

"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. 13- 0225-01

**ORDINANCE TO CHANGE THE COMPOSITION OF THE BOARD OF
ADJUSTMENT OF THE CITY OF DELAWARE CITY**

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 changing the composition of the Board of Adjustment is in the best interest of the City of Delaware City; and

WHEREAS, to change the composition of the Board of Adjustment, the Mayor and City Council desire to modify Chapter 46, § 46-116 of the City of Delaware City Code as set forth below ("Proposed Code Section"); and

WHEREAS, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code Section was introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

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

Section 1. Chapter 46, Section 46-116 of the Delaware City Code, upon an affirmative vote of the City Council, is hereby modified by adding the underlined language, deleting the strikethrough language, and shall read as follows:

Section 46-116 Membership, Terms, Removals, and Vacancies

~~The Board of Adjustment of Delaware City shall consist of the Chief Engineer of the Street and Sewer Department, the City Solicitor and the Mayor. If Delaware City has no City Engineer and/or City Solicitor, then the Mayor and City Council shall appoint one (1) or two (2) members who would be removable for cause by the appointing authority, upon written charges and after a public hearing. Appointment of the members shall be as follows: one (1) member for a term of three (3) years, one (1) member for a term of two (2) years, and one (1) member for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenditures while representing the board. A chairman shall be elected from among the board. Two (2) members of the board shall be residents of Delaware City.~~

The Board of Adjustment of Delaware City shall consist of three (3) members who shall be residents of Delaware City and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the City. The Mayor shall appoint such members of the Board of Adjustment, and all such appointments shall be confirmed by a majority vote of the members of City Council.

Each member of the Board of Adjustment shall be appointed for a period of three (3) years, except that one (1) of the initial members shall be appointed for a one (1) year term, one (1) of the initial members shall be appointed for a two (2) year term, and one (1) of the initial members shall be appointed for a three (3) year term. All subsequent appointments to the Board of Adjustment shall be for a period of three (3) years. A vacancy occurring other than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment. The Board of Adjustment so selected shall elect from among its own members a chairperson and a secretary.

Any member of the Board of Adjustment may be removed from office by the City Council for cause after a hearing by a majority vote of all the City Council.

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 thirty (30) days after its adoption.

(SIGNATURE PAGE TO FOLLOW)

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 2013.

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 and Final Passage on _____.