 South Governors Avenue
Dover, DE 19904-6901

Tel: (302) 674-2210
Fax: (302) 674-2099
office@avenuelaw.com

Via 1st Class U.S. Mail and Facsimile

City of Dover
Division of Code Enforcement
15 Loockerman Plaza
Dover, DE 19901
attn: Eddie Kopp
facsimile: 302.736.4217

RE: Case Number: 20-00003344
Kings Cliff Mobile Home Park
1131 S. Bay Road
Dover, DE 19901
City of Dover Letter dated November 23, 2020

Dear Mr. Kopp,

The property owned by MHP Investments, LLC Tax Parcel Number: ED-05-086.00-01-080.000-000, was purchased from prior owners in June, 2016. At the time of purchase, the prior owner, Richard Thomas, had a manufactured home community in addition to twelve recreational vehicle sites that were set up with electric and sewage specifically for recreational vehicles ("RV's"). It is our understanding that the prior owner began the lot in question as an RV site, and only later obtained permission to operate in addition as a manufactured home community. Therefore, the lots outfitted for RV's were improved specifically for such use, and have been in existence for decades, used solely as RV sites.

I reviewed the City of Dover Code of Ordinances, Chapter 66, as well as 25 *Del.C.* § 7001 *et seq.* and do not see any prohibitions on use of lots for RV's on the cited property. Furthermore, 25 *Del.C.* § 7004 specifically excludes RV's from any requirements imposed on manufactured home communities and does not forbid RV rental lots in conjunction with manufactured home lot rental.

MHP Investments, LLC respectfully contests any finding that RV's must conform to manufactured home requirements as specified by the Department of Housing and Urban Development, and are therefore not subject to prohibitions applied to manufactured homes under Title 25 of the Delaware Code or City of Dover Code of Ordinances specific to manufactured home communities. The application of code sections, whether those of the City

¶

of Dover or Title 25, do not apply to RV's, therefore the prohibition of long-standing RV lot rentals from further use, as stated in Violation 734, is without basis in law.

We respectfully ask that you remove Violation 734. We do not contest Violation 255, and MHP Investments, LLC is currently in progress of compliance with Dover Code of Ordinance § 66-4.

Please feel free to contact Avenue Law regarding any questions or concerns by the City of Dover regarding Violation 734.

Respectfully Yours,

/s/ Peter K. Schaeffer, Jr., Esq.

Peter K. Schaeffer, Jr., Esq. (I.D. 005255)

December 1, 2020

Cc: MHP Investments, LLC

Section 8. - Manufactured housing (MH) zone.

8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any uses, except the following:

8.11 Manufactured homes on individual lots, held in any type of ownership.

8.12 Multiple manufactured homes on a lot, provided that:

- (a) The lot is operated as a condominium, including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
- (b) The lot is operated as a land lease community; and
- (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.

8.13 Permanently placed manufactured homes on individual lots, provided that the home and the lot are under common ownership.

8.14 Multiple permanently placed manufactured homes on a lot, provided that:

- (a) The lot is operated as a condominium including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
- (b) The lot is operated as a land lease community; and
- (c) There are at least 15 permanently placed manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 permanently placed manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a permanently placed manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.

8.15 One-family detached homes on individual lots, held in any type of ownership.

8.2 *Conditional uses.* Conditional uses shall be consistent with those conditionally permitted in the one-family residence zones.

8.3 *Accessory uses.* Accessory uses shall be consistent with those permitted in the one-family residence zones, with the following additions and exceptions:

8.31 Management facilities. The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:

- (a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;
- (b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and equipment;
- (c) Laundry facilities equipped with washing machines and dryers;
- (d) Community building facilities, including indoor recreation areas;
- (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood commercial zone, limited to one such establishment per lot;
- (f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the one-family residence zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited.* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length.* No lot or home site within the manufactured housing zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land lease communities.* The following regulations shall apply to land lease communities within the MH zone:

8.61 The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the state dealing with unit properties and condominiums.

8.62 *Changes to site plan.* After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards.* All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the fire marshal's office.

8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured Homes, Mobile Homes, and Land Lease Communities.

8.9 *Maximum density.* The gross residential density in an MH zone shall not exceed six dwelling units per acre.

8.10 *Signs.* Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section 4—Supplementary Sign Regulations.

(Ord. No. 2016-16, 8-8-2016; Ord. No. 2018-01, 9-24-2018)

Footnotes:

--- (2) ---

Editor's note— Ord. No. 2016-16, adopted August 8, 2016, in effect, repealed § 8 and enacted a new § 8 as set out herein. Former § 8 pertained to similiar subject matter and derived from Ord. of 10-13-1981; Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and Ord. No. 2010-29, adopted January 10, 2011.

February 15, 2019

Kings Cliffe Mobile Home Park
1131 S. Bay Rd.
Dover, DE 19901

Re: **Amendments to the Dover Code of Ordinances and the Dover Zoning Ordinance Concerning Mobile Homes, Manufactured Homes, and Land Lease Communities**

To whom it may concern,

On September 24, 2018, the Dover City Council adopted Ordinance #2018-01- **Manufactured Homes**. This ordinance follows on previous updates made to the *Dover Code of Ordinances* through Ordinance #2016-16, which was adopted on August 8, 2016. Together these two ordinances update standards and terminology throughout the *Dover Code* related to manufactured homes and mobile homes. They also enact standards for management and maintenance of land lease communities, a type of community which includes manufactured home parks.

