"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
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CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 15 – 0921-02

ORDINANCE TO AMEND CITY CODE SECTION 46-121(e) FOR THE PURPOSE OF MODIFYING THE PROCEDURES TO RELATING TO A VARIANCE REQUEST

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code ("Code");

WHEREAS, Section 46-121(e) of the Code sets for the procedure by which a variance may be requested and considered and provides, in part, that " [w]ithin ten (10) days after receiving a request for a variance, the Board of Adjustment shall send the request with any relevant comments from to [sic] applicable Delaware City plan review designees."

WHEREAS, the City Council has determined that the timeframes provided in the current Code are not always feasible and do not provide the Board of Adjustment with sufficient time to react and respond.

WHEREAS, City Council has determined the procedure contained in the current Code should be modified in order to provide the Board of Adjustment and the Planning Commission a sufficient and reasonable opportunity to review and respond to a variance request

WHEREAS, under Article V, Section 5-02(B) of the Charter, the proposed amendments were introduced at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

NOW, THEREFORE, making the express finding that the proposed amendments outlined herein are for and enhance the health, safety, and welfare of the City of Delaware City, and are reasonably related to the costs incurred by the City, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1 – Amend Section 46-121(e) of the City Code of Delaware City, entitled "Procedures for Requesting a Variance", by deleting the section in its entirety and substituting the following language:

> e.) Procedures for Requesting a Variance. Requests for variances shall be submitted in writing with the City Manager acting for the Board of Adjustment. The City Manager shall, subject to applicable noticing requirements, cause the variance request to be placed on the agenda for the next regularly scheduled meeting of the Planning Commission. At the same time, the City Manager shall cause a hearing before the Board of Adjustment to be scheduled and any applicable notifications to be given. Upon receipt, the City Manager shall forward the minutes of the Planning Commission meeting to the Board of Adjustment.

Section 2. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 3. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the

unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 4. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 201__.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

_____
Council Member

First Reading on _____,

Second Reading, Public Hearing, and Final Passage on _____.