

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
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Delaware City, Delaware 19706
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CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 18-0618-03

**ORDINANCE TO AMEND AND MODIFY THE CITY DELAWARE CITY
CODE AND CREATE A NEW ARTICLE II OF CHAPTER 51
GOVERNING CONTRACTOR LICENSES**

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 City Council desire to create a new Article II of Chapter 51 regarding contractor licenses to ensure the safety and welfare of residents and their property while engaging a contractor for construction or maintenance work; and

WHEREAS, under Article V, Section 5-02(B) of the Charter, the Amendments were introduced at a regular meeting, duly read in full or in abstract,

and prominently posted for ten (10) days in The City of Delaware City.

NOW, THEREFORE, making the express finding that the changes to the Code is necessary to enhance the health, safety, and welfare of the City of Delaware City, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Add a new article II to Chapter 51 of the Delaware City Code, which shall be entitled “Contractor licenses” and add new sections 51-21 through 51-27 as set forth below.

Article II - Contractor Licenses

§ 51-21. Purpose.

The City Council has deemed it necessary to establish a contractor license in order to ensure the safety and welfare of residents and their property while engaging a contractor for construction ~~or maintenance~~ work.

§ 51-22. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CONTRACTOR

Any person, firm, entity, corporation, or jobber engaged in building, altering, repairing, remodeling, constructing, ~~and/or maintaining of~~ buildings or engaged in any other type of construction, including but not limited to paving, curbing, and side walk installation or repair, plumbing, electrical, landscaping, or other types of maintenance or construction.

PERSON

Any individual, firm, corporation, entity, company, partnership, or joint venture.

§ 51-23. License required.

No person shall perform construction ~~or maintenance~~ work or otherwise be engaged in any work as a contractor, including subcontractors, within the boundaries of the City of Delaware City without first obtaining a contractor license issued by the City.

§ 51-24 Exemptions.

A person performing construction or maintenance work on his/her own property is exempt from the requirements of this chapter.

§ 51-25. License application.

- A. Applications for contractor licenses shall be upon forms provided by the City which shall include the following information:
 - (1) The name and address of the applicant;
 - (2) The trade, business, or occupation for which the license is required;
 - (3) A statement that the applicant is knowledgeable of and has complied with and will continue to comply with all ordinances of the City, including but not limited to the current City of Delaware City building, zoning, subdivision and property maintenance codes; and
 - (4) Any such other information as deemed necessary by the City Manager and/or his/her designee.
- B. The application shall be verified by the oath or affirmation of the individual licensee or of one member of a partnership, firm, or association or the president, secretary, or a director of a corporation applying for a contractor license.
- C. Proof of liability insurance as described in §51-32 shall accompany the application.
- D. A copy of any business licenses issued by the State of Delaware and/or any other approvals issued by the Division of Revenue or another governmental or quasi- governmental agency (i.e., ABCC, Administrative Services,

Banking Commissioner, Insurance Commissioner, PSC, DNREC, EPA, IRS, etc.) shall accompany the application. Possession of any such license or approval shall not exempt a person from obtaining a City of Delaware City business license.

§ 51-26. Issuance of license; expiration; records; form.

- A. Each contractor license shall be valid and effective from the first day of July each year, or the date of issuance, to June 30 at 11:59 p.m. of the fiscal year in which it was issued.
- B. A record of all licenses issued and license fees paid shall be maintained at City Hall.
- C. Each such license shall be upon a form provided by the City Manager and/or his/her designee that shall set forth the following information:
 - (1) The name and business address of the licensee;
 - (2) The date of expiration of the license;
 - (3) The amount of the license fee paid to the City; and
 - (4) Any such other information as deemed necessary by the City Manager and/or his/ her designee.

§ 51-27. Denial of license.

- A. The City Manager and/or his/her designee shall, upon disapproving any application submitted under the provisions of this chapter, refund all fees paid in advance by the applicant pursuant to the application.
- B. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, the applicant shall not engage in the business for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering it.

§ 51-28. License fees; refunds; exemptions.

- A. A fee in the amount of one hundred twenty five dollars (\$125) must be paid to the City of Delaware City before a license will be issued to any applicant.
- B. Contractor license fees are prorated on a half-year basis.

- (1) Applicants for a contractor license between July, and December 31 shall pay the full annual license fee.
 - (2) Applicants for a contractor license between January, and June 30 shall pay half of the annual license fee.
- C. No prorating, rebate, or refund of any license fee or part thereof shall be made by reason of nonuse of the license. The City Manager and/or his/her designee shall have the authority to refund a license fee only if the license fee was collected through an error.
- D. All 501(c)(3) nonprofit companies and government entities are exempt from license fees, provided, however, that contractors performing work for or on behalf of 501(c)(3) nonprofit companies and government entities are required to obtain a license.

§ 51-29. Display of license.

A contractor license issued under the provisions of this chapter shall be displayed in a public place in the establishment or place of business for which it is issued or, if applicable, carried by the licensee.

§ 51-30. Transfer of license.

Each contractor license granted under this chapter shall be for the sole use and benefit of the person or entity to whom it is issued and shall not be transferable. In case of the death of any individual, his/her personal representative shall succeed to all rights thereunder until the expiration of the license.

§ 51-31. Duplicate license.

A duplicate license shall be issued by the City Manager and/or his/her designee to replace any license previously issued which has been lost, stolen, defaced, or destroyed without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit sworn to before a notary public attesting to that fact.

§ 51-32. Liability insurance.

