

"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. 12-1217-01

**REVISED ORDINANCE TO AMEND AND MODIFY CHAPTER 46, ARTICLE
III -"DEFINITIONS" AND CHAPTER 46, ARTICLE X -
"SIGN AND OUTDOOR ADVERTISING REGULATIONS"**

Chapter 46 Zoning

The City of Delaware City

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; and

WHEREAS, the Mayor and City Council believe amending and modifying the sign and outdoor advertisement regulations is in the best interest of The City of Delaware City; and

WHEREAS, to establish changes to the Definitions and Sign and Outdoor Advertisement Regulations, the Mayor and Council desire to adopt Chapter 46, Article X, and their subparts as part of The City of Delaware City Code as set forth below ("Proposed Code Sections"); and

WHEREAS, pursuant to Chapter 47, Section 3 of the Delaware City Code and 22 *Del. C.* § 703, the Delaware City Planning Commission has recommended the Proposed Code Sections; and

WHEREAS, pursuant to Article V, Section 5-02(B) of the Charter and Delaware City Code Section 46-139, the Proposed Code Sections were introduced by a member of Council at a regular meeting, duly read in full or in abstract, prominently posted for

fifteen (15) days in The City of Delaware City, and published in a newspaper of general circulation for two (2) consecutive weeks.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain:

Section 1. Chapter 46, Section 3, Article III of the Delaware City Code, upon an affirmative vote of the City Council, is hereby modified by deleting the below struck-through language, amended by adding the underlined language and shall read as follows (unmentioned definitions currently in 46-3 shall remain unchanged):

Section 46-3 Definitions

~~Billboard: A sign, other than one indicating a business conducted on the premises, upon which is painted, posted or lettered by any means, advertising matter of any character or which is designed for such purpose.~~

~~Building Code: A Code containing regulations relative to building construction, use and maintenance.~~

~~Sign Area: The area that is measured by the smallest square, rectangle, triangle, circle or combination thereof that will encompass the entire advertising copy area excluding architectural embellishments. In computing the area, only one (1) side of a double-faced sign structure shall be considered.~~

Advertise: To advise, announce, apprise, command, give notice of, inform, make known, publish or call to the public attention by any means whatsoever.

Advertisement: Notice to be given in a manner designed to attract public attention, information communicated to the public or to the individual concerned, as by handbills, newspaper, television, billboards, radio or by other similar means.

Animated Sign: A mechanical or electronically illuminated or non-illuminated sign which displays letters, words, characters or symbols which are not stationary.

Balloon Sign: A sign composed of an inflatable, nonporous bag.

Banner Sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework. The manipulation of the aforesaid materials onto a solid surface(s) shall not constitute a sign of another description as defined herein.

Billboard: A sign 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.

Building Code: The current regulations, code or codes in effect in the City that govern the erection, alteration, maintenance, use and removal of buildings, structures, or signs.

Business: An activity, employment, occupation, profession, or enterprise, whether for profit or not for profit, in which an individual is willing to invest time and capital on future outcome.

Digital Sign: An electronic display that shows programmed images, information and/or other messages commonly controlled remotely by a computer or similar device.

Directional Sign: A sign 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 which lists the name and/or address of the occupant or business entity.

Mural Sign: A design or representation painted or drawn on a wall which does not contain promotional or commercial advertising; any wall decorated without lettering.

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.

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T frames, including but not limited to "sandwich board signs"; and signs attached to or painted on vehicles parked and visible from the public right-of-way.

Reader Board: A sign of permanent character, but with movable 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.

Roofline: The eave line of a roof or building parapet, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.

Roof Sign: A sign erected on a roof which extends above the roofline of the building.

Sign Setback: An open space on the same premises with a sign or signs, which open space lies between the nearest edge of the sign or signs and the nearest street line or property line.

Sign Area: The total "area" of a sign shall include all sides or area of display of a single-faced or multifaced sign, together with all moldings, battens, cappings, nailing strips and latticing which are attached and are part of the sign proper and/or incidental to its decoration. Structural elements, such as aprons or skirting, which serve to shade, deflect or block light generated by a sign and which do not display advertising on their surfaces shall not be included in the total "area" of a sign. For the purpose of this code, signs which are composed of letters, words or representations only and which follow no square or rectangular pattern shall be considered to include in the "sign area" a square or rectangle as drawn at the outer limits of the letters, words, or representations.

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 two (2) weeks.

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 2. Chapter 46, Section 52 of the Delaware City Code, upon an affirmative vote of the City Council, is hereby modified by deleting the struck-through language, amended by adding the underlined language and shall read as follows:

Section 46-52 Billboards Section 46-52 Prohibited Signs

Billboards shall not be permitted in any district. The following signs are strictly prohibited: Billboards, Roof Signs, Windblown Signs, Animated Signs, and Balloon Signs.

Section 3. Chapter 46, Section 81 of the Delaware City Code, upon an affirmative vote of the City Council, is hereby modified by deleting the struck-through language, amended by adding the underlined language and shall read as follows:

Section 46-81 R1 District (Single Family Residential), and R-2 District (One and Two Family Residential) and C-1L (Commercial Low Impact)

j) One (1) sign or bulletin board not exceeding ~~twelve (12)~~ twenty-four (24) square feet in area upon the premises of a church or other institution for the purpose of displaying the name of such church or institution and other related information.

k) ~~Customary~~ Identification signs, in conjunction with residential usage or a C-1L area, such as mail box signs, names of residences and house numbers, ~~No such sign shall not~~ exceed one and one-half (1 ½) square feet in area.

