

**RESOLUTION BY THE COMMISSIONERS  
OF THE TOWN OF HENLOPEN ACRES  
PROPOSING THAT A PUBLIC HEARING BE HELD ON THE SUBJECT OF  
AMENDING CHAPTER 130, ZONING, SECTIONS 130-4 AND 130-17,  
OF THE MUNICIPAL CODE OF  
THE TOWN OF HENLOPEN ACRES, DELAWARE,  
RELATING TO COOKING FACILITIES**

**WHEREAS**, the Commissioners of The Town of Henlopen Acres have deemed it desirable to consider the question of whether to amend Section 130-4 and 130-17 of the Municipal Code of the Town of Henlopen Acres by declaring certain cooking facilities permissible;

**WHEREAS**, Title 22, Chapter 3, Section 301 of the Delaware Code provides that "[f]or the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes";

**WHEREAS**, Section C-4(C) of the Town's Charter provides that "[a]ll Powers of The Town of Henlopen Acres, whether express or implied, shall be exercised as prescribed by [the Town] Charter or; if not prescribed herein, by ordinance or resolution of the Commissioners";

**WHEREAS**, Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres provides the following procedure to be followed by the Commissioners of Henlopen Acres before exercising the aforesaid authority granted by statute and the Town Charter:

1. Hold a public hearing at which hearing parties in interest and citizens shall have an opportunity to be heard;

2. Provide at least 15 days' notice of such hearing by publishing notice of the time and place of such hearing in an official paper or paper of general circulation in the Town.

**NOW THEREFORE, BE IT RESOLVED**, by the Commissioners of The Town of Henlopen Acres, in session met, this 5<sup>th</sup> day of ~~October~~ September, 2017, that a public hearing shall be held pursuant to Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres on the 13<sup>th</sup> day of October, A.D. 2017, at 10:00 a.m., in Town Hall, 104 Tidewaters, Henlopen Acres, Delaware, 19971, Sussex County, Delaware, to consider the question of whether it is in the public interest to amend Sections 130-4 and 130-17 of the Municipal Code of the Town of Henlopen Acres by declaring certain cooking facilities permissible, as follows:

SEE EXHIBIT 1



**AN ORDINANCE TO AMEND CHAPTER 130 OF THE  
MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES,  
BY AMENDING SECTIONS 130-4 AND 130-17  
RELATING TO COOKING FACILITIES.**




**BE IT FURTHER RESOLVED**, that parties in interest and citizens shall have an opportunity to be heard at said public hearing.

**BE IT FURTHER RESOLVED**, that this resolution to hold a public hearing

shall be printed at least 15 days prior to said public hearing in an official paper or paper of general circulation in the Town.

Adopted by the Commissioners  
of the Town of Henlopen Acres

Sept. 5, 2017

*Asst.*   
Secretary of the Commissioners of  
the Town of Henlopen Acres

Version: September 13, 2017

**AN ORDINANCE TO AMEND CHAPTER 130 OF THE  
MUNICIPAL CODE OF THE TOWN OF HENLOPEN ACRES,  
BY AMENDING SECTIONS 130-4 AND 130-17  
RELATING TO COOKING FACILITIES.**

**WHEREAS**, Title 22, Chapter 3, Section 301 of the Delaware Code provides that "[f]or the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes."

**WHEREAS**, Article X, Chapter 130, Section 130-56 of the Municipal Code of the Town of Henlopen Acres provides that any amendment to any Zoning Ordinance shall be after a public hearing following fifteen (15) days' notice by publication in an official paper or a paper of general circulation with the municipality.

**BE IT ORDAINED**, by the Commissioners of the Town of Henlopen Acres, in session met, in the manner following to wit:

**Section 1.** Chapter 130, Section 130-4, of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by deleting Subsection 130-4(B)(2) in its entirety and renumbering the remaining Subsections of Subsection 130-4(B).

**Section 2.** Chapter 130, Section 130-17, of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by deleting from Subsection 130-17(D) the phrase "except for tool- or equipment sheds of fireproof material which shall be attached to the rear of the dwelling and shall not exceed 48 square feet" as such phrase appears therein.

**Section 3.** Chapter 130, Section 130-17, of the Municipal Code of Henlopen Acres, as amended, be and the same is hereby further amended by creating a new Subsection 130-17(D)(1)(a) as follows:

- (a) Exceptions. Tool or equipment sheds of fireproof material are permitted provided they are attached to the rear of the principal dwelling and shall not exceed 48 square feet. Cooking facilities are permitted provided they are attached or contiguous to the principal dwelling and are not visible from the street.

**Section 4.** If any provision of this Ordinance shall be deemed or held to be invalid or unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect any other provision of this Ordinance which may be given effect without such invalid or unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to be severable.

**Section 5.** This Ordinance shall take effect immediately upon its adoption by the Commissioners of the Town of Henlopen Acres.

I, Beatrix Richards, Secretary of the Commissioners of the Town of Henlopen Acres, do hereby certify that the foregoing is a true and correct copy of the ordinance passed by the Commissioners at their meeting held on \_\_\_\_\_, 2017, at which a quorum was present and voting throughout and that the same is still in full force and effect.

\_\_\_\_\_  
Secretary

**Synopsis:** This Ordinance amends Chapter 130 such that certain cooking facilities contiguous to the principal dwelling and not visible from the street are permitted.