

**City of Harrington**  
**AGENDA**  
**City Council Workshop**  
**City Hall, 106 Dorman Street**  
**January 5, 2015**  
**Immediately following the City Council Special Meeting**

**Call to Order**

**Pledge of Allegiance**

- 1. Discussion of Zoning Code Rewrite**
- 2. Ordinance 14-15 – Adding Chapter 255, Mobile Homes and Trailers**
- 3. Ordinance amending Chapter 114, Open Burning**
- 4. CDBG funding distribution**

**5. Public Comments** *(2 minute limit)*

The public comment segment of the Council Meeting is the time that the City extends the opportunity to the general public to share with us your questions, thoughts, comments, concerns, and complaints. Those wishing to step forward to take advantage of the public comment segment will be provided two (2) minutes. While City government is interested in taking appropriate action, current law prohibits City Council from engaging in discussion of any comments made or taking any action.

**6. City Council Comments**

**Adjourn**

Posted 12/23/2014  
Kelly Blanchies  
Clerk of Council

Note: 29 Del.C. §10004(e)(2). Agenda items as listed may not be considered in sequence. This agenda is subject to change to include additional items including Executive Sessions or the deletion of items including Executive Sessions, which arise at the time of the meeting. If there are questions or special accommodations are needed, please contact Kelly Blanchies at City Hall, 398-4476 (at least 72-hours in advance of the meeting for special accommodations).

Discussion of Zoning Code Rewrite and CDBG funding distribution will be discussed at the meeting. No information included in packets.

MEMORANDUM

TO: Harrington City Council

FROM: William W. Pepper Sr. *W*  
City Solicitor

RE: Ordinance 14-15

I have reviewed Councilwoman Minner's proposal as requested. It is vitally important to note that the genesis of this ordinance was to improve the collection rate of taxes on mobile homes by adopting a license fee with stickers and by imposing obligations on the owners of mobile home parks. For the reasons that follow, I respectfully suggest that the original version included in the November 17 packet and attached hereto be the version that moves through the process.

The Minner version includes many definitions for terms that do not appear anywhere else in the ordinance. These definitions appear to be aimed at the salutary purpose of ensuring that manufactured homes are properly installed and anchored. Chapter 44 of Title 24 of the Delaware Code covers installation of manufactured housing. A copy of the Chapter is attached hereto. Installation inspections are performed by Kent County because the City did not perform inspections prior to the adoption of Chapter 44. 24 Del. C. §4422(b). Because the costs of providing the inspection would almost certainly exceed the inspection fees earned, I do not recommend that the City attempt to take on the inspection responsibility. Because the City did not perform inspections prior to the effective date of Chapter 44, I am not certain that the City can do so now. I believe that any applicant for a placement permit should be referred to the Inspections and Enforcement section of the Kent County Division of Planning, but I do not believe that the need for the referral should be enshrined in the ordinance.

I do suggest that §255-6 be changed so that it provides:

**§255-6 Inspection prior to occupancy**

Prior to the occupancy of any manufactured home, the manufactured home shall be inspected in accordance with applicable state and federal law.

**CITY OF HARRINGTON  
ORDINANCE NO. 14-15**

**AN ORDINANCE ADDING CHAPTER 255 MANUFACTURED HOMES, TO  
THE CODE OF THE CITY OF HARRINGTON**

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

**Section 1.** That the Code of the City of Harrington shall be amended by  
adding a new chapter to read as follows:

**Chapter 255: MANUFACTURED HOMES**

**§ 255-1. 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:

**MANUFACTURED HOME**

A single-family dwelling designed for transportation, after fabrication, on  
streets and highways on its own wheels or on flatbeds or other trailers, and  
arriving at the site where it is to be occupied as a dwelling, complete and  
ready for occupancy, except for minor and incidental unpacking and assembly  
operations, location of jacks or foundations, connections to utilities and the  
like. The term "mobile home" shall not include a single-family dwelling which  
is designed to be placed on a permanent foundation, is not designed to be  
readily movable after the original occupancy as a single-family dwelling, and  
conforms to the City's building, plumbing, electrical, and housing codes.

**PERMANENTLY PLACED MANUFACTURED HOME**

A manufactured home placed upon a permanent, unmovable foundation on  
real property owned by the owner of said dwelling, removal of all wheels and  
axles, and other minor incidental operations, such as unpacking, connections,  
or utilities and the like. The term "permanently placed mobile home" shall be  
construed as being synonymous with that of the term "single-family dwelling,"  
a dwelling which is designed to be placed on a permanent foundation, is not  
designed to be readily movable after the original occupancy as a single-family  
dwelling, and conforms to the city's building, plumbing, electrical, and housing  
codes, except for the purpose of zoning in which it shall be considered a  
mobile home.

**OWNER OF A MANUFACTURED HOME**

The person designated in the title of the manufactured home, whether the title  
is issued by this State or by some other state.

### **OWNER OF A PERMANENTLY PLACED MANUFACTURED HOME**

The person designated in the title of the manufactured home, whether the title is issued by this State or by some other state, and such person must also be the owner of the lot upon which the manufactured home is permanently affixed. The term "lot" shall mean a parcel of land that conforms to the multiple ownership provisions of the laws of the state dealing with unit properties and condominiums, and must be located within a manufactured home park.