As the owner of a land lease community/manufactured home park, you are encouraged to review the two major sections of the *Dover Code of Ordinances* pertaining to manufactured homes and land lease communities. These are the *Dover Code of Ordinances, Chapter 66-Manufactured Homes, Mobile Homes, and Land Lease Communities*, and the *Zoning Ordinance, Article 3 Section 8- Manufactured Housing Zone*. Both sections have been heavily restructured since 2016, so they are worth reading in their entirety to understand how manufactured homes and land lease communities are now regulated in Dover. The sections are enclosed with this letter; they may also be found together with the full *Dover Code* by going to www.cityofdover.com and clicking on the “municipal code” link.

The Planning Office would in particular like to draw your attention to several updated standards for the management and maintenance of land lease communities, described below.

The following are the maintenance responsibilities of owners of land lease communities, unless they are specifically delegated to a homeowner or other party*:

- Maintaining all private streets, access of driveways to these streets, access to fire hydrants, and access to central mailboxes. Streets must be clear of obstructions, including potholes, snow piles, and debris.
- Keeping all common areas in good repair and free of debris. Debris must especially be cleared if they create a fire hazard or potential pest control problem.
- Keeping community landscape areas in good repair and free of overgrowth. Trees over 25 feet in height must also be maintained by the owner. Note that this does not require removal of plant debris produced naturally (i.e. fallen leaves) nor does it compel the owner to enter rented lots without permission of the homeowner.

- Keeping all water, electrical, plumbing, gas, septic, sewer, and other utilities provided by the owner to tenants in good working order. The owner must also maintain the community's stormwater management facilities so that standing water does not accumulate outside of designated retention basins or ponds. Flowing water or water that dissipates within 48 hours is not considered standing water.

*Limitations on what responsibilities can be delegated apply. Please see *Dover Code of Ordinances* Chapter 66 Section 66-4(a)(5).

The following additional requirements also apply:

- Each community must have an associated office within the community, elsewhere in Dover, or elsewhere in Kent County. This office must be open to tenants and others at least 20 hours a week, including at least five hours between the hours of 7am and 8am and/or 5pm and midnight. The office hours must be posted and clearly communicated to residents of the community.
- Each community must have a 24-hour emergency contact available to residents.
- Receipts must be given to tenants for their rent payments. Tenants paying in cash must be given a receipt immediately. Tenants paying by any other method must receive a receipt within two days.
- The community must keep a record of all receipts given for cash payments of rent. Individual records in the record book must be kept for at least three years.
- The community must annually report to the City of Dover (by July 1st) a record of all homes within the community, including the name of the owner of each home, the address of each home, and each owner's address, if different from the home address. A sample report is enclosed with this letter.
- The owner or operator of each community must obtain or keep current an annual business license from the City of Dover to operate the park.
- Only Department of Housing and Urban Development-licensed manufactured homes are permitted to locate to manufactured home parks within Dover. Older mobile home models as well as recreational vehicles may remain if already in a park, but no new ones may be moved in.

Please note that while all the above regulations are effective immediately, the City recognizes that communities may need some time to put into action needed changes to meet the regulations. Please cooperate with City Code Enforcement Staff to resolve any disputes. Please also contact the City's Planning Office at (302) 736-7196 if you have any questions.

Sincerely,
 Department of Planning & Inspections



David S. Hugg III
 Director, Planning & Community Development

Ed/DSH

ARTICLE 7. - NONCONFORMING BUILDINGS AND USES**Section 1. - Nonconforming buildings and uses.**

The following provisions shall apply to all buildings and uses existing on the effective date of this ordinance, which buildings and uses do not conform to the requirements set forth in this ordinance; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this ordinance and the zoning map which is a part thereof; and to all conforming buildings housing nonconforming uses:

- 1.1 Any nonconforming use, except those nonconforming uses specified in [sub] section 1.5, may be continued indefinitely, but:
 - 1.11 Shall not be enlarged, extended, reconstructed or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this ordinance, nor shall any external evidence of such use such as traffic, noise, vibration, smoke, dust, odor, heat or glare be increased by any means whatsoever; or
 - 1.12 Shall not be changed to another nonconforming use without a special permit from the board of adjustment, and then only to a use which, in the opinion of said board, is of the same or a more restricted nature; or
 - 1.13 Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- 1.2 Except as provided in paragraph [subsection] 1.4 below, no building which houses a non-conforming use shall be:
 - 1.21 Structurally altered or enlarged; or
 - 1.22 Moved to another location where such use would be nonconforming; or
 - 1.23 Restored for other than a conforming use after damage from any cause exceeding 75 percent of the replacement cost of such building, exclusive of foundations. Any such building damage[d] to a lesser extent may be restored, but not enlarged, and the nonconforming use reinstated within one year of such damage; [however,] if the restoration of such building is not completed

within the said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.

1.3 Normal maintenance and repair, structural alteration in, and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, front yard, side yard, rear yard, maximum height, maximum lot coverage, or minimum livable floor area per dwelling is permitted if the same does not increase the degree of, or create any new nonconformity with such regulations in such building.

1.4 Nothing in this article shall be deemed to prevent normal maintenance and repair of any building, or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the city planner shall state the precise reason why such alterations were deemed necessary.

1.5 Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the city to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this ordinance; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.

