

CHAPTER 1103. ADMINISTRATION, POWERS, AND DUTIES

1103.01. Purpose.

This chapter sets forth the powers and duties of the Director of Planning and Community Development, the Planning Commission, the Board of Zoning Appeals, the Historic Preservation Commission, and City Council with respect to the provisions of this Zoning Ordinance.

1103.02. Director of Planning and Community Development.

- (a) Establishment. The Director of Planning and Community Development shall act as the administrative officer for the purpose of effecting the proper administration and enforcement of the Zoning Ordinance. All duties required of the Director of Planning and Community Development shall be assumed by or delegated to any person he or she designates.
- (b) Powers and Duties. The Director of Planning and Community Development shall have the following powers and duties and shall:
 - (1) Issue certificates of building and zoning compliance or refuse to issue the same in the event of noncompliance and keep a record of the same, with a notation of any special conditions involved.
 - (2) Accept, review for completeness, and respond to questions regarding those applications which the Director of Planning and Community Development is authorized to review by the provisions of this Zoning Ordinance, including but not limited to, amendments to the Zoning Ordinance, development plan review, conditional uses, variances, appeals, preliminary plats, final plats, and certificates of appropriateness.
 - (3) Coordinate the City's administrative review of zoning applications, development plan review, conditional use applications, subdivision plat applications, and certificates of appropriateness.
 - (4) Collect the designated fees as set forth in the schedule of fees adopted by Council.
 - (5) Maintain any records required by this Zoning Ordinance including inspection documents and records of all variances, amendments, conditional uses, and similar use determinations.
 - (6) Make such records available for the use of Council, the Planning Commission, the Board of Zoning Appeals, the Historic Preservation Commission, and the public.
 - (7) Keep the Planning Commission, Historic Preservation Commission, and Board of Zoning Appeals advised of all matters other than routine duties pertaining to the enforcement of this Ordinance and transmit to them all applications and records pertaining to applications, amendments, conditional use permits, appeals, or variances thereto.
 - (8) Conduct or cause the inspection of buildings and uses of land to determine compliance with this Zoning Ordinance.
 - (9) Maintain in current status the "Official Zoning District Map" of the City of Delaware.
 - (10) Enforce this Ordinance and take all necessary steps to remedy any condition found in violation by ordering, in writing, a stop work order, notice of violation, or the revocation of the certificate of building and zoning compliance or certificate of appropriateness and may request the City Attorney to commence appropriate action.

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1103.03. Planning Commission.

- (a) Appointment. The Planning Commission shall be composed of seven (7) members, consisting of one (1) elector from each of the four (4) City wards, two (2) at-large, and one (1) member of Council. Each resident member shall be an elector and hold no elective office. The City Manager shall be an ex-officio member/advisor without a vote. All members shall receive no compensation for service.
- (b) Term. The six (6) elector members shall be appointed by the Mayor with the concurrence of Council for three (3) years and their terms shall be so arranged that the term of no more than two (2) shall expire each year. The terms of all six (6) elector members shall end on the date of November 30, three (3) years after appointment. The term for the Council member shall be two (2) years, ending on November 30 of the odd-numbered years.
 - (1) Removal. Members of the Commission shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing either personally or by registered mail, or by leaving the same at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.
 - (2) Vacancies. Vacancies shall be filled by appointment by the Mayor and shall be for the unexpired term.
- (c) Organization.
 - (1) The Planning Commission shall organize by the end of January of each year and elect a chairperson and a vice-chairperson.
 - (2) The Chairperson may, within budgetary limits, retain the services of a recording secretary.
 - (3) The Commission may call upon the City Manager, and through the City Manager, any department of the City to render such assistance to the Commission as may be reasonably required.
- (d) Meetings. Administrative meetings of the Commission shall be held at the call of the chairperson and at such other times as determined by a majority of the Commission. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action all of which shall be public record and be immediately filed in the office of the Commission.
- (e) Quorum. The presence of four (4) members shall constitute a quorum. The concurring vote of four (4) members of the Commission shall be necessary to take action.
- (f) Powers and Duties. The Planning Commission shall have the following powers and duties and shall:
 - (1) Recommend to the City Council a comprehensive plan, official Zoning District Map, area plans, development standards for the Municipality, and at least every five (5) years undertake a review and recommend appropriate revision of the comprehensive plan.
 - (2) Carry on the continuous review of the effectiveness and appropriateness of this Ordinance, report to Council on the land use planning needs of the Municipality and recommend to Council amendments to the Zoning Ordinance and other related ordinances of the City as it feels would be appropriate.
 - (3) Review all proposed amendments to this Zoning Ordinance and make recommendations to City Council as provided in this Zoning Ordinance.
 - (4) Recommend to Council appropriate zoning classifications of newly annexed areas.
 - (5) Review and approve all plans and plats for the subdivision of land.
 - (6) Review all development plan and planned unit development applications and make recommendations

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to Council.