#### **§ 255-2. License.**

- A. **Required fee.** The owner of a manufactured home shall obtain an annual license for it and shall pay a fee for such license as provided for in Chapter 180, Municipal Fees.
- B. **Payment; penalties.** Such license shall be obtained and license fee paid by July 1 of each year, and if such fee is not paid before August 1 of such year, then, in addition to any penalty incurred pursuant to Chapter 180, Municipal Fees, a penalty fee of ten percent per month shall accrue on the unpaid balance of the license fee.
- C. **Moving into City.** Upon the moving of a manufactured home into the City, such license shall be obtained and the license fee paid within seven days. Payment of such license fee shall be prorated on a quarterly basis for each fractional part of a year during which the manufactured home is in the City.
- D. **Sticker, where placed.** Once the annual license fee has been paid by the owner of a manufactured home, he or she shall be issued a sticker or other evidence of payment by the City Manager, and/or his/her designee. This sticker or other evidence of payment must be placed upon the manufactured home on the front of the manufactured home facing the street on the right hand side when facing said manufactured home one foot up from the bottom of the skirting and one foot over from the side of the manufactured home.

#### **§ 255-3. Real property taxes.**

A permanently placed manufactured home as defined in §255-1, 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 §12 of the Charter of the City of Harrington.

#### **§ 255-4. Placement permit.**

Every owner of a manufactured home, before moving the same into the City, shall apply for and obtain from the City Manager, and/or his/her designee, a placement permit for such manufactured home. The City Manager, and/or his/her designee, shall issue no placement permit until the license fee required in this Chapter is paid in full.

#### **§ 255-5. Duties of manufactured home park operators.**

- A. Prohibition. No mobile home park operator shall permit a mobile home to be placed in his or her manufactured home park until said manufactured home displays the sticker required by §255-2 D and the owner of the manufactured home provides a copy of the placement permit required by §255-4. A manufactured home park owner who permits a manufactured home to be placed in his or her manufactured home park in violation of this Section shall be fined in accordance with Chapter 180, Municipal Fees. A manufactured home park operator who permits a manufactured home to remain in his or her park without payment of the license required by §255-2 shall be fined in accordance with Chapter 180. If any fine is not paid within ten days after the issuance of the fine, the fine shall double and be added to the tax bill of the manufactured home park owner's tax bill in accordance with §12.2 of the Charter of the City of Harrington.
- B. Documents to manufactured home owners. Copies of this Chapter and placement permit application forms shall be furnished to each manufactured home park operator, who shall give a copy of the same to each manufactured home owner who desires to move a manufactured home into his park at least two weeks prior to the placement of the manufactured home.
- C. Lease record; report. Manufactured home park operators who lease land to two or more persons for parking manufactured homes shall maintain a lease record, which shall be open for inspection at all reasonable times by the City Manager, and/or his/her designee. Before June 1 of each year, the manufactured home park operator shall report to the City Manager, and/or his/her designee, the names and addresses of all persons having manufactured homes on his or her land.

#### **§ 255-6. Anchoring and skirting.**

Prior to the occupancy of any manufactured home, the manufactured home shall be firmly anchored to the ground and the open space beneath the unit shall be skirted with approved material in accordance with the requirements of the building inspector.

**§ 255-7. Exemptions.**

This Chapter shall not apply to:

- (1) Dealers. Unoccupied manufactured homes located on a dealer's display lot; or
- (2) State license tag. manufactured homes bearing a current license tag of this State.

**Repealer.** All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Effective Date.** The Clerk of Council shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval by Council.

SO ORDAINED by the majority of Council Members present at a regular session of Harrington City Council, to be effective upon signing.

\_\_\_\_\_  
Anthony R. Moyer, Mayor

Attest: \_\_\_\_\_  
Kelly Blanchies, Clerk of Council

Date of Adoption: \_\_\_\_\_

**SYNOPSIS**

This Ordinance adds Chapter 255, Manufactured Homes, to regulate the placement, licensing, and taxation of manufactured homes.

First Reading: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

Second Reading: \_\_\_\_\_

**Chapter 44**

**MANUFACTURED HOME INSTALLATION**

**Subchapter I**

**General Provisions**

**§ 4401 Short title.**

This chapter shall be known as and may be cited as the "Manufactured Home Installation Act."  
(75 Del. Laws, c. 213, § 1.)

**§ 4402 Scope.**

This chapter governs the installation of manufactured homes wherever situated in the State of Delaware, and shall apply to single section, multiple section or expandable homes for use as a permanent dwelling.  
(75 Del. Laws, c. 213, § 1.)

**§ 4403 Definitions.**

For the purposes of this chapter, the following terms and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

(1) "Applicant" means any person, individual, natural person who seeks to become licensed as a manufactured housing installer.

(2) "Approval decal" means the decal approved by and purchased from the Board on which an installer shall inscribe the date of setup, the name of the installer, and the number of the installer's license. Affixing an approval decal to the manufactured home data plate signifies the installer's certification that the home was installed in accord with all applicable laws, rules and regulations.

(3) "Authorized inspection agency" means a state, county, or municipal administrative department or agency, or other instrumentality of the State of Delaware, that has been assigned the function of inspecting manufactured home installations to ensure compliance with this chapter and the Board's rules and regulations or inspectors hired by the State, county or municipal administrative department or agency on a contract basis to perform inspections.

(4) "Board" means the Manufactured Home Installation Board.

(5) "Division" means the Division of Professional Regulation.

(6) "Homeowner" means, for purposes of this chapter, an individual who owns manufactured housing in Delaware that is used as a residence.

(7) "Installation" means the assembly of manufactured homes on site and the process of affixing manufactured homes to the land by the use of a foundation, footings, utilities, or to an existing building. The term includes the process of affixing manufactured home components to or within the housing structure for which they are designated. It shall also mean the installation of support and anchoring systems to secure the home to the ground.

(8) "Installation Code" means the requirements for installation of a manufactured home or housing as they are set forth in this chapter.

(9) "Installation instructions" means written instructions provided by the manufacturer in the installation manual, or equivalent, which accompanies each manufactured home when it leaves the factory, and that detail the manufacturer's requirements for ground support, anchoring systems, and other work to be completed on site during the installation process. If there are no manufacturer's instructions available then the term means either NCSBCS/ANSI 225.1, 1994 national standards, as amended, or in accordance with plans sealed by a registered professional engineer designed for that specific home.