1.51 In any residence zone, any nonconforming use of open land, including such uses as a parking lot, junkyard, or open storage yard for materials or equipment, may be continued for three years after the effective date of this ordinance, or after annexation of the property into the City of Dover, provided that, after the expiration of that period, such nonconforming use shall be terminated (see also article 6, section 1.12). Any "mobile home" as that term is defined in article 12 hereof, that was located within the limits of the City of Dover at the effective date of this ordinance [November 22, 1976], or that was in place on any land subsequently annexed into the City of Dover, shall constitute a nonconforming use and shall be permitted to be maintained as a

nonconforming use indefinitely. However, such mobile home shall be required to connect to city sewer and water mains, if available, and such mobile home shall be subject to and shall comply with all other city codes and ordinances applicable to structures and residences.

1.52 In any residence zone, any sign not of a type permitted, or of a permitted type, but greater than two times the maximum permitted size may be continued for one year following the effective date of this ordinance, provided that, after the expiration of that period, such nonconforming use shall be terminated.

1.53 In any residence zone, any non-conforming use of buildings which is not permitted under the provisions of this ordinance may be continued for a period of:

- (a) Twenty years after the effective date of this ordinance, or
- (b) Forty years after the initial construction of the building containing such use or of any addition thereto adding 50 percent or more to the floor area occupied by such use,

whichever is the longer period, provided that, after the expiration of that period, such nonconforming use shall be terminated. However, no such nonconforming use shall be permitted to continue for a period exceeding two years, unless such use shall be operated in conformance with performance standards established in article 5, section 8.

1.6 Residential occupancies that meet the definition of "student home," as provided in article 12 of this ordinance, that can be proven to have been in existence as a student home use prior to the enactment of regulations governing student homes, shall be permitted to remain as legal nonconforming uses as to location and shall not be subject to the conditional use approval requirements set forth in article 10, section 2, provided that all such uses shall be made to conform with all other provisions of article 3, section 2.4, subsection (b), with regard to licensing as a student home, off-street parking requirements and number of students in residence in the student home, within six months of the effective date of the ordinance amendment establishing article 3, section 2.4, subsection (b). Documentation to prove that a student home use existed prior to the enactment of this ordinance shall be limited to executed lease agreements, City of Dover

licensing data, and/or [a] sworn legal affidavit from the owner of record of the property. Failure to bring a nonconforming student home use into compliance within the specified six-month period shall be deemed a violation of this ordinance and subject to penalties as set forth in article 8 of the zoning ordinance [this appendix] and all applicable provisions of [the] Dover Code of Ordinances. Any student home use that existed prior to the enactment of this ordinance, that ceases to exist or that is changed to any form of occupancy other than a student home use for a period in excess of 120 days, shall not be reactivated as a student home use without conditional use approval as set forth in article 3, section 2.4 and article 10, section 1 of this ordinance.

(Ord. of 11-22-1976, § 1; Ord. of 7-12-1993, § 12; Ord. of 2-12-2001; Ord. of 1-13-2003; Ord. of 4-28-2008(2); Ord. No. 2016-16, 8-8-2016)





















CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS

The Construction and Property Maintenance Code Board of Appeals meeting was held on January 20, 2021 at 3:31 p.m. with Chairman Anderson presiding. Members present were Mr. Neil, Mr. Martin and Mr. Rocha. Ms. Steger was absent. Staff members present were Mr. Hugg, Mr. Coburn, Mr. Kopp, Ms. Bowen, Mr. Junge, Ms. Tauchus, and Mrs. Ramsey.

Adoption of Agenda

Mr. Neil moved for approval of the agenda, seconded by Mr. Rocha and unanimously carried.

Due to Mr. Anderson's limited access, Mr. Rocha presided over the remainder of the Construction and Property Maintenance Code Board of Appeals meeting.

Property Maintenance Code Citation (Appendix B - Zoning, Article 3 - District Regulations, Section 8.4 - Uses Prohibited) - Appeal of Violation - 1131 South Bay Road (MHP Investments, LLC)

Mr. Neil stated that he and Mr. Peter Schaeffer, Avenue Law, had a professional relationship. He explained that Mr. Schaeffer had done work for him, the previous owner of the property, which is Kings Cliff. Mr. Neil stated that he was an investigator of a complaint that was made on a change in the leases for the folks there that ended up costing him a large amount of money before it was sold. Mr. Neil asked Mr. Junge if he should recuse himself from this item due to his familiarity with that particular property and with Mr. Schaeffer on the other side, who he regarded as a friend.

Responding to Mr. Neil, Mr. Junge suggested that Mr. Neil recuse himself due to his friendship with Mr. Schaeffer. Mr. Neil recused himself from consideration of this item due to the conflict of interest at 3:34 p.m.

Mr. Schaeffer of Avenue Law and serving as legal representation for MHP Investments, LLC, reviewed the history of 1131 South Bay Road. Mr. Schaeffer introduced Mr. Kevin Vallen, owner of MHP Investments, LLC, who purchased Kings Cliff in June 2016. Mr. Schaeffer stated that on Mr. Vallen's knowledge and belief, he obtained, in negotiating, the purchase of Kings Cliff, recreational vehicle lot rentals, was a continuous use of the property for approximately the past three decades with no interruption in use.

