"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

ORDINANCE NO. 15-1221-01

ORDINANCE TO AMEND CHAPTER 46, SECTION 46-137 OF THE CITY CODE TO MODIFY AND FURTHER CLARIFY THE PROCEDURES FOR CERTAIN ZONING CLASSIFICATION CHANGE APPLICATIONS

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, The Mayor and City Council of Delaware City desire to amend Chapter 46, Section 46-137 to modify and clarify the procedures associated with the submission of a zoning classification application by the owner of any property or the prospective owner of a property.

WHEREAS, The Mayor and City Council believe these amendments are in the best interest of the City;

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 ten (10) days in The City of Delaware City.

WHEREAS, under Section 46-139 of the Code, notices of the public hearing with respect to the proposed amendments were posted at Delaware City Town Hall and other areas throughout the town, and published once each week for two (2) consecutive calendar weeks in a newspaper of general circulation in the City of Delaware City and published not less than fifteen (15) days prior to the date of such public hearing.

NOW, THEREFORE, 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 46-137 of the Delaware City Code, by deleting the existing section in its entirety and replacing it with the text set forth on Exhibit A attached

hereto. A comparison of the former and modified text of Section 46-137 identifying the changes and modifications is attached hereto as Exhibit B.

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 Inconsistent Ordinances and Resolutions Repealed.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or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.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

(Signature Page Follows)

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 _____.

EXHIBIT A

Section 46-137 Procedures for Amendment

A request for a zoning classification change for particular properties or areas may be initiated by the Mayor and City Council, the Planning Commission, any department or agency of the City of Delaware City, by the owner of any property or the prospective owner of the property.

Any petition for an amendment to a zoning classification submitted by the owner of any property or the prospective owner of any property for a change to the zoning map or a comprehensive plan designation shall be filed with the City Manager at least ten (10) days prior to the date on which it is to be introduced to the Mayor and Council. All such petitions must be signed or joined by the owner of the property. The petition shall be signed, be in duplicate, and shall contain at least the following:

a.) The applicant's name in full, applicant's address or description of the property to be rezoned.
b.) Applicant's interest in the property and the type of zoning classification change requested.
c.) An accurate diagram of the property proposed for a zoning classification change showing:
    1.) All property lines with dimensions including North arrow.
    2.) Adjoining streets with rights-of-way and paving widths.
    3.) The location of all structures, the use of all land.
    4.) The zoning classification of all abutting zoning districts.
    5.) Comprehensive site plan if the application is for commercial, industrial or multi-family development.
d.) A statement regarding the changing conditions, if any, in area or in the city generally, that make the proposed amendment reasonably necessary to the promotion of public health, safety, and general welfare.
e) All required fees.

The City Council shall, in its discretion, determine if the petition for a zoning classification change should be referred to the Planning Commission for review. If the City Council does not refer the petition to the Planning Commission, the application fee shall be refunded to the applicant and no further action shall be taken regarding the petition.

Following affirmative referral by the City Council of the zoning classification change request to the Planning Commission for review and recommendation. At the request of the applicant, an ordinance to change the zoning classification shall be proposed for a first reading before the City Council following receipt of the Planning Commission's recommendation. If the zoning classification change also requires an amendment to the City's comprehensive development plan, the Planning Commission shall not provide any recommendation to City Council until after a public hearing, submission of the application to the Preliminary Land Use Service Review ("PLUS"), and the Planning Commission's consideration of written comments received from PLUS. The applicant shall bear all costs and expenses incurred by the City for PLUS review. Upon recommendation of the Planning Commission, the application will be scheduled for a second reading, public hearing and vote by City Council in accordance with this Code and/or the City Charter.

EXHIBIT B

Section 46-137 Procedures for Amendment

~~A petition for zoning amendment~~ A request for a zoning classification change for particular properties or areas may be initiated by the Mayor and City Council, the Planning Commission, any department or agency of the City of Delaware City, by the owner of any property or the prospective owner of the property ~~covered by such petition~~.

Any petition ~~application~~ for an amendment to ~~the Zoning Chapter~~ a zoning classification submitted by the owner of any property or the prospective owner of any property for a change to the zoning map or a comprehensive plan designation shall be filed with the City Manager at least ten (10) days prior to the date on which it is to be introduced to the Mayor and Council. All such petitions must be signed or joined by the owner of the property. ~~The City manager shall be responsible for presenting the application to the Mayor and Council. The cost of the required legal notice shall be paid by the applicant seeking the zoning amendment. Each~~ The petition ~~application~~ shall be signed, be in duplicate, and shall contain at least ~~the following~~ the following:

a.) The applicant's name in full, applicant's address or description of the property to be rezoned.

b.) Applicant's interest in the property and the type of zoning classification change ~~rezoning~~ requested.

c.) ~~If the proposed change would require a change in the zoning map, a~~An accurate diagram of the property proposed for a zoning classification change ~~rezoning~~ showing:

1.) All property lines with dimensions including North arrow.

2.) Adjoining streets with rights-of-way and paving widths.

3.) The location of all structures, the use of all land.

4.) The zoning classification of all abutting zoning districts.

5.) Comprehensive site plan if the application is for commercial, industrial or multi-family development.

d.) A statement regarding the changing conditions, if any, in area or in the city generally, that make the proposed amendment reasonably necessary to the promotion of public health, safety, and general welfare.

e) All required fees.

~~Unless initiated by Delaware City's Planning Commission, all proposed amendments to the Zoning Chapter shall be submitted to the Planning Commission for hearing, review and recommendation. The Planning Commission shall have forty-five (45) working days within which to submit its report. If the Planning Commission fails to submit a report within the above period, it shall be deemed to have approved the proposed amendment.~~

The City Council shall, in its discretion, determine if the petition for a zoning classification change should be referred to the Planning Commission for review. If the City Council does not refer the petition to the Planning Commission, the application fee shall be refunded to the applicant and no further action shall be taken regarding the petition.

Following affirmative referral by the City Council of the zoning classification change request to the Planning Commission for review and recommendation. At the request of the applicant, an ordinance to change the zoning classification shall be proposed for a first reading before the Council following receipt of the Planning Commission's recommendation. If the zoning classification change also requires an amendment to the City's comprehensive development plan, the Planning Commission shall not provide any recommendation to City Council until after a public hearing, submission of the application to the Preliminary Land Use Service Review

("PLUS"), and the Planning Commission's consideration of written comments received from PLUS. The applicant shall bear all costs and expenses incurred by the City for PLUS review. Upon recommendation of the Planning Commission, the application will be scheduled for a second reading, public hearing and vote by City Counsel in accordance with this Code and/or the City Charter.