(10) "Installer" means any person who is engaged in the business of performing manufactured housing installations as they are defined above. Any individual who is acting at all times under the supervision of a licensee need not be licensed in order to assist in the installation of manufactured housing.

(11) "Licensee" means any person who has completed the required training and who has paid the applicable fee for and received a license, under this chapter, for the installation of manufactured housing.

(12)a. "Manufactured home" or "Manufactured housing" means a factory-built, single-family dwelling:

1. Transportable in 1 or more sections, which is either 8 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

2. With or without a permanent foundation and designed to be used as a year-round dwelling when connected to the required utilities; and

3. If manufactured since June 15, 1976, built in accordance with manufactured housing construction requirements promulgated by the federal Department of Housing and Urban Development (HUD) or by other applicable codes.

b. The terms "manufactured home" and "manufactured housing" are synonymous with the term "manufactured home" as that term is used and defined in Chapter 70 of Title 25, but shall not be interpreted to include any recreational vehicle, recreational trailer, travel trailer, park trailer, camping trailer, or truck camper as those terms are defined in Chapter 1 of Title 21.

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(13) "Manufactured home installation inspector" means any person who holds a manufactured home installation inspector's certificate issued pursuant to this chapter.

(14) "NCSBCS/ANSI 225.1, 1994" means the National Conference of States on Building Codes and Standards, Inc., American National Standard Home Installations, as adopted on January 4, 1994, as amended.

(15) "New manufactured home" means a manufactured home that has not been previously sold or previously installed. Homes that would otherwise have been considered new under this paragraph shall not lose that status as a result of having been set up on a temporary basis for display in a retail sales center, facility or its equivalent.

(16) "Person" means an individual, firm, partnership, corporation, association, joint stock company, limited partnership, limited liability company and any other legal entity and includes a legal successor of those entities.

(17) "Previously owned manufactured home" means any manufactured home that has been previously sold and been subject to an installation as defined herein.

(18) "Recreational vehicle" means a travel trailer, camping trailer, park model trailer, campers, or motor homes which are primarily designed as temporary living quarters for recreational camping, seasonal or travel use and which either have their own motor power or are mounted on or drawn by another vehicle.

(19) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the person's fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the work of a manufactured home installer.

(20) "Supervision" means managing the acts of another by overseeing the performance or operation of the person and by taking full responsibility for acts or omissions of the person that are being performed at the direction of a licensee or under the authority of a licensee's license.

(21) "Unauthorized practitioner" means any person, who engages in the occupational practices regulated by the Board, and who is not licensed or certified by the Board to do so.

(75 Del. Laws, c. 213, § 1; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 169, §§ 1, 2.)

### **§ 4404 Division responsibilities; register of licensed installers; Board records; administrative support.**

(a) The Division of Professional Regulation shall keep a register of all approved manufactured home installer licensure applications.

(b) The Division shall maintain complete records relating to meetings of the Manufactured Home Installation Board including, but not limited to: minutes, examinations, rosters, changes and additions to the Board's rules and regulations, complaints, hearing records, and such other matters as the Board shall determine. Such records shall be prima facie evidence of the proceedings of the Board.

(c) The Division shall provide administrative support necessary for the Board to carry out its duties under this chapter.

(75 Del. Laws, c. 213, § 1.)

## Subchapter II

### The Manufactured Home Installation Board

#### **§ 4411 The Manufactured Home Installation Board.**

There is created a Manufactured Home Installation Board which shall administer and enforce this chapter.

(75 Del. Laws, c. 213, § 1.)

#### **§ 4412 The Manufactured Home Installation Board; objectives.**

(a) The primary objective of the Manufactured Home Installation Board, to which all other objectives and purposes are secondary, is to protect the general public, specifically those persons who are the direct recipients of services regulated by this chapter, from unsafe practices and from occupational practices which tend to reduce competition or fix the price of services rendered.

(b) The secondary objectives of the Board are to maintain minimum standards of competence; and, to maintain certain standards in the delivery of services to the public. In meeting its objectives, the Board shall develop standards assuring professional competence; shall monitor complaints brought against persons regulated by the Board; shall adjudicate at formal hearings; shall promulgate rules and regulations; and shall impose sanctions where necessary against persons licensed or certified pursuant to this chapter.

(75 Del. Laws, c. 213, § 1.)

#### **§ 4413 The Manufactured Home Installation Board; appointments; composition; qualifications; term; succession; conflicts of interest; public inquiries.**

(a) The Board shall consist of 9 members, appointed by the Governor, who are residents of this State. These members shall consist of:

- (1) Two manufactured home installers, licensed pursuant to this chapter;
- (2) Two manufactured home installation inspectors, certified pursuant to this chapter;

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(3) One representative of Delaware manufactured home retailers;

(4) One registered professional engineer with at least 6 years experience in manufactured home planning and design who is authorized to practice in this State; and

(5) Three members of the public.

(b) Except as provided in subsection (c) of this section, each member shall serve a term of 3 years, and may succeed himself or herself; provided, however, that where a member was initially appointed to fill a vacancy, such member may succeed himself or herself for only 1 additional full term. Any person appointed to fill a vacancy on the Board, or to replace a member who has held over following the expiration of that member's term of office, shall hold office for the remainder of the unexpired term of the former member. Each term of office shall expire on the date specified in the appointment; however, the Board member shall remain eligible to participate in Board proceedings unless and until replaced by the Governor. Any person appointed to replace a member who has held over following the expiration of that member's term of office, shall serve a term of less than 3 years when necessary to ensure that Board members' terms expire on a rotating annual basis.

(c) A person may be appointed to the Board for up to 2 consecutive terms and, if the person has been twice appointed to the Board or has served on the Board for 6 or more years within any 9-year period, that person shall again be eligible for appointment to the Board only after an interim period of at least 3 years has expired since such person last served.

