

*“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. 08-0128-01

AN ORDINANCE TO AMEND CHAPTERS 46  
AND 49 OF THE CODE OF THE CITY OF  
DELAWARE CITY TO REGULATE THE  
INSTALLATION OF FENCES

WHEREAS, the Mayor and Council of the City of Delaware City deem it in the best interest of the City of Delaware City and its residents to regulate the location, height, design and materials of fences and walls erected within the city so as to protect the health, safety, and welfare of the residents of the City of Delaware City; and

WHEREAS, the Mayor and Council deem it in the public interest to regulate the height, design, and materials of fences and walls erected within the Delaware City Historic District so as to protect the visual integrity of the District;

NOW, THEREFORE, the Mayor and Council of the City of Delaware City do hereby ordain as follows:

SECTION 1. Amend Chapter 46, Article VIII of the Code of the City of Delaware City by adding a new Section 46-64 to read as follows:

### **“Section 46-64 Fences**

No fence, wall, or other open enclosure shall be erected on any property which does not comply with the following requirements:

- a.) A permit or other written approval of the City must be granted prior to the construction, alteration, replacement, or removal of any fence, wall, or enclosure, provided, however, that non-permanent edging less than one foot ( 1’ ) tall shall be exempt from this requirement.
- b.) Fences constructed within the Delaware City Historic District must also comply with the provisions of Chapter 49 of the Code of the City of Delaware City and are subject to review and approval by the Historic Preservation Commission.
- c.) No fence or other enclosure shall be erected or maintained in the public right-of-way without the written approval of the City.
- d.) Fences in side or rear yards shall be no more than six feet (6’) high, measured from the surrounding grade.
- e.) Fences in front yards shall be no more than four feet (4’) high, measured from the surrounding grade, unless otherwise required by this Chapter. Corner properties are considered to have two (2) front yards, when directly abutting public streets.
- f.) No fence in, or directly abutting, a residential district shall be constructed which contains barbed or razor wire.
- g.) The finished side of any fence shall face outward from the property.
- h.) Fences shall be set back from the front property boundary the same distance as the minimum building setback requirement for the zoning district in which the property is located, or to the actual building setback, whichever is less. Corner lots are considered to have two front setbacks, provided, however, that the minimum setback for an open rail or picket fence no more than 4’

(four feet) high on the secondary frontage (side yard) shall be three feet (3').

i.) For fences and walls within the Historic District, the Delaware City Historic Preservation Commission may permit a lesser setback, without the need for a variance from the Board of Adjustment, or may require a greater setback when it deems necessary.

j.) Fences located between the limits of the front or side façade plane of any principal use structure and an abutting public street shall be constructed of open rails or pickets (less than 80% solid), however open wire mesh may be installed on the property side of the fence for pet or child containment. Chain link, solid, privacy, or stockade type fencing is not permitted under this subsection.

k.) Fences proposed for construction within the Delaware City Historic District shall be subject to design review and approval by the Delaware City Historic Commission, prior to the issuance of a permit, as provided in Chapter 49 of this Code.“

SECTION 2. Amend Section 49-6 of the Code of the City of Delaware City by adding new subsections 49-6 2.) d.) and e.) to read as follows:

“d.) Any project to remove, alter, replace, or erect a fence in the Historic District, shall be subject to review by the Commission. Compliance with the policies and recommendations of the Commission shall be mandatory. In considering applications for new fencing or the significant alteration of an existing fence, the Commission shall apply the review criteria set forth in Section 49-6 b.) 2.).

e) The Commission shall establish such policies, guidelines, and design criteria regarding fencing it deems necessary to minimize the need for applicants to appear at a public hearing. The City Manager may waive the requirement for a public hearing before the Historic Preservation

Commission and issue a fence permit in cases where he determines the proposed fence project to be in compliance with the Code and with the Commission's policies, guidelines, and design criteria."

SECTION 3. Amend Subsection 49-6 b.)1.) of the Code of the City of Delaware City by adding the words "or fence" so that the subsection reads as follows:

"b. Construction

1.) To qualify for a building or fence permit the project must comply with the decision of the Commission."

SECTION 4: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Council hereby declare that they would have passed this Ordinance and each section, subsection, sentence, clause or phrase irrespective of the fact that any one or more thereof is declared unconstitutional or invalid.


SECTION 5. Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

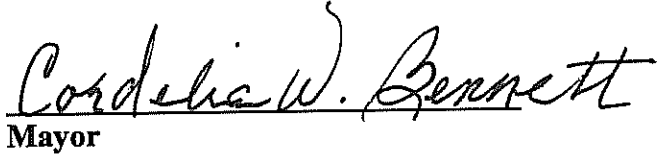
SECTION 6. This Ordinance shall become effective immediately upon passage.

(Signature Page Follows)

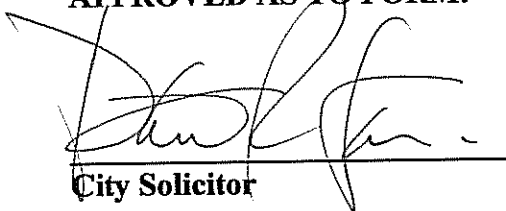
ADOPTED BY THE MAYOR AND COUNCIL, this 19<sup>th</sup> day of MAY, 2008.

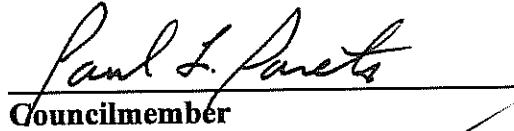
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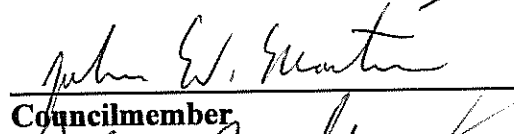
  
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City Secretary

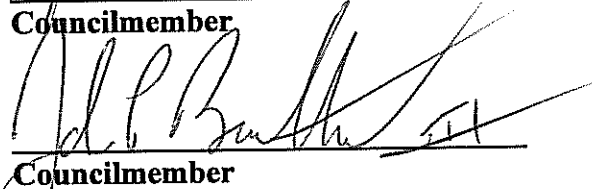
  
\_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Solicitor

  
\_\_\_\_\_  
Councilmember

  
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Councilmember

  
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Councilmember

First Reading: January 28, 2008  
Second Reading and Passage: MAY 19, 2008