Mr. Schaeffer stated that the City of Dover Ordinance #2018-01, Section 8.4, imposed a ban on year-round dwelling of RV's in a manufactured housing zone. All references to dwelling seemed to indicate that the term was defined as a year-round residential arrangement. He noted that RV's are typically not used as year-round dwellings, and that they are short-term lot rentals of less than six months, as such, there appears to be no violation under ordinance #2018-01. Mr. Schaeffer stated that even if temporary RV lot rentals fit into the definition of dwelling, Appendix B - Zoning, Article 7 - Non-conforming Buildings and Uses, states that any non-conforming use, except those non-conforming uses specified in Subsection 1.5, may be continued indefinitely. He noted that the non-conforming uses not permitted by this indefinite allowance are parking lots, junkyards, or open storage yards for materials and equipments which do not apply to RV lot rentals. Mr. Schaeffer stated that Kings Cliff rents the RV lots on a short-term basis, no longer than six months.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

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Mr. Schaeffer stated that he previously discussed with Mr. Junge, the purpose statement of ordinance #2018-1, which states that the ordinance is intended to supplement rather than replace Delaware State law, Title 25 - Property, Part VI - Manufactured Home Communities, Chapter 70 - Manufactured homes and Manufactured Home Communities Act, which govern manufactured home community management and Title 24 - Professions and Occupations, Chapter 44 - Manufactured Home Installation, which governs mobile home installation. He stated that neither of these Delaware laws forbid RV lot rentals in an area containing mobile homes.

Mr. Eddie Kopp, Code Enforcement, reviewed the City of Dover Code of Ordinances, Appendix B - Zoning, Article 3 - District Regulations, Section 8.4 - Uses prohibited. He stated that RV's are not considered a manufactured home, there is a difference between a mobile home and a trailer and that what is in Kings Cliff is mixed use. He advised that there are vehicles which are RV's, and mobile homes. Mr. Kopp stated that was where they were running into the conflict.

Responding to Mr. Hugg, Mr. Junge stated that he and Mr. Schaeffer had discussed whether this is continued use. Mr. Junge advised that Mr. Schaeffer's stance was that it is because it was still an RV. He stated that he was not sure that was true. Mr. Junge stated that Mr. Schaeffer's interpretation may prevail if it was appealed to the Supreme Court, but that this was an analogy to a shed being on a property that becomes non-conforming. Mr. Junge stated, regarding Mr. Kopp's statement, that if there was a mobile home on one of the lots that did not meet the current code, it would be grandfathered in until such time as they moved the mobile home. Mr. Junge advised that it does not mean one can move another mobile home on that lot that does not conform with the current code. He stated that he believed the City was on safe footing by saying that because the RV lots are no longer allowed by code, once the RV moves off of that lot, another one cannot be put there.

Responding to Mr. Anderson, Mr. Kopp stated that this violation was complaint driven and that since issuing this violation, he had received two other complaints from tenants.

Responding to Mr. Anderson, Mr. Junge stated that this was not about any particular RV, it was about the use and that it was one interpretation. Mr. Junge stated that this case was open to interpretation, but his take was that since the RV's are there for a period of time, once they left it would no longer be non-conforming, however, that there was no case law on this situation other than the case that Mr. Schaeffer previously mentioned which was not exactly analogous to this case.

Responding to Mr. Rocha, Mr. Junge stated that he was not aware of any code sections dealing with short term rentals. Mr. Junge noted that the lack of case law was not necessarily a detriment. He explained that cases go to court all the time where there is no definitive case law either way. Mr. Junge stated that is what the courts are for, when it enter gray areas, the courts decide, then they have case law moving forward. He stated that if the City did have to go to court and lost, it would not mean that they made the wrong decision, it would just mean the court wanted a different decision.

Responding to Mr. Martin, Mr. Schaeffer stated that 17 lots are utilized for RV's at any one time and that number had not changed since 2016 when it was purchased and presumably that was the same number of lots it had for decades.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

PAGE 3

Mr. Martin stated that it seemed like a continued use for those lots, but he felt that they would be grandfathered uses since it was that way before there was a change.

Responding to Mr. Rocha, Mr. Kopp stated that the initial complaint was a safety issue. He stated that the complaints he had received were an RV electrical box sparking at lot 152, trash and debris within the community, and the regular coming and going of RV's in the community. Mr. Kopp stated, regarding short-term use, that some of the RV's were well established with skirting around them and appeared to have been there for several years, much more than six months.

Responding to Mr. Rocha, Mr. Kopp stated that the code had been written in 1976 and that it was written based on a manufactured home, which an RV is not, so it does not meet the standard of manufactured home. He stated that there is not a dedicated section in the community for RV's, instead they are mixed in with the manufactured homes.

Responding to Mr. Rocha, Mr. Schaeffer stated that he imagined that there were records of when a RV arrived and left, however that was not in the issue, which instead was whether RV lots could be used at all within a manufactured home community. Mr. Schaeffer stated they could try to get records on specific separate transactions at least from 2016.

Mr. Anderson stated that a few years ago there was a committee to examine non-conforming use and one of the things they found was that if the use of the property is done consistently without an interruption of a year, that the non-conforming use stays valid. He stated that there are non-conforming uses as old as him and at the time, they understood it to be used. He noted that with that in the records, he was weary of changing that interpretation at all.

Mr. Anderson moved to grant the appeal made by MHP Investments, LLC. The motion was seconded by Mr. Martin and unanimously carried.

Property Maintenance Code Citation (Chapter 22 - Buildings and Building Regulations, and the 2009 International Property Maintenance Code) - Appeal of Citation and Fines - 8 South New Street (James Sloven)

Ms. Velvet Bowen, Code Enforcement, reviewed the case history for 8 South New Street.

Mrs. Ramsey advised that she received correspondence from Mr. James Sloven, prior to the meeting, stating he would be unable to attend the meeting and that he would pay the \$100.00 fine and continue to make the necessary repairs to the property (**Attachment #1**).