(d) Any act or vote by a person appointed in violation of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of this section, unless such an amendment or revision amends this section to permit such an appointment.

(e) In addition to the criteria set forth in subsection (a) of this section:

(1) No member of the Board, while serving on the Board, shall hold elective office in any professional association of manufactured home installers, including but not limited to serving as the head of the professional association's Political Action Committee (PAC);

(2) The public members shall be accessible to inquiries, comments, and suggestions from the general public; and

(3) No public member of the Board shall be, or ever have been:

a. A manufactured housing installer;

b. A member of the immediate family of a licensed manufactured housing installer;

c. Employed by a manufactured home installation company or contractor;

d. Materially interested in the providing of goods and services to manufactured home installers;

e. Engaged in an activity directly related to the manufactured home installation business.

(75 Del. Laws, c. 213, § 1; 70 Del. Laws, c. 186, § 1.)

### **§ 4414 The Manufactured Home Installation Board; vacancies; suspension or removal; member conduct; unexcused absences; compensation.**

(a) A member of the Board shall be suspended or removed by the Governor for misfeasance, nonfeasance, malfeasance, misconduct, incompetence, or neglect of duty. A member subject to disciplinary hearing shall be disqualified from Board business until the charge is adjudicated or the matter is otherwise concluded. A Board member may appeal any suspension or removal to the Superior Court.

(b) The provisions set forth in Chapter 58 of Title 29 shall apply to all members of the Board.

(c) Any member, who is absent without adequate reason for 3 consecutive meetings, or who fails to attend at least half of all regular business meetings during any calendar year, shall be guilty of neglect of duty.

(d) Each member of the Board shall be reimbursed for all expenses involved in each meeting, including travel, according to Division policy, and, in addition, shall receive not more than \$50 for each meeting attended but not more than \$500 in any calendar year. After 10 meetings have been attended, the member shall not be compensated for any subsequent meetings attended in that year.

(75 Del. Laws, c. 213, § 1.)

### **§ 4415 The Manufactured Home Installation Board; meetings; officers; quorum.**

(a) The Board shall hold regularly scheduled business meetings at least once in each quarter of a calendar year, and at such times as the president deems necessary, or, at the request of a majority of Board members.

(b) The Board annually shall elect a president, vice-president, secretary, a complaint officer and an education officer. Each officer shall serve for 1 year and shall not succeed himself or herself for more than 2 consecutive terms.

(c) A majority of the members shall constitute a quorum for the purpose of transacting business. No disciplinary action shall be taken without the affirmative vote of at least 5 members of the Board.

(d) Minutes of all meetings shall be recorded and delivered to the Division in a timely manner following the meeting. At any hearing where evidence is presented, a record from which a verbatim transcript can be prepared shall be made. The person requesting the transcript shall incur the cost of preparing any transcript.

(75 Del. Laws, c. 213, § 1; 70 Del. Laws, c. 186, § 1.)

**§ 4416 The Manufactured Home Installation Board; powers and duties.**

(a) The Board shall have all the powers and authority necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the powers set forth in this section in addition to others granted in this chapter.

(b) The Manufactured Home Installation Board may:

(1) Formulate rules and regulations, with appropriate notice to those affected; all rules and regulations shall be promulgated in accordance with the procedures specified in the Administrative Procedures Act [Chapter 101 of Title 29] of this State. Each rule or regulation shall implement or clarify a specific section of this chapter.

(2) Designate application forms to be used by all applicants and process all applications;

(3) Designate the written, standardized examination, approved by the Division, and administered and graded by the testing service, to be taken by all persons applying for licensure, except applicants who qualify for licensure by reciprocity;

(4) Evaluate the credentials of all persons applying for a license as a manufactured home installer, in this State, in order to determine whether such persons meet the qualifications for licensing set forth in this chapter.

(5) Evaluate the credentials of all persons applying for a certificate as a manufactured home installation inspector, in order to determine whether such persons meet the qualifications for certification set forth in this chapter.

(6) Grant licenses to and renew licenses of all persons who meet the qualifications for licensure;

(7) Grant certificates to and renew certifications of all person who meet the qualifications for certification;

(8) Establish by rule and regulation continuing education standards, which shall be a requirement of continued licensure and certification, as well as a requirement for renewal;

(9) Evaluate certified records to determine whether an applicant for licensure or certification, who previously has been licensed, certified or registered in another jurisdiction as a manufactured home installer or installation inspector, has engaged in any act or offense that would be grounds for disciplinary action under this chapter, and whether there are disciplinary proceedings or unresolved complaints pending against such applicant for such acts or offenses;

(10) Refer all complaints from licensees and certified installation inspectors and the public concerning licensees and certified installation inspectors, concerning unauthorized practitioners, or concerning practices of the Board or of the profession, to the Division for investigation pursuant to § 8735 of Title 29; and assign a member of the Board to assist the Division in an advisory capacity with the investigation of the technical aspects of the complaint;

(11) Conduct hearings and issue orders in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(12) Grant a license to, and renew the license of, any person holding an inactive license, as defined in the Board's rules and regulations, provided the individual does not use the license to perform manufactured home installations, and who in addition, submits proof of completion of biennial continuing education requirements.

(13) In the event an installation is not in compliance with this chapter, direct a licensed installer to take such corrective actions as it deems necessary to bring the installation into compliance.

(14) Assess administrative penalties against any unauthorized practitioner.

(15) Designate and impose the appropriate sanction or penalty, after time for appeal has lapsed, when the Board determined after a hearing, that penalties or sanctions should be imposed.

(16) Monitor federal laws and regulations governing manufactured home installations and installation inspections to ensure its continued compliance with them.