- (7) Adopt rules and bylaws for the holding of regular and special meetings for the transaction and disposition of its business and the exercise of its powers.
- (8) Review and approve all conditional uses and determinations of similar use.
- (9) Review and approve development plan extensions.

1103.04. Board of Zoning Appeals.

- (a) Appointment. There shall be a Board of Zoning Appeals composed of seven (7) members, consisting of two (2) at-large members, one (1) resident member from each of the four (4) wards, and one (1) member of Council. Each resident member shall be an elector of the City and hold no elective office. All members shall be chosen by the Mayor and confirmed by Council. The City Manager shall be an ex-officio member/advisor without a vote. Members of the Board shall receive no compensation for service as such.
- (b) Term. The term of all resident members appointed shall be for three (3) years, ending November 30. The term for the appointed Council member shall be two (2) years, ending on November 30 of the odd-numbered years.
 - (1) Removal. Members of the Board of Zoning Appeals shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least 10 days prior to the hearing either personally or by registered mail, or by leaving the same at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.
 - (2) Vacancies. Vacancies shall be filled by appointment by the Mayor and shall be for the unexpired term.
- (c) Organization. By the end of January of each year, the Board shall elect a chairperson and vice-chairperson.
- (d) Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board shall determine. All meetings of the Board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- (e) Quorum and Voting. Four (4) members of the Board shall constitute a quorum. The board shall act by resolution, and the concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Director of Planning and Community Development or any other administrative official of the City of Delaware, to decide in favor of an applicant in any matter on which it is required to pass under this Ordinance or to grant any variance from the requirements stipulated in this Ordinance. The grounds of every such determination shall be stated.
- (f) Powers and Duties. The Zoning Board of Appeals shall have the following powers and duties and shall:
 - (1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Director of Planning and Community Development or any other administrative official carrying out or enforcing any provision of this Zoning Ordinance.
 - (2) Authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Ordinance will result in extreme practical difficulty or unnecessary hardship provided that such variance will serve the public interest, observe the spirit of this Zoning Ordinance, and secure substantial justice to all parties concerned.
 - (3) Hear and decide upon disputes concerning the exact location of zoning district boundaries.
 - (4) Subpoena witnesses, punish for contempt, and require the production of documents, under such

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regulations as it may establish. The chairperson, or in the chair's absence, the vice-chairperson, may administer oaths.

- (5) Hear and decide applications, in accordance with the provisions of this Ordinance, filed as herein provided, for interpretation of the Zoning Map, or for decision upon other special questions on which the Board is authorized by this Ordinance to pass.
- (6) Adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business, and the exercise of its powers conferred herein.
- (7) Hear and decide floodplain variances per Sections 1347.20 and 1347.21 of this code.

1103.05 Historic Preservation Commission.

- (a) Appointment and Membership. The Historic Preservation Commission (HPC) shall be composed of seven (7) members, of which the majority shall be City residents.
 - (1) The members shall be appointed by the Mayor with the consent of Council.
 - (2) The Commission shall include among its members at least one (1) member of City Council.
 - (3) If possible, the Mayor shall attempt to appoint members with the following professional background(s):
 - A. A professional historic preservationist or an historian;
 - B. An architect;
 - C. A real estate agent or a developer; and
 - D. An historic district property owner.
 - (4) Members shall serve without compensation.
- (b) Term. Members shall serve for a term of three (3) years.
 - (1) The initial appointments shall be staggered terms in following manner: three (3) members for a three-year term, two (2) members for a two-year term, and two (2) members for a one-year term.
 - (2) Vacancies caused by death, resignation or otherwise shall be filled for the unexpired term in the same manner as original appointments are made.
- (c) Organization.
 - (1) Within thirty (30) days after appointment and subject to Council approval, the Historic Preservation Commission shall meet and organize by election of a chairperson and vice-chairperson.
 - (2) By the end of January of each year, the HPC shall elect one of its members to serve as chairperson and one to serve as vice-chairperson.
 - (3) Subject to the approval of the Delaware City Council, the HPC shall adopt rules of procedure, which shall be published and will provide for regular and special meetings of the Commission.
 - (4) The HPC shall adopt rules and regulations consistent with this chapter governing its procedures and transactions. The HPC shall meet as required to carry out the review of applications for certificates of appropriateness for compliance with the adopted standards and guidelines for the historic district overlay and such other related work as may be accepted or undertaken.
- (d) Meetings.
 - (1) Meetings shall be held at least once a month when there are applications to be considered. Special meetings may be held at the call of the chairperson.

