"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
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Substitute Amendment No. 1 to Ordinance No. 16-1017-01

ORDINANCE TO AMEND CITY CODE SECTION 46-3, 46-57, AND CERTAIN SIGN AND OUTDOOR ADVERTISING REGULATIONS IN CHAPTER 46, ARTICLE X

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, Chapter 46, Section 46-3 of the Code, entitled "Definitions," provides definitions and interpretations for words and phrases used in Chapter 46 of the Code;

WHEREAS, Chapter 46, Sections 46-81 to 46-85, 46-89 to 46-91, and 46-93 currently provide various regulations on signs based on those definitions found in Section 46-3;

WHEREAS, Chapter 46, Section 46-57 provides for regulations regarding non-conforming uses, specifically the abandonment and extinguishment of non-conforming uses;

WHEREAS, the Mayor and City Council of Delaware City desire to amend Chapter 46, Section 46-3 by omitting and amending certain definitions pertaining to signs;

WHEREAS, the Mayor and City Council desire to amend Sections 46-81, 46-82, 46-83, 46-84, 46-85, 46-89, 46-90, 46-91 and 46-93 to change certain regulations governing signs and outdoor advertising found in those sections ("Sign Ordinance");

NOW, THEREFORE, the Mayor and City Council believe this Sign Ordinance is in the best interest of the City and necessary to enhance the health, safety, and welfare of the City of Delaware City, especially as to traffic safety and the City's aesthetic appeal, 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 46-81 of the Code by adding the language identified below in bold as a preamble or mission statement at the beginning of the Sign Ordinance:

Article X Sign and Outdoor Advertising Regulations

The purpose of the adoption of these sign ordinances is to enhance the aesthetic appeal, and maintain the historical charm of Delaware City, as well as protect the health, safety, and welfare of its residents and visitors.

Section 2. Amend the following definitions found in Section 46-3 of the Delaware City Code, entitled "Definitions," by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Billboard: A **freestanding, off-site advertising** sign between twenty five (25) square feet and not to exceed fifty (50) square feet in size. ~~located on or off premises which advertises an establishment, product, service, space or activity not located on the lot on which the sign is located.~~

Directional Sign: A sign **regulating traffic, or a sign indicating entry or exit, loading or service area, fire lanes, parking, no trespassing or a similar sign incidental to the primary use and not itself advertising or naming that use except as required by law.** ~~displaying only the name, nature and location of establishments located in the City offering accommodations, merchandise, and/or other features or institutions of note located in the City.~~

Identification Sign: A sign on a private residence which lists the ~~name and/or~~ **house number or** address of the occupant. ~~or business entity.~~

~~Noncommercial Speech Sign: Any sign containing a philosophical, religious or public-interest message not used for commercial purposes and not made in furtherance or promotion of a commercial product, service or enterprise.~~

~~Political Sign: A sign used in connection with an official City, school district, county, state, or federal election or referendum promoting a candidate or position.~~

~~Reader Board: A sign of permanent character, but with moveable or printed letters, words or numerals, indicating the names of persons associated with or events conducted upon or products or services offered upon the premises upon which such sign is maintained.~~

~~Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or leased.~~

Projecting Sign: A sign that is perpendicular and adequately attached to and projects at an angle of not less than forty-five degrees from a structure or building face. A projecting sign shall provide a seven-foot clearance between its bottom edge and the ground if it hangs over public right-of way and shall comply with the size requirements set forth herein.

Signs: Any form of publicity, visible from any public highway ~~directing attention to an individual activity, business, service, commodity or product and~~ conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trade marks or trade names or other

pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints or other devices erected on an open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings or other structures or supports.

~~Special Event Sign: A sign used for activities or events that are temporary and of limited duration, may be recurring, or be unusual for the purpose of drawing attention or conveying public information for the activity and shall include, by way of example and not in limitation, yard sales, sidewalk sales, special promotions and public events.~~

Temporary Sign: A sign which is erected for a time not to exceed **a cumulative period of** two (2) weeks **per calendar year without the approval of the city manager or code official to a longer period of time**.