Mr. Anderson moved that the \$100.00 fine be reinstated, but that it would be frozen at \$100.00. The case would start over again and it would be up to everybody to make sure the repairs were being made. The motion was seconded by Mr. Neil and unanimously carried.

Mr. Martin moved for adjournment, seconded by Mr. Neil and unanimously carried.

**CONSTRUCTION CODE APPEALS COMMITTEE
MEETING OF JANUARY 20, 2021**

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Meeting adjourned at 4:16 p.m.

Gerald L. Rocha
Construction and Property Maintenance Code
Board of Appeals Member

GLR/MR/jt

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CPMCBA.wpd

Attachments

Attachment #1 - Correspondence dated January 20, 2021 from Mr. James Sloven

From: [James Sloven](#)
To: [Ramsey, Megan R.](#)
Cc: [City Clerks Office](#)
Subject: Re: Appeal of Citation #19-00003386 and Related Fines - 8 South New Street, Dover Delaware
Date: Wednesday, January 20, 2021 8:26:05 AM

Ms. Ramsey,

I was called in to work today and therefore will be unable to participate in today's teleconference. I will just pay the \$100 fine and continue to make whatever repairs are still necessary.

James Sloven
302-538-0153

-----Original Message-----

From: Ramsey, Megan R. <mramsey@dover.de.us>
To: James Sloven <jsloven@aol.com>
Cc: City Clerks Office <CityClerk@dover.de.us>
Sent: Tue, Jan 12, 2021 2:46 pm
Subject: Appeal of Citation #19-00003386 and Related Fines - 8 South New Street, Dover Delaware

Mr. Sloven:

Attached please find a letter regarding your appeal scheduled to be re-heard virtually by the Construction and Property Maintenance Code Board of Appeals on January 20, 2021 at 3:30pm.

For your convenience, below please find the meeting participation information:

Dial: 1-408-418-9388

Link: <https://cityofdoverde.webex.com/cityofdoverde/onstage/g.php?MTID=eab13c222214d26e8eb9f8599e7d76756>

Event Number/Access Code: 179 001 7731

Event Password: DOVER (if needed)

Thank you,

Megan Ramsey

Administrative Assistant

City of Dover, Delaware

Email: mramsey@dover.de.us

Phone: 736-4462

Fax: 736-5068



January 21, 2021

MHP Investments, LLC
1051 Tuckerton Road
Marlton, NJ 08053

Avenue Law
Attn: Peter K. Schaeffer, Jr., Esq.
1073 South Governors Avenue
Dover, DE 19904
peter.schaeffer@avenuelaw.com

Re: Appeal of Violation - Dover City Code of Ordinances - 1131 South Bay Road, Dover, DE Case #: 20-00003344

MHP Investments, LLC:

On Wednesday, January 20, 2020, the Construction and Property Maintenance Code Board of Appeals considered your appeal of the violation of the Dover City Code of Ordinances - Appendix B - Article 3, Section 8.4 - Uses Prohibited at 1131 South Bay Road, Dover Delaware. Section 8.4 of the Dover Code states the following:

Section 8.4 *Uses prohibited.* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

After reviewing the case history and considering your testimony, it was the decision of the Board to grant your appeal.

If you have any questions regarding this matter, please contact the Department of Planning and Inspections at (302) 736-7010.

Sincerely,

Megan Ramsey
Administrative Assistant

TAM/mr

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC\Hearing Action - 1131 S Bay Road - MHP Investments, LLC.wpd

cc: Nicholas Rodriguez, City Solicitor
Gary Junge, Deputy City Solicitor
David Hugg, Director of Planning and Community Development
Ronald Coburn, Inspector
Eddie Kopp, Inspector

APPEALS PROCEDURE
CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS

Item 3.

APPELLANT: MHP Investments LLC

PROPERTY ADDRESS: 1131 S Bay Rd

CASE # 20-00003344

REASON FOR APPEAL: Property Maintenance - Exterior

REVIEWING THE FILE:	Date/Initials
1. Scan the appeal and any supporting paperwork and save it to the appeal folder.	1/6/21 MR
2. In Outlook/Clerk's Office Folders/Drafts/Appeal-Constr & Prop Maint, open the draft email Subject: Request for Citation - Review of Appeal - Address - Name of Appellant. Revise the email for the current appeal and send it to the Case Inspector for this appeal. Copy the Director of Planning and Community Development and the Chief Building Inspector.	1/6/21 MR
3. Review the appeal to ensure it is allowable by code, that the appeal has been submitted within 30 days of the date the citation was mailed, and the appellant is the property owner. Make sure the appellant has provided contact information, including a mailing address and phone number.	G. Junge confirmed that request is appealable on 1/6/21 via email
4. Open APPEALS LISTING-ALL and add the appeal to the listing.	1/6/21 MR
5. Open the S:\APPEALS\(<u>current year</u>) folder and create a new folder named using the following example: 59 Village Drive - Appeal - Tall Grass and Weeds - Name.	1/6/21 MR
6. If the appeal WAS NOT filed within 30 days of the date the citation was mailed, open Exceeds 30 day Deadline, S:\CLERK'S OFFICE POLICIES AND PROCEDURES\APPEALS\TEMPLATES\CPMCBA save in this appeal folder, and revise for this appeal.	N/A
7. If the appeal WAS filed within 30 days of the date the citation was mailed, in Outlook/Clerk's Office Folders/Drafts/Appeal-Constr & Prop Maint, open the draft email Subject: Appeal - *(Address) - Scheduling of Construction and Property Maintenance Code Board of Appeals Meeting. Revise the email for the current appeal and send it to the Director of Planning and Community Development.	1/8/21 MR
SCHEDULING THE APPEAL HEARING:	

