

*"A Historic Past"*



*"A Bright Future"*

**CITY OF DELAWARE CITY**

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Delaware City, Delaware 19706

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**DRAFT**

**CITY OF DELAWARE CITY**

**DELAWARE CITY, DELAWARE**

**Ordinance No. 21-0222-01**

**ORDINANCE TO AMEND CHAPTER 46 OF THE CITY OF  
DELAWARE CITY CODE BY AMENDING THE HPR DISTRICT USES  
UNDER SECTIONS 46-28(a)(20), 46-28(a)(21) AND 46-28(a)(26) AND  
SECTION 46-147 (SCHEDULE OF FEES)**

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, § 2-01 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"); and

WHEREAS, the Mayor and the City Council of Delaware City desire to eliminate multi-family residential dwellings within the Historical Preservation District ("HPR") in accordance with the Delaware City Comprehensive Plan and with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses; and

WHEREAS, the Mayor and the City Council desire to amend Chapter 46 of the City Code by deleting by-right references to multi-family housing within subsections 46-28(a)(20), 46-28(a)(21) and 46-28(a)(26) and adding a special use permit requirement for multi-family housing; and

NOW THEREFORE, making the express finding that the below changes enhance and perpetuate Delaware City's cultural, social, economic, religious, political or architectural history, as set forth in Chapter 49 of the Code, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

**Section 1.** Section 46-28(a)(20) of the City Code is hereby amended by deleting the reference to Section 46-17(b), and shall now read as follows:

(20) One and two family residential dwellings permitted in the R-2 District, as set forth in Section 46-17(c) and (d).

**Section 2.** Section 46-28(a)(21) of the City Code is hereby amended by deleting the reference to Section 46-18(e) and 46-18(f), and adding the ability to seek a special use permit for multi-family housing, and shall now read as follows:

(21) a. Multi-family residential unit permitted in the R-3 district, as set forth in Section 46-18(g), (h), and (j).

b. Multi-family residential units may be permitted upon the granting of a special use permit by the Mayor and Council of Delaware City. A special use permit may be granted, but is not required to be granted if:

i. **Special Use Permit Standards.**

- (a) The use is consistent with the Comprehensive Development Plan.
- (b) The use is compatible with the character of the land in the immediate vicinity.
- (c) The design minimizes the adverse effects, including visual impact on adjacent lands.
- (d) The use minimizes the adverse impacts on the environment or government services.
- (e) The use will not be detrimental to the health, safety or public welfare of persons living within the City of Delaware City, as determined by City Council.

ii. **Special Use Permit Procedures.**

- (a) The owner or potential owner of the property must make written application for a special use permit, including plans, supporting materials, and payment of the application fee, to the Mayor and Council of Delaware City.
- (b) The application shall be forwarded to the Planning Commission for consideration and recommendation to the Council.
- (c) Thereafter, a public hearing on the application shall be held at the next available regular Council meeting, adhering to notice requirements, following receipt of the recommendation of the commission.
- (d) Any Special Use Permit application may only be granted by a majority vote of the Council members participating in the meeting, with the Mayor being permitted to cast the deciding vote in the event of a tie.

- iii. **Fee.** The fee schedule table, as set forth in Section 46-147 (Schedule of Fees), is hereby amended to provide a \$300 fee for each Special Use Permit application.

**Section 3.** Section 46-28(a)(26) of the City Code is hereby amended to reflect the use must be permitted in the HPR District, and shall now read as follows:

(26) Condominium units, as set forth in Section 46-20 (t)-(u), **for uses permitted in the HPR District.**

**Section 4.** 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 the City Council's intent.

**Section 5.** Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

**ADOPTED BY THE MAYOR AND COUNCIL, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.**

**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 \_\_\_\_\_.