~~Windblown Signs: Any banner, flag, pennant, spinner, streamer, moored blimp or gas balloon, or the like, whether or not conveying a message through words, letters and/or symbols.~~

Section 3. Amend Section 46-81 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-81 R-1 District (Single Family Residential), R-2 District (One and Two Family Residential); C-1L (Commercial Low Impact) and HPR (Historic Preservation and Redevelopment)

The following signs are permitted:

a.) Signs to regulate traffic.

b.) Signs required to be posted by law.

c.) Warning signs ~~and no trespassing signs~~.

d.) Signs established by governmental regulation.

e.) Signs indicating bus stops, taxi stands and similar transportation facilities.

f.) One (1) ~~professional~~ sign **located on premises used as a professional office or studio of a physician, dentist, lawyer, architect, engineer, musician, artist, teacher, real estate broker, registered nurse or other similar professional person,** for each such use. Such signs shall not exceed two (2) square feet in area, be motionless, and shall not have flashing illumination.

~~g.) One (1) temporary real estate sign, no larger than six (6) square feet in area, advertising the sale, lease or rental of each such property.~~

~~h~~**g**.) One (1) temporary sign per **parcel,** ~~indicating the sale of property within such subdivision~~. No such sign shall ~~be larger than~~ **exceed** twelve (12) square feet in area.

~~i.) Signs indicating the names of subdivisions, provided such signs are of permanent type construction and do not contain any information pertaining to the sale of property.~~

~~j~~**h**.) One (1) sign or bulletin board not exceeding twenty-four (24) square feet in area upon the premises of a church or other **similar religious** institution ~~for the purpose of displaying the name of such church or institution and other related information~~.

~~k~~**i**.) Identification signs, in conjunction with residential usage or a C-1L area or a HPR area, ~~such as mail box signs, names of residences and house numbers, shall~~ not **to** exceed one and one-half (1 ½) square feet in area.

~~l~~**j**.) Directional signs ~~to churches, parks, etc. not to exceed three (3) square feet in area~~.

~~m~~**k**.) One (1) sign ~~for a~~ **located on premises used as a** Bed & Breakfast or tourist home, ~~no larger than~~ **not to exceed** six (6) square feet in area per frontage and no higher than the roofline of the structure.

l.) One portable sign not to exceed three (3) square feet in area.

m.) Sign illumination may be used for all permitted signs.

n.) Projecting Signs

Animated signs, balloon signs, mural signs, digital signs, roof signs, and billboards (except on the premises of a church or other similar religious institution) are prohibited. No sign, other than directional signs, shall exceed twenty five (25) square feet in size.

Section 4. Amend Section 46-82 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-82 R-3 District (Multifamily)

The following signs are permitted in any R-3 District:

a.) All signs permitted within the R-1, R-2, and C-1L Districts.

b.) One (1) sign not to exceed twenty (20) square feet in area ~~identifying an~~ **located on premises used as a garden or other existing** apartment structure having a minimum of one hundred (100) feet of street frontage.

c) Animated signs, balloon signs, mural signs, digital signs, roof signs, and billboards (except on the premises of a church or other similar religious institution) are prohibited. No sign, other than directional signs, shall exceed twenty five (25) square feet in size.

Section 5. Amend Section 46-83 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-83 C-1 (Central Commercial) and C-1M (Marina)

The following signs are permitted in the C-1 and C-1M Districts:

a.) All signs permitted in the R-3 District.

b.) ~~Business signs, provided that the number of signs shall not exceed o~~**O**ne (1) sign**, located on premises used as a business,** per business per frontage, shall not project beyond the building line, shall not exceed three (3) square feet for each foot of building frontage on the lot or fifty (50) aggregate square feet, whichever area is smaller, and shall be illuminated by any conventional method except that no animated, revolving, flashing or moving lights shall be permitted.

c.) No sign shall be erected in such a manner as to interfere with vision from a motor vehicle using an access or egress to a commercial establishment.

d) Animated signs, balloon signs, mural signs, digital signs, roof signs, **and billboards** are prohibited. No sign, other than directional signs, shall exceed twenty five (25) square feet in size.