(c) The Board shall require that all persons receiving a license, display on the vehicles used in the performance of their work, the words "Licensed Manufactured Home Installer", or the abbreviation "Lic. Mfd. Home Installer" and the number assigned to them, in not less than 2-inch letters and numbers.

(d) The Board shall promulgate regulations specifically identifying those crimes which are substantially related to the work of a manufactured home installer or the practice of manufactured home installation.

(75 Del. Laws, c. 213, § 1; 77 Del. Laws, c. 169, §§ 3-5.)

**Subchapter III**

**Manufactured Home Installation Code**

**§ 4421 Manufactured home installations.**

(a) Every manufactured home installed in Delaware must be installed by a manufactured home installer licensed by the Board pursuant to this chapter.

(b) All manufactured home installations shall performed in a manner consistent with the regulations of the United States Department of Housing and Urban Development and shall be completed:

(1) Pursuant to the requirements of the manufactured home manufacturer's written installation instructions or manual; or

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(2) If the manufacturer's written installation instructions or manual is not available, then pursuant to the applicable provisions of NCSBCS/ANSI 225.1, 1994, as amended; or

(3) If the manufacturer's written installation instructions or manual is not available, and the provisions of NCSBCS/ANSI 225.1, 1994, as amended do not apply to the specific manufactured home, then pursuant to a set of plans designed for that specific manufactured home under the seal of a registered professional engineer.

(c) At the discretion of the county where the manufactured home is sited, and for a period not to exceed 6 months, limited exceptions to the above installation requirements may be permitted where installation of a manufactured home is made on a temporary basis, as emergency relief to a resident whose legal dwelling has been damaged or destroyed by fire or other natural disaster until said damage can be repaired or the dwelling replaced with a legal dwelling, or for a temporary installation where a manufactured home is being replaced with another legal dwelling.

(d) All manufactured home installations shall be inspected pursuant to this chapter, by an employee or contractor of an authorized inspection agency who has been certified by the Board as a manufactured home installation inspector.

(e) This section is intended to establish minimal standards for the installation of any manufactured home within the State of Delaware and to govern the installation of both previously owned manufactured homes and new manufactured homes. These standards are intended to satisfy the standards established by the federal Manufactured Housing Improvement Act of 2000 [P.L. 106-569, Title VI], and shall be liberally construed to that end.

(75 Del. Laws, c. 213, § 1; 77 Del. Laws, c. 169, § 6.)

### § 4422 Installation inspections.

(a) All installations of manufactured homes, whether new or previously owned, shall be subject to a minimum of 2 and a maximum of 5 inspections conducted prior to the owner taking occupancy, and the issuance of a certificate of completion or occupancy. At least 1 inspection shall be performed upon completion of an installation for the purposes of ensuring the safety and stability of the installation and the habitability of the manufactured home. Re-inspections required due to a failure of a previous inspection do not count towards the maximum number of inspections.

(b) Inspections shall be conducted by the land use department or other applicable agency or department of the county in which the manufactured home is located, unless a local government agency that currently performs such inspections on traditional housing desires to assume responsibility for inspections of manufactured housing. If the local government agency declines to do the inspection then the county shall be the authorized inspection agency. Counties or municipalities may hire inspectors on a contract basis to perform inspections on the county's or municipality's behalf, consistent with their current practices for other types of inspections. Such inspectors are subject to the requirements of subsection (d) of this section below. In no event shall any installation be subject to multiple inspections by other jurisdictions.

(c) The county or other local applicable agency which performs the inspection may charge a reasonable fee, as it relates to the actual cost to the inspecting agency, for the inspection procedure.

(d) No person shall undertake an installation inspection pursuant to this chapter without first having been individually certified by the Board pursuant to this chapter.

(75 Del. Laws, c. 213, § 1; 77 Del. Laws, c. 169, § 7.)

### § 4423 Requirement to provide notification of installation information.

All licensed manufactured home installers shall purchase approval decals from the Board, for a fee to be established by the Division. Such decal shall denote the date of setup, the name of the installer, and the number of the installer's license. Approval decals shall be positioned and permanently affixed next to the manufactured home data plate.

(75 Del. Laws, c. 213, § 1.)

## Subchapter IV

### Licensure and Certification

#### § 4431 Licensure requirements; reciprocal licensure.

(a) To obtain a manufactured home installer license, a person must:

(1) Apply to the Board for the license, in a manner designated by the Board;

(2) Pay an application fee established by the Division to offset the administrative costs associated with the functions of the Board;

(3) Be at least 18 years old;

(4) Provide evidence that the applicant or that applicant's employer has and will maintain a surety bond or irrevocable letter of credit issued by a federally-insured financial institution, in the form and minimum amount to be determined by the Board in its rules and regulations, that will cover the cost of repairing all damage to the home and its supports caused by the installer, or the installer's or employer's employees or agents, during the installation. The Board may require the licensed installer to provide proof of the surety

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bond or irrevocable letter of credit at any time. The licensed installer must notify the Board in writing, within 7 days of any changes or cancellations of the surety bond or irrevocable letter of credit. The employer must notify the Board of the termination of employment of any licensee who is covered by the employer's surety bond or irrevocable letter of credit. Entities or individuals who maintain a surety bond or irrevocable letter of credit as provided in this paragraph are responsible for all acts or omissions of the licensed manufactured home installer and any individual acting under the supervision of or assisting the installer in the installation of manufactured housing;

(5) Provide evidence that the applicant or that applicant's employer has and will maintain liability insurance in the form and minimum amount to be determined by the Board in its rules and regulations. The Board may require the licensed installer to provide proof of liability insurance at any time. The licensed installer must notify the Board in writing, within 7 days of any changes or cancellations of the liability insurance. The employer must notify the Board of the termination of employment of any licensee who is covered by the employer's liability insurance. Entities or individuals who maintain liability insurance as provided in this paragraph are responsible for all acts or omissions of the licensed manufactured home installer and any individual acting under the supervision of or assisting the installer in the installation of manufactured housing;