<p>8. A meeting of the Construction and Property Maintenance Code Board of Appeals must be scheduled no sooner than 10 days and no later than 30 days from receipt of the appeal. (Code of Ordinances, Part I Related Laws - Chapter 22 - Buildings and Building Regulations, Article I. - In General, Sec. 22-1 - Construction and property maintenance code board of appeals.) The Planning Director, Code Enforcement Supervisor or Chief Building Inspector, Case Inspector, and the City Hall Conference Room should be available for the meeting. Select a date for the meeting and call the appellant to verify their availability and advise them that they may provide additional support documentation if desired. Call the City Manager's Administrative Assistant to reserve the City Hall Conference Room.</p>	<p>1/11/21 N</p>
<p>9. In Outlook/Clerk's Office Folders/Drafts/Appeal-Constr & Prop Maint, open the draft email Subject: Appeal -*59 Village Drive (*Sammak) - Documentation for Appeal Hearing. Revise the email for the current appeal and send it to the Case Inspector for this appeal.</p>	<p>N/A</p>
<p>10. Once the date is set, send an Outlook calendar invitation for the meeting to the Director of Planning and Community Development, Code Enforcement Supervisor (PMCBA) or Chief Building Inspector (CCAC), Case Inspector, members of the appeal board/committee, and the City Clerk's Office.</p>	<p>1/8/21 MR</p>
<p>11. Prepare a letter to the appellant notifying them of the time and date of the hearing. Select the appropriate block from S:Appeals\BLOCKS\BLOCKS\LETTERS TO APPELLANT\Receipt of Appeal and/or Hearing Notification. Copy the Director of Planning and Community Development, City Solicitor, Code Enforcement Supervisor (PMCBA) or Chief Building Inspector (CCAC), and Case Inspector.</p>	<p>1/12/21 MR</p>
<p>12. Prepare the agenda using a specific block, if available. (S:AGENDAS...MISC AGENDAS ...)</p>	<p>1/12/21 MR</p>
<p>13. Prepare the meeting packet, including the appeal and support documentation provided by the appellant, code citations, and the case documentation provided by the inspector. Redact personal information (leave addresses but remove account numbers, location I.D., account balances, Social Security and driver's license numbers, cell phone numbers, etc.) from the meeting packet according to sample at S:CLERK'S OFFICE POLICES AND PROCEDURES/APPEALS/BLOCKS/Sample Redacted Utility Report and save the packet as redacted.</p>	<p>1/13/21 MR</p>
<p>14. Circulate the packet for review and, once approved, update the Meeting Checklist and treat it as with all other meetings, posting the redacted meeting packet.</p>	<p>1/13/21 MR</p>
<p>15. After sending the normal email to the Agendas and Notices email distribution list, in Outlook/Clerk's Office Folders/Drafts/Appeal-Constr & Prop Maint, open the draft email Subject: Printed Packets - Construction and Property Maintenance Code Board of Appeals Meeting - *August 1, 2016 - 3:00 p.m., revise for the current appeal and send the email to the two (2) civilian members advising them that printed copies of the packet will be available at the meeting.</p>	<p>1/13/21 MR</p>
<p>FOLLOWING THE APPEAL HEARING:</p>	
<p>16. Prepare a letter to the appellant notifying them of the hearing action using one of the samples at S:CLERKS OFFICE POLICES AND PROCEDURES/APPEALS/BLOCKS/BLOCKS - LETTERS TO APPELLANT - Hearing Action. Circulate the letter to the City Clerk for review and approval.</p>	<p>1/21/21 MR</p>

Item 3.

17. Mail the letter to appellant and, using Outlook/Clerk's Office Folders/Drafts/Appeal-Constr & Prop Maint, open the draft email Subject: Notice of Hearing Action ..., email a copy to the Director of Planning and Community Development, Code Enforcement Supervisor or Chief Building Inspector, Case Inspector, City Solicitor, Deputy City Solicitor, City Clerk's Office and, if applicable, to Patricia Marney, Billing Supervisor.	1/22/21 N <i>Item 3.</i>
18. Update APPEALS LISTING-ALL .	1/22/21 MR
19. Index the letter and all documentation in Fortis in City of Dover database under "APPEALS."	1/22/21 MR
20. If necessary, set an Outlook calendar event for follow-up action.	N/A

Prepared by: City Clerk's Office /tm

S:\APPEALS\2021\1. 1131 S Bay Rd - Appeal - Property Maintenance - Exterior - MHP Investments LLC\1131 S Bay Rd Kings Cliff Mobile Home Park APPEALS PROCEDURE.wp
Revised 05/25/2018

Dover Code of Ordinances, Appendix B – Zoning (Zoning Ordinance)