Section 6. Amend Section 46-84 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-84 C-2 District (General Commercial)

The following signs are permitted in the C-2 District:

a.) All signs permitted within the C-1 District except ~~those pertaining to residential structures since~~ **identification signs in conjunction with residential usage**.

b.) Animated signs, balloon signs, mural signs, digital signs, **roof signs and billboards** are prohibited. No sign, other than directional signs, shall exceed fifty (50) square feet in size.

Section 7. Amend Section 46-85 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-85 OS-R District (Open Space – Recreation)

The following signs are permitted in any OS-R District:

a.) One (1) ~~unlighted~~ sign**,** that does not exceed fifty square (50) feet in area ~~identifying any structure or use permitted by right or a special exception~~.

b.) Section (a) notwithstanding, amateur athletic fields may have up to three signs (which may be digital, animated, and illuminated signs) per athletic field.

Section 8. Amend Section 46-90 of the Code by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Section 46-90 Banners

A permit for the use of a Banner Sign must be received from the City prior to display. ~~The use of a Banner Sign is permitted only for business "start-ups", "grand openings", and "special events".~~ The size of a Banner Sign shall not exceed ten (10) square feet. ~~An initial business start-up or grand opening banner permit~~ **A banner permit issued under this subsection** shall not be issued for **a period of time lasting more** than thirty (30) days. The City Manager may extend any banner permit for a period of an additional thirty (30) days. No more than three banner permits shall be issued for any property, or to any individual or entity, in any calendar year.

Section 9. Amend Section 46-89 of the Code, entitled "General Provisions," by deleting the text identified below in strike-through lettering and replacing it with the text identified below in bold lettering:

Unless herein provided, signs shall be placed behind the property line with the exception of signs to regulate **and direct** traffic, ~~give directions~~ or those required by law.

No sign shall be located in public rights-of-way within the incorporated boundaries of the City.

Section 10. Amend Section 46-91 of the Code, entitled "Portable signs" by adding the text identified below in bold lettering:

> Portable signs as defined herein may be permitted and may not exceed eight hundred and sixty four (864) **square** inches. Such signs shall not block reasonable passage on sidewalks and are strictly prohibited in or on public streets, rights-of-way and/or alley ways.

Section 11. Amend Section 46-93 of the Code, entitled "Political Signs," by deleting Section 46-93 in its entirety and replacing it with the following text:

Section 46-93 Permits.

All signs permitted by this Chapter shall require a permit. Permits shall be issued in accordance with a defined fee schedule set by the City Manager.

Section 12. Amend Section 46-94 of the Code, entitled "Compliance and Penalties" by deleting Section 46-94 in its entirety and replacing it with the following text:

Section 46-94 Compliance and Penalties.

(a) The City Manager or his or her designee shall have the authority to enforce the sign ordinance and impose fines as provided herein.

(b) All persons in violation of Article X of this code relating to signs shall be notified by certified mail or certificate of mailing and be given five (5) days to comply with requirements of this code. An extension to said time period may be granted for due cause as determined by the City Manager or his or her designee.

(c) A fine in the amount of twenty-five dollars ($25.00) per day per violation may be imposed for non-compliance with this Article X and shall commence on the sixth day after the five (5) day notice referenced herein is sent. In addition, the City Manager may direct the City Solicitor or special counsel to seek injunctive relief to abate any violation and/or seek removal of any sign not complying with this Code six (6) days after a violation notice is sent or at an earlier time if such sign is a danger to the public health, safety, or welfare.

(d) Decisions of the City Manager or his or her designee under this section may be appealed to the Board of Adjustment.

Section 13. Modify Section 46-57 of the Code, entitled "Abandonment" by deleting the text identified below in strike-through lettering and adding the text identified below in bold lettering:

Whenever a nonconforming use has been discontinued for a period of ~~twelve (12)~~ **six (6)** months, such use shall not thereafter be re-established, and a future use shall be in conformity with the provisions of this Chapter. **As for any existing Sign, as defined in Article X of this section, that is non-conforming and subsequently destroyed, for any reason, the use is forever destroyed and may not be re-established for any reason.**

Section 15. 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 16. Nonconforming signs. All signs legally in place as of the date of adoption of this Ordinance, but which are rendered illegal as a result of this Ordinance, shall be considered legally existing non-conforming signs.

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 _____.