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- (2) The chairperson shall conduct the meeting of the HPC and a record of minutes shall be kept as required by the approved Records Retention Policy of the City of Delaware. All meetings shall be open to the public.
 - (3) Four (4) members of the Commission serving at any given time shall constitute a quorum. For the taking of official action, there must be a quorum present at a particular meeting and for passage of items a simple majority vote of the members present at the meeting is required.
- (e) Powers and Duties. The Historic Preservation Commission (HPC) shall have the following powers and duties:
- (1) The Historic Preservation Commission shall be empowered to recommend properties and initiate the process for historic listing designation and to hear, review, grant, deny and recommend modifications to proposals for certificates of appropriateness involving environmental changes within a historic district. Applications for certificates of appropriateness shall be judged using adopted historic district standards and guidelines.
 - (2) Recommend and initiate the process of designation or expansion of a historic district.
 - (3) Establish, within the spirit and purposes of this chapter, procedures for evaluating applications for certificates of appropriateness. Such information shall be written and published and made available to the public within three (3) months after the members have been appointed and may be revised from time to time.
 - (4) Maintain files, available to the public, containing all applications granted or denied to serve as a basis for prospective applicants to conform their plans to established policy.
 - (5) Make recommendations to the Planning Commission regarding amendments to this chapter and with respect to other legislation affecting the historic districts when such recommendations are deemed appropriate and prudent.
 - (6) Work for the continuing education of those within the historic district and the residents of the City with respect to this Zoning Ordinance and each district's historic heritage and architectural significance. In addition, the HPC shall publish informational literature and hold periodic public meetings to disseminate information on preservation and rehabilitation techniques and resources.
 - (7) Develop standards and guidelines for preserving the historic and architectural significance of the historic districts, on a district-by-district basis, which shall be based on the Secretary of the Interior's Standards for Rehabilitation. The standards and guidelines shall promote redevelopment of historic structures and assure that new development within each district is compatible with existing development.

1103.05. City Council.

- (a) Vote Required to Override Recommendation of Planning Commission. The Council may override a written recommendation of the Planning Commission provided that such legislation is passed by a vote of not less than five (5) members of Council.
- (b) Vote Required to Override Decision of Historic Preservation Commission. The Council may override or agree with a decision of the Historic Preservation Commission regarding an Appeal of a Certificate of Appropriateness provided that such legislation is passed by a simple majority vote of not less than a quorum of Council members
- (c) Powers and Duties. The powers and duties of Council pertaining to the Zoning Ordinance are as follows. Council shall:
 - (1) Hold public hearings and vote upon proposed amendments to this Zoning Ordinance.
 - (2) Investigate and propose on its own initiative such amendments to the Zoning Ordinance as it may deem consistent with the purposes of this Zoning Ordinance and which further the public health, safety, and

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general welfare of the City of Delaware.

- (3) Act upon suggested amendments to this Ordinance text or the Official Zoning District Map.
- (4) Confirm or reject the recommendation of the Planning Commission for planned unit developments and development plans according to the procedures, standards, and criteria set forth in this Zoning Ordinance.
- (5) Confirm or reject the decision of the Historic Preservation Commission regarding an appeal of a certificate of appropriateness issued for a project located within the Historic District Overlay according to the procedures, standards, and criteria set forth in this Zoning Ordinance.
- (6) Approve the appointments of members to the Planning Commission, Historic Preservation Commission, and Board of Zoning Appeals.
- (7) Establish by ordinance a schedule of fees. Council shall by ordinance establish a schedule of fees for review of and action on applications for certificates of building and zoning compliance, development plan review, conditional use permits, appeals, variances, amendments, subdivision plats, and other procedures and services pertaining to the administration and enforcement of this Zoning Ordinance.
 - A. Council shall consider the recommendation of the Director of Planning and Community Development with respect to actual administrative costs, both direct and indirect.
 - B. The schedule of fees shall be available at City Hall and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.