(6) Complete the educational requirements established by the Board;

(7) Have passed a licensure test established or adopted by the Board, and presented proof of the same to the Board;

(8) Agree to be responsible for all acts or omissions of any individual acting under the supervision of the applicant while assisting in the installation of manufactured housing;

(9) Not have been the recipient of any administrative penalties regarding the applicant's actions as a licensed manufactured home installer, including but not limited to fines, formal reprimands, license suspensions or revocation (except for license revocations for nonpayment of license renewal fees), probationary limitations, and and/or has not entered into any "consent agreement" which contains conditions placed by a Board on the applicant's professional conduct, including any voluntary surrender of a license. The Board, after a hearing, may determine whether such administrative penalty is grounds to deny licensure; and

(10) Not have a criminal conviction nor pending criminal charge relating to an offense, the circumstances of which substantially relate to actions as a licensed manufactured home installer. Applicants who have a criminal conviction or pending criminal charge shall request appropriate authorities to provide information about the conviction or charge directly to the Board in sufficient specificity to enable the Board to make a determination whether the conviction or charge is substantially related to actions as a licensed chemical dependency professional. However, after a hearing or review of documentation demonstrating that the applicant meets the specified criteria for a waiver, the Board, by an affirmative vote of a majority of the quorum, may waive this paragraph (a)(10), if it finds all of the following:

a. For waiver of a felony conviction, more than 5 years have elapsed since the date of the conviction. At the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

b. For waiver of a misdemeanor conviction or violation, at the time of the application the applicant may not be incarcerated, on work release, on probation, on parole or serving any part of a suspended sentence and must be in substantial compliance with all court orders pertaining to fines, restitution and community service.

c. The applicant is capable of performing manufactured home installation services in a competent and professional manner.

d. The granting of the waiver will not endanger the public health, safety or welfare.

(b) The Board may waive the education and examination requirements and grant a reciprocal license upon the receipt of an application and the payment of the fees to any person who presents proof of current licensure, registration, or certification as a manufactured home installer in any other state, district, or territory of the United States whose laws and regulations governing licensure, registration, or certification are considered by the Board to be substantially similar to the requirements for licensure set forth in this chapter and the Board's rules and regulations.

(75 Del. Laws, c. 213, § 1; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 436, § 48; 77 Del. Laws, c. 169, §§ 8, 9; 77 Del. Laws, c. 199, § 36; 78 Del. Laws, c. 44, §§ 70, 71.)

### § 4432 Certification requirements.

The Board may issue a manufactured home installation inspector's certificate to any full-time, part-time, or casual/seasonal employee of an authorized inspection agency who has completed a certification course established or approved by the Board.

(75 Del. Laws, c. 213, § 1.)

### § 4433 License and certification renewal; inactive licenses; refusal to renew; finality of Board's decision.

(a) All licenses issued pursuant to this chapter shall be renewed biennially. All certificates issued pursuant to this chapter shall be renewed on a schedule established by the Board.

(b) The Board may establish requirements to grant an inactive status to any licensee upon request.

(c) Renewal decisions of the Board shall be final when announced to the applicant.

(75 Del. Laws, c. 213, § 1.)

## Title 24 - Professions and Occupations

### Subchapter V

#### Disciplinary Proceedings

##### § 4441 Grounds for discipline.

(a) A practitioner licensed or certified under this chapter shall be subject to disciplinary actions set forth in § 4443 of this title, if, after a hearing, the Board finds that the practitioner:

(1) Has employed or knowingly cooperated in fraud or material deception in order to acquire a license as a manufactured home installer or a certificate as a manufactured home installation inspector; has impersonated another person holding a license or certificate, or allowed another person to use that manufactured home installer's license or manufactured home installation inspector's certificate, or aided or abetted a person not licensed as a manufactured home installer or certified as a manufactured home installation inspector to represent himself or herself as a manufactured home installer or manufactured home installation inspector.

(2) Has illegally, incompetently or negligently practiced manufactured home installation or manufactured home installation inspection.

(3) Has been convicted of a crime that is substantially related to the practice of manufactured home installation or manufactured home installation inspection. A copy of the record of conviction certified by the clerk of the court entering the conviction shall be conclusive evidence thereof.

(4) Has excessively used or abused drugs either in the past 2 years or currently; excessive use or abuse of drugs shall mean any use of narcotics, controlled substances, or illegal drugs without a prescription from a licensed practitioner, or the abuse of alcoholic beverage such that it impairs the practitioner's ability to perform the work of a manufactured home installer or manufactured home installation inspector.

(5) Has violated a lawful provision of this chapter, or any lawful regulation established thereunder.

(6) Has had that practitioner's manufactured home installer's license or manufactured home installation inspector's certificate suspended or revoked, or other disciplinary action taken by the appropriate licensing authority in another jurisdiction; provided, however, that the underlying grounds for such action in another jurisdiction have been presented to the Board by certified record; and the Board has determined that the facts found by the appropriate authority in the other jurisdiction constitute 1 or more of the acts defined in this chapter. Every person licensed as a manufactured home installer or certified as a manufactured home installation inspector in this State shall be deemed to have given consent to the release of this information by the Board or other comparable agencies in another jurisdiction, and to have waived all objections to the admissibility of previously adjudicated evidence of such acts or offenses.

(7) Has failed to notify the Board that the manufactured home installer's license or manufactured home installation inspector's certificate in another state has been subject to discipline, or has been surrendered, suspended, or revoked. A certified copy of the record of disciplinary action, surrender, suspension or revocation shall be conclusive evidence thereof.

(8) Has failed to comply with a lawful board order.