Article 3. District Regulations

Section 8. Manufactured housing (MH) zone.¹

- 8.1 *Uses permitted.* In a manufactured housing zone, no building or premises shall be used, and no building shall be erected, which is arranged, intended or designed to be used, in whole or in part, for any uses, except the following:
- 8.11 Manufactured homes on individual lots, held in any type of ownership.
- 8.12 Multiple manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium, including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.13 Permanently placed manufactured homes on individual lots, provided that the home and the lot are under common ownership.
- 8.14 Multiple permanently placed manufactured homes on a lot, provided that:
- (a) The lot is operated as a condominium including, but not limited to, condominiums formed pursuant to 25 Del. C., Chapter 71; or
 - (b) The lot is operated as a land lease community; and
 - (c) There are at least 15 permanently placed manufactured homes on the lot, or else sufficient home sites for rent or sale on the lot to accommodate 15 permanently placed manufactured homes. Such home sites need not be expressly delineated but must be improved so as to be complete and ready for occupancy by a permanently placed manufactured home. There shall be no mixing of manufactured homes and permanently placed manufactured homes on one lot.
- 8.15 One-family detached homes on individual lots, held in any type of ownership.
- 8.2 *Conditional uses.* Conditional uses shall be consistent with those conditionally permitted in the one-family residence zones.
- 8.3 *Accessory uses.* Accessory uses shall be consistent with those permitted in the one-family residence zones, with the following additions and exceptions:
- 8.31 Management facilities. The following shall be permitted accessory to lots providing home sites for multiple manufactured homes:

¹Editor's note(s)—Ord. No. 2016-16, adopted August 8, 2016, in effect, repealed § 8 and enacted a new § 8 as set out herein. Former § 8 pertained to similar subject matter and derived from Ord. of 10-13-1981; Ord. of 3-20-1983; Ord. of 3-24-1986; Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. of 4-28-2008(2); and Ord. No. 2010-29, adopted January 10, 2011.

- (a) Management offices with rooms for the usual office furniture and supplies, limited to one per lot;
- (b) Storage space for utility connection supplies in quantity, manufactured home accessories and maintenance materials and equipment;
- (c) Laundry facilities equipped with washing machines and dryers;
- (d) Community building facilities, including indoor recreation areas;
- (e) Commercial establishments consistent with uses permitted in the C-1 neighborhood commercial zone, limited to one such establishment per lot;
- (f) One-family detached homes intended for the use of a manager or caretaker, limited to one such dwelling per lot.

8.32 Accessory home occupations. Accessory home occupations shall be permitted consistent with the conditions outlined for home occupations in the one-family residence zones, with the exception that no home occupation shall be permitted if not also permitted by the owner of the lot on which the home is sited.

8.4 *Uses prohibited.* The following uses are specifically prohibited:

8.41 Mobile homes, house trailers, and recreational vehicles as principal uses on a lot. Any such structures or vehicles located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.42 Any other kind of factory-built housing that does not meet the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development (HUD) Code as approved June 15, 1976, unless it can be demonstrated that such housing is constructed to the standards of the Dover Code of Ordinances, Chapter 22, Buildings and Building Regulations. Any such housing located within the zone and being used as dwellings shall upon the effective date of this ordinance be deemed non-conforming uses in accordance with article 7.

8.5 *Minimum occupation length.* No lot or home site within the manufactured housing zone reserved for occupation by a manufactured home shall be leased or occupied for residential use except for periods of 30 consecutive days or more.

8.6 *Land lease communities.* The following regulations shall apply to land lease communities within the MH zone:

8.61 The entire land area occupied by a land lease community, regardless of the number of home sites or individual lots therein, shall be maintained in single ownership, or if in multiple ownership, under the provisions of the laws of the state dealing with unit properties and condominiums.

8.62 *Changes to site plan.* After initial site development plan approval of a land lease community, reapproval for the entire community shall not be required prior to the issuance of building permits for alterations to individual manufactured homes, or their accessory buildings such as storage areas and patios, which, in the judgement of the city planner, do not materially alter the site development plan approval by the planning commission and are requested as adjustments to the individual manufactured home sites or lots leased by an individual family and designed for the convenience and comfort of the individual lessee.

8.7 *Performance Standards.* All uses are subject to performance standards as set forth in article 5, section 8.

8.8 *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all

structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

8.81 For purposes of preparing a site development plan for approval by the planning commission, and all subsequent improvements, alterations or additions, the applicant shall conform to current submission requirements and site development standards as set forth by the National Fire Protection Association publication 501A, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities." Where applicable, the approving authority shall be the fire marshal's office.

8.82 No site development plan proposing the siting of a manufactured home outside of a land lease community shall be approved unless the plan shows the manufactured home is to be permanently placed, as defined in the Dover Code of Ordinances, Chapter 66—Manufactured Homes, Mobile Homes, and Land Lease Communities.

8.9 *Maximum density.* The gross residential density in an MH zone shall not exceed six dwelling units per acre.

8.10 *Signs.* Signs shall meet the regulations found in Article 5—Supplementary Regulations, Section 4—Supplementary Sign Regulations.

(Ord. No. 2016-16, 8-8-2016; Ord. No. 2018-01, 9-24-2018)

PART II - CODE OF ORDINANCES
 APPENDIX B - ZONING
 ARTICLE 7. NONCONFORMING BUILDINGS AND USES

ARTICLE 7. NONCONFORMING BUILDINGS AND USES

Section 1. Nonconforming buildings and uses.