- A. All contractors, including the contractor(s) in charge and the subcontractor(s), shall maintain insurance coverage for bodily injury and property damage liability as follows:
- (1) Bodily injury liability with a minimum limit of \$250,000 for all damages arising out of personal injury to or death of one person in

any one occurrence, and, subject to that limit for each person, an aggregate limit of \$500,000 for all damages arising out of personal injury to or death of two or more persons in any one occurrence; and

- (2) Property damage liability with a minimum limit of \$250,000 for all damages arising out of injury to, destruction of, or loss of use or property in any one occurrence.

B. The City of Delaware City shall be listed as the certificate holder on the proof of liability insurance.

§ 51-33. Code compliance.

A contractor operating in the City shall at all times be in compliance with all City codes and ordinances. Each licensee shall refrain from operating after expiration of his/her license and during the period his/her license is revoked.

§ 51-34. Inspection by City officials.

The City Manager and/or his/her designee shall have the authority to make or have made all inspections and investigations reasonably necessary to enforce this chapter and to perform inspections in order to ensure that the construction, maintenance, or other work is in compliance with all applicable building, safety, zoning, and other City codes. All persons authorized by this chapter to perform inspections shall have the authority to enter the premises to inspect at all reasonable times.

§ 51-35. Enforcement; revocation of license.

A. The City Manager and/or his/her designee shall make or have made all investigations reasonably necessary to the enforcement of this chapter.

B. The City Manager may order a contractor to cease operations in the City and suspend his/her contractor license (if a contractor license has been obtained) for any of the following reasons:

- (1) The contractor is found to be operating in violation of the terms of this chapter.
- (2) The contractor is in violation of any provisions of the Code of the City of Delaware City or the laws of Delaware.

- (3) The Fire Marshal or any public safety authority having jurisdiction has requested that the contractor cease until certain conditions have been remedied.
- C. The City shall provide the contractor with written notice of the violation(s), which notice shall state that the contractor shall be ordered to cease operations and its contractor license (if applicable) shall be revoked without further notice if within ten (10) business days of the date of the notice the contractor fails to remedy the violations or file an appeal with the City's Board of Adjustment. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the contractor. If the contractor does not remedy the violations or appeal the determination of the City Manager within the prescribed time period, the contractor shall not be permitted to operate in the City until such violations have been remedied. Notwithstanding the foregoing, notice shall not be required to order a contractor to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

§ 51-36. Appeals.

- A. Any person aggrieved by any decision of the City Manager and/or his/her designee pursuant to this Article II of Chapter 51 shall have the right to appeal to the Board of Adjustment by filing a written appeal with the Board of Adjustment within ten (10) business days following the date of the notice of violation or decision complained of. The appeal shall set out a copy of the notice of violation or decision appealed from and shall include a statement of facts relied upon to avoid the order.
- B. The Board of Adjustment shall fix a time and place for hearing the appeal and shall serve written notice upon the person requesting the appeal informing him/her of the hearing. The hearing may be held as part of a regularly scheduled Board of Adjustment meeting. The findings of the Board of Adjustment shall be final and conclusive and shall be mailed to the person who requested the appeal.
- C. The fee to appeal to the Board of Adjustment shall be five hundred dollars (\$500).

§ 51-37. Violations and penalties.

- A. Any contractor operating within the City without a valid contractor license will be subject to penalties for failure to obtain a license in the amount of one hundred twenty five dollars (\$125) per day.
- B. A stop-work order issued by the City Manager and/or his/her designee will stay in effect until the contractor complies with all conditions associated with the issuance of a valid contractor license, including annual contractor license and penalty fees.
- C. Continued violation of any provision of this chapter or the Delaware City Code is subject to fines in the amount of one hundred twenty five dollars (\$125) per day for the first offense, and two hundred fifty dollars (\$250) per day for subsequent offenses. To the extent the fines set forth in this chapter conflict with other penalty provisions in the Delaware City Code, the fine provisions set forth in this chapter shall control.
- D. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.
- E. The amount of any unpaid penalty, including the unpaid business license fee, shall constitute a debt owed to the City, and the City may institute a civil suit or use any other lawful methods authorized by the City Charter or the laws of the State of Delaware to recover any unpaid fee.
- F. Notwithstanding the other provisions of this Chapter, the City may, at any time, seek equitable relief, including an injunction, to compel compliance with this Chapter and for violations of the Delaware City Code. If the City obtains an injunction or other equitable relief, the violator shall be required to pay the City's attorneys' fees and costs incurred in the litigation.
- G. All persons requiring a license under this chapter are subject to the good standing requirements of the Delaware City Code, specifically § 46-149, the provisions of which are incorporated herein by reference.

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.

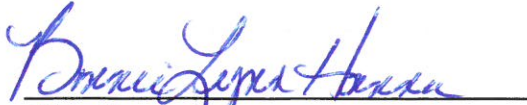
Section 3. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions 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 on July 1, 2018 to coincide with the beginning of the next fiscal year.

(Signature Page Follows)

ADOPTED BY THE MAYOR AND COUNCIL, this 16th day of July, 2018.

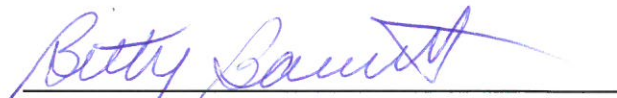
ATTEST:


City Secretary



Mayor


APPROVED AS TO FORM:

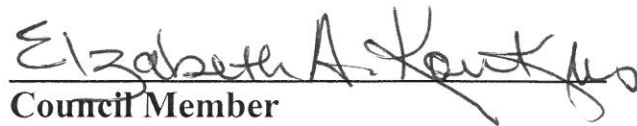

City Solicitor


Council Member


Council Member


Council Member


Council Member


Council Member

First Reading on 6/18/18,

Second Reading, Public Hearing, and Final Passage on 7/16/18.