(b) Subject to the provisions of subchapter IV of Chapter 101 of Title 29, no license or certificate shall be restricted, suspended, or revoked by the Board, and no practitioner's right to practice manufactured home installation or manufactured home installation inspection shall be limited by the Board until such practitioner has been given notice, and an opportunity to be heard, in accordance with the Administrative Procedures Act, Chapter 101 of Title 29. Notice shall be accomplished by mail to the last address of record provided by the practitioner. It is the practitioner's responsibility to notify the Division of a change of address within 15 days of that change.

(75 Del. Laws, c. 213, § 1; 70 Del. Laws, c. 186, § 1; 79 Del. Laws, c. 171, § 1.)

##### § 4442 Hearing procedures.

(a) If a complaint is filed with the Board pursuant to § 8735 of Title 29 alleging violation of § 4441 of this title, the Board shall set a time and place to conduct a hearing on the complaint. Notice of the hearing shall be given and the hearing shall be conducted in accordance with the Administrative Procedures Act, Chapter 101 of Title 29.

(b) Where the practitioner is in disagreement with the action of the Board, the practitioner may appeal the Board's decision to the Superior Court within 30 days of the day that notice of the decision is mailed, in accordance with the Administrative Procedures Act, § 10142 of Title 29.

(75 Del. Laws, c. 213, § 1; 79 Del. Laws, c. 171, § 1.)

##### § 4443 Disciplinary sanctions.

(a) The Board may impose any of the following sanctions, singly or in combination, when it finds that 1 or more of the conditions or violations set forth in § 4441 of this title applies to a practitioner:

(1) Issue a letter of reprimand;

(2) Place the practitioner on probationary status and require the practitioner to:

a. Report regularly to the Board upon the matters which are the basis for the probation; and/or

## Title 24 - Professions and Occupations

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b. Limit all practice and professional activities to those areas prescribed by the Board.

(3) Impose a monetary penalty as set forth in § 4445(c) of this title;

(4) Suspend any practitioner's license or certificate.

(5) Revoke or permanently revoke any practitioner's license or certificate.

(b) The Board may withdraw or reduce conditions of probation when it finds that deficiencies requiring such action have been remedied.

(c) Where the Board has placed a practitioner on probationary status under certain restrictions or conditions and the Board has determined that such restrictions or conditions are being or have been violated by the practitioner, it may, after a hearing on the matter, suspend or revoke the practitioner's license or certificate.

(79 Del. Laws, c. 171, § 1.)

### § 4444 Temporary suspension pending hearing.

In the event of a formal or informal complaint concerning the activity of a licensee that presents a clear and immediate danger to the public health, the Board may temporarily suspend the person's license, pending a hearing, upon the written order of the Secretary of State or the Secretary's designee, with the concurrence of the Board chair or the Board chair's designee. An order temporarily suspending a license may not be issued unless the person or the person's attorney received at least 24 hours' written or oral notice before the temporary suspension so that the person or the person's attorney may file a written response to the proposed suspension. The decision as to whether to issue the temporary order of suspension will be decided on the written submissions. An order of temporary suspension pending a hearing may remain in effect for no longer than 60 days from the date of the issuance of the order unless the temporarily suspended person requests a continuance of the hearing date. If the temporarily suspended person requests a continuance, the order of temporary suspension remains in effect until the hearing is convened and a decision is rendered by the Board. A person whose license has been temporarily suspended pursuant to this section may request an expedited hearing. The Board shall schedule the hearing on an expedited basis, provided that the Board receives the request within 5 calendar days from the date on which the person received notification of the decision to temporarily suspend the person's license.

(79 Del. Laws, c. 171, § 1.)

### § 4445 Penalties.

(a) Where the Board has determined, upon notice and hearing pursuant to Chapter 101 of Title 29 that a person is engaged in the practice of manufactured home installation or manufactured home installation inspection regulated by this chapter without having lawfully obtained a license or certificate or that a person previously licensed or certified under this chapter is engaged in a practice regulated by this chapter notwithstanding that the person's license or certificate has been suspended or revoked, the Board may issue a cease and desist order. In addition to the power to issue a cease and desist order, the Board may seek an injunctive order prohibiting such unlawful practice and/or seek the imposition of other civil penalties defined by this chapter.

(b) Upon notice and hearing pursuant to Chapter 101 of Title 29, the Board may fine any person who violates such cease and desist order not less than \$100 or more than \$1,000. Each day a violation continues may be deemed a separate offense in the Board's discretion.

(c) Any person who violates any provisions of this chapter or any rules or regulations promulgated hereunder shall be liable for a civil penalty of not more than \$5,000 for the first offense; and not more than \$10,000 for the second and each subsequent offense, which penalty may be sued for, and recovered by, the Board. Nothing in this section shall be construed to prevent prosecution under, or be inconsistent with, Title 11.

(d) In addition to the sanctions set forth in subsections (a) and (b) of this section, a person, not currently licensed as a manufactured home installer or certified as a manufactured home installation inspector under this chapter, when guilty of performing manufactured home installation or manufactured home installation inspection, or using in connection with that person's name, or otherwise assuming or using any title or description conveying, or tending to convey, the impression that the person is qualified to perform manufactured home installation or manufactured home installation inspection, such offender shall be guilty of a misdemeanor. Upon the first offense, the person shall be fined not less than \$500 nor more than \$1,000 for each offense. For a second or subsequent conviction, the fine shall be not less than \$1,000 nor more than \$2,000 for each offense. Justice of the Peace Courts shall have jurisdiction over all violations of this chapter.

(79 Del. Laws, c. 171, § 1.)

**CITY OF HARRINGTON  
ORDINANCE NO. 15-\_\_**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 114, OPEN  
BURNING, OF THE CODE OF THE CITY OF HARRINGTON**

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

**Section 1.** That Chapter 114 shall be amended by deleting the existing  
chapter and substituting in lieu thereof the following:

**Chapter 114. Open burning.**

**§ 114.1. 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.

**BARBECUING – COMMERCIAL**

The preparation and cooking of food by way of gas grill, charcoal grill, or other  
apparatus used for the cooking of food by way of flame produced through  
wood, charcoal, or gas for the purpose of cooking food for the sale to and/or  
consumption by the general public.