The following provisions shall apply to all buildings and uses existing on the effective date of this ordinance, which buildings and uses do not conform to the requirements set forth in this ordinance; to all buildings and uses that become nonconforming by reason of any subsequent amendment to this ordinance and the zoning map which is a part thereof; and to all conforming buildings housing nonconforming uses:

- 1.1 Any nonconforming use, except those nonconforming uses specified in [sub)section 1.5, may be continued indefinitely, but:
 - 1.11 Shall not be enlarged, extended, reconstructed or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this ordinance, nor shall any external evidence of such use such as traffic, noise, vibration, smoke, dust, odor, heat or glare be increased by any means whatsoever; or
 - 1.12 Shall not be changed to another nonconforming use without a special permit from the board of adjustment, and then only to a use which, in the opinion of said board, is of the same or a more restricted nature; or
 - 1.13 Shall not be reestablished if such use has been discontinued for any reason for a period of one year or more, or has been changed to, or replaced by, a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.
- 1.2 Except as provided in paragraph [subsection] 1.4 below, no building which houses a non-conforming use shall be:
 - 1.21 Structurally altered or enlarged; or
 - 1.22 Moved to another location where such use would be nonconforming; or
 - 1.23 Restored for other than a conforming use after damage from any cause exceeding 75 percent of the replacement cost of such building, exclusive of foundations. Any such building damage[d] to a lesser extent may be restored, but not enlarged, and the nonconforming use reinstated within one year of such damage; [however,] if the restoration of such building is not completed within the said one-year period, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.
- 1.3 Normal maintenance and repair, structural alteration in, and moving, reconstruction or enlargement of a building which does not house a nonconforming use, but is nonconforming as to the district regulations for lot area, lot width, front yard, side yard, rear yard, maximum height, maximum lot coverage, or minimum livable floor area per dwelling is permitted if the same does not increase the degree of, or create any new nonconformity with such regulations in such building.
- 1.4 Nothing in this article shall be deemed to prevent normal maintenance and repair of any building, or the carrying out, upon the issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the city planner shall state the precise reason why such alterations were deemed necessary.

- 1.5 Each of the nonconforming uses specified below is deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district, and blight the proper and orderly development and general welfare of such district and the city to the point that each of such nonconforming uses shall be terminated on or before the expiration of the specified period of time after the effective date of this ordinance; which period of time is specified for the purpose of permitting the amortization of the remaining value, if any, of such use.
- 1.51 In any residence zone, any nonconforming use of open land, including such uses as a parking lot, junkyard, or open storage yard for materials or equipment, may be continued for three years after the effective date of this ordinance, or after annexation of the property into the City of Dover, provided that, after the expiration of that period, such nonconforming use shall be terminated (see also article 6, section 1.12). Any "mobile home" as that term is defined in article 12 hereof, that was located within the limits of the City of Dover at the effective date of this ordinance [November 22, 1976], or that was in place on any land subsequently annexed into the City of Dover, shall constitute a nonconforming use and shall be permitted to be maintained as a nonconforming use indefinitely. However, such mobile home shall be required to connect to city sewer and water mains, if available, and such mobile home shall be subject to and shall comply with all other city codes and ordinances applicable to structures and residences.
- 1.52 In any residence zone, any sign not of a type permitted, or of a permitted type, but greater than two times the maximum permitted size may be continued for one year following the effective date of this ordinance, provided that, after the expiration of that period, such nonconforming use shall be terminated.
- 1.53 In any residence zone, any non-conforming use of buildings which is not permitted under the provisions of this ordinance may be continued for a period of:
- (a) Twenty years after the effective date of this ordinance, or
 - (b) Forty years after the initial construction of the building containing such use or of any addition thereto adding 50 percent or more to the floor area occupied by such use,
- whichever is the longer period, provided that, after the expiration of that period, such nonconforming use shall be terminated. However, no such nonconforming use shall be permitted to continue for a period exceeding two years, unless such use shall be operated in conformance with performance standards established in article 5, section 8.
- 1.6 Residential occupancies that meet the definition of "student home," as provided in article 12 of this ordinance, that can be proven to have been in existence as a student home use prior to the enactment of regulations governing student homes, shall be permitted to remain as legal nonconforming uses as to location and shall not be subject to the conditional use approval requirements set forth in article 10, section 2, provided that all such uses shall be made to conform with all other provisions of article 3, section 2.4, subsection (b), with regard to licensing as a student home, off-street parking requirements and number of students in residence in the student home, within six months of the effective date of the ordinance amendment establishing article 3, section 2.4, subsection (b). Documentation to prove that a student home use existed prior to the enactment of this ordinance shall be limited to executed lease agreements, City of Dover licensing data, and/or [a] sworn legal affidavit from the owner of record of the property. Failure to bring a nonconforming student home use into compliance within the specified six-month period shall be deemed a violation of this ordinance and subject to penalties as set forth in article 8 of the zoning ordinance [this appendix] and all applicable provisions of [the] Dover Code of Ordinances.
- Any student home use that existed prior to the enactment of this ordinance, that ceases to exist or that is changed to any form of occupancy other than a student home use for a period in excess of 120 days,

shall not be reactivated as a student home use without conditional use approval as set forth in article 3, section 2.4 and article 10, section 1 of this ordinance.

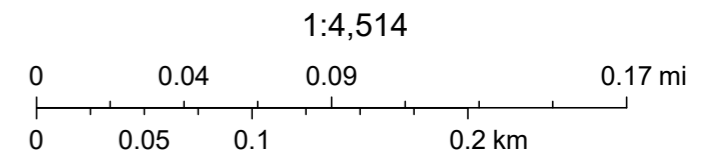
Planning & Inspections View Map - Kings Cliffe MHP EXHIBIT 6

Item 3.



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|-------------------------|---|-----------------------|
| Dover_Boundary | 75 DNL C | CZ |
| Noise Zone Areas | 80 DNL D | Zoning Boundary Line |
| 65 DNL A | AEOZ Airport Environs Overlay Zone | Parcels Outside Dover |
| 70 DNL B | APZ I | Dover Parcels |



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