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

m) One (1) sign for a Bed & Breakfast or tourist home, no larger than ~~four (4)~~ six (6) square feet in area per frontage and no higher than ~~four (4) feet from the ground to the top of the sign, if freestanding.~~ the roofline of the structure.

Section 4. Chapter 46, Section 82 of the Delaware City is hereby modified by deleting the struck-through language, adding the underlined language and shall read as follows:

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, ~~and R-2, Districts.~~ and C-1L Districts.

Section 5. Chapter 46, Section 83 of the Delaware City is hereby modified by adding the underlined language to its heading and shall read as follows:

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

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

Section 6. Chapter 46, Section 90, is hereby adopted as part of the Delaware City Code and shall read as follows:

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 the size limitations in Sections 46-81 through 46-88 of this Chapter. An initial business start-up or grand opening banner permit shall not be issued for more than ninety (90) days, and a special event banner permit shall not be issued for 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 7. Chapter 46, Section 91, is hereby adopted as part of the Delaware City Code and shall read as follows:

Section 46-91 Portable Signs

Portable signs as defined herein may be permitted and may not exceed eight hundred and sixty four (864) 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 8. Chapter 46, Section 92, is hereby adopted as part of the Delaware City Code and shall read as follows:

Section 46-92 Digital Signs

Digital Signs are only permissible on City owned property. Notwithstanding any provision of this Chapter, Digital Signs in existence prior to the adoption of the definition of Digital Signs shall be a legally existing non-conforming use which is grandfathered.

Section 9. Chapter 46, Section 93, is hereby adopted as part of the Delaware City Code and shall read as follows:

Section 46-93 Political Signs

Political Signs shall be strictly prohibited in public rights-of-way in the Clear Zone (as defined by the Delaware Department of Transportation) within the incorporated boundaries of the City, and shall be governed by the size limitations for Portable Signs. Political Signs outside of the Clear Zone may not be erected more than thirty (30) days prior to the election of the particular office and shall be removed within seventy-two (72) hours following the election. Any sign erected prior to thirty (30) days of the elections and not removed within seventy-two (72) hour after the election may be subject to a twenty-five dollar (\$25.00) per sign removal fee payable by the candidate for said office. The notice provisions of section 46-94 shall not apply to Political Signs.

Section 10. Chapter 46, Section 94, is hereby adopted as part of the Delaware City Code and shall read as follows:

Section 46-94 Compliance and Penalties

The City Manager shall have the authority to enforce the sign ordinance and impose fines as provided herein. Except as otherwise expressly stated in this Chapter, there is no grandfather provision for existing signs prior to the adoption of this Ordinance.

- a) 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 ninety (90)

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.

- b) A fine in the amount of twenty-five dollars (\$25) per day may be imposed for non-compliance and shall commence on the ninety-first (91st) day after the ninety (90) day notice referenced herein. 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 ninety-one (91) 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.
- c) Any person aggrieved by a decision of the City Manager pursuant to this Article X may appeal the decision to the Board of Adjustment, pursuant to Sections 46-118 and 46-121(a) of this Code, within thirty (30) days after a notice of violation is sent. Any appeal, at the option of the appellant, may also include a request for a variance.

Section 11. Inconsistent Ordinances and Resolutions Repealed. Ordinances or parts of ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

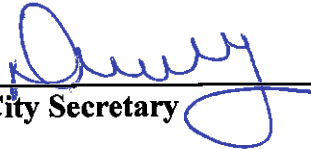
Section 12. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds the valid provisions 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 one; 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 13. Effective Date. This Ordinance shall become effective immediately upon adoption by majority vote of City Council.

(SIGNATURE PAGE FOLLOWS)

ADOPTED BY THE MAYOR AND COUNCIL, this 20th day of May, 2013.

ATTEST:




City Secretary



Mayor

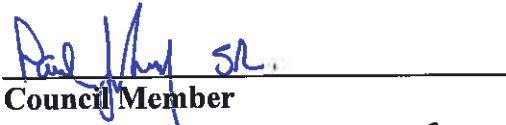
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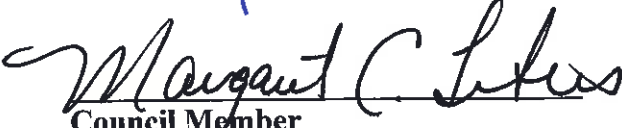
Council Member



City Solicitor



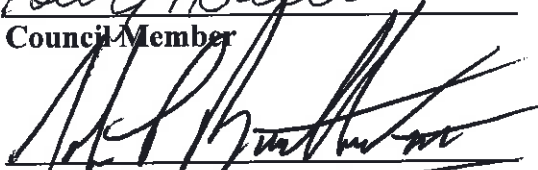
Council Member



Council Member



Council Member



Council Member

First Reading on 12/17/2013

Second Reading, Public Hearing, and Final Passage on 5/20/13