**BARBECUING – RECREATIONAL**

The preparation and cooking of food by way of gas grill, charcoal grill, or other  
apparatus used for the cooking of food by way of flame produced through  
wood, charcoal, or gas for the purpose of cooking food for the consumption  
by a family and/or guests or by the membership of a private organization or  
church congregation.

**OPEN BURNING**

The burning of materials wherein products of combustion are emitted directly  
into the ambient air without passing through a stack or chimney from an  
enclosed chamber.

**OUTDOOR FIREPLACE**

Any homemade or commercially produced fireplace, fire pit, or fire ring used  
for the kindling of wood.

**§ 114.2. Permit required.**

Open burning of structures, brush, or bonfires shall not be permitted without a  
permit obtained from the City Manager, and/or his/her designee.

**§ 114.3. Fire dimensions.**

Open burning, when allowed, shall be kindled in such a manner as not to be a danger to vehicles or structures and shall not be of a size greater than 18 inches by 18 inches by 18 inches. Height of the fire shall be measured from the ground or from the bottom of the inside of the container being used to kindle the fire. Open burning shall not be kindled directly on the ground unless contained in a fire ring.

**§ 114.4. Fire clearances and time restrictions.**

Outdoor fireplaces shall have 36 inches clearance from all combustibles when in use. Portable fireplaces, fire pits, or fire rings shall be extinguished in a residential area between the hours of 12:00 midnight and 8:00 a.m.

**§ 114.5. Commercial barbecuing.**

A. Commercial barbecuing shall be permitted under the following conditions:

- (1) The location has been approved by the City Manager, and/or his/her designee.
- (2) One fire extinguisher of not less than five pounds ABC is to be located within ten feet of the cooking area. Cooking area and cooking fuels shall be secured from public access.
- (3) Approval from the board of public health has been obtained.
- (4) The operator shall make all reasonable attempts to avoid causing a nuisance to nearby property owners with smoke, fumes, or sparks.
- (5) All compressed flammable gas containers used for cooking shall be secured in such a way as to prevent them from being knocked, tipped, or blown over.

B. Any commercial barbecuing operations which are a continual nuisance because of smoke, fumes, or sparks shall be terminated by the City Manager, and/or his her designee, until such time as the City Manager, and/or his/her designee, is satisfied that the problem has been corrected.

C. Barbecuing of any kinds shall not be kindled within 200 feet of any fuel pump or storage tank fill. Cooking grease shall not be disposed of by placing it directly on the ground or in storm water drains.

**§ 114.6. Prohibited.**

- A. Multifamily residential dwelling units. In apartment buildings, condominiums, or any other multifamily residential dwelling of three or more units by any other name, the storage of propane tanks inside units or on balconies is prohibited. Recreational barbecuing shall be prohibited on any balcony or under any overhanging portion or within 15 feet of any structure, except that the use of electrical ranges or electrical grills shall be permitted. The use of outdoor fireplaces on balconies is prohibited.
- B. Unattended burning. It shall be prohibited for open burning, commercial barbecuing, and outdoor fireplaces to be unattended at any time. In the event that any open burning, commercial barbecuing or outdoor fireplaces are found to be unattended, the City Manager, and/or his/her, designee shall order the open burning extinguished.

**§ 114.7. Violations and penalties.**

- A. Any person found to be in violation of this article, regardless of corrective actions taken, shall be punished for that violation by a fine as established in Chapter 180, Municipal Fees. Any such fine shall be in addition to any charges or assessments imposed upon the violator pursuant to this Chapter. All fines imposed shall be in accordance with the minimum fine schedule set in Chapter 180, Municipal Fees.
- B. Every day that a violation of this article continues shall be considered a separate offense, for which the violator may be fined without necessity of further notice.
- C. In determining the applicable minimum fine, an offense shall be considered a recurring offense only if the owner of the property has previously been found to have caused or permitted the same nuisance at the same location within the past 18 months, or for every day that the violation of this article continues.

**Repealer.** All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

**Effective Date.** The Clerk of Council shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force from and after its approval by Council.

SO ORDAINED by the majority of Council Members present at a regular session of Harrington City Council, to be effective upon signing.

\_\_\_\_\_  
Anthony R. Moyer, Mayor

Attest: \_\_\_\_\_  
Kelly Blanchies, Clerk of Council

Date of Adoption: \_\_\_\_\_

**SYNOPSIS**

This Ordinance replaces Chapter 114, Open Burning, to allow some types of open burning and commercial barbecuing and restricting the size and location of open fires and residential barbecuing.

First Reading: \_\_\_\_\_

Public Hearing: \_\_\_\_\_

Second Reading: \_\_\_\_\_

# Existing Open Burning Chapter

City of Harrington, DE  
Friday, December 19, 2014

## Chapter 114. BURNING, OPEN

[HISTORY: Adopted by the Mayor and Council of the City of Harrington 5-1-2006 by Ord. No. 06-03. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Authority to regulate — See Charter § 4.2.

Fire hazards — See Ch. 205.

Property maintenance — See Ch. 305.

### § 114-1. Open burning prohibited.

Open burning is prohibited within the City limits.

### § 114-2. Salvage, demolition or disposal.

Salvage operations, demolition operations or disposal of waste materials by open burning is prohibited within City limits.

### § 114-3. Definitions.

For the purpose of this chapter, “open burning” means the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber.

### § 114-4. Violations and penalties.

- A. Any person violating this chapter shall be punished by a fine of not more than \$100 for each offense.
- B. Each day that a violation occurs shall be a separate offense.