

Sponsor: DENISON
First Reading: 9/14/2020
Final Reading: 10/5/2020

ORDINANCE #53-20

AN ORDINANCE TO AMEND THE LAND USE AND DEVELOPMENT CODE OF THE TOWN OF WYOMING TO CLARIFY CONDITIONAL USE EXPIRATION PROVISIONS

WHEREAS, the Town of Wyoming is authorized pursuant to 22 *Del. C.* Chapter 3 and Section 18.20 of the Town Charter to enact zoning regulations in the Town of Wyoming;

WHEREAS, the Town of Wyoming enacted zoning regulations by adopting the Land Use and Development Code of the Town of Wyoming on August 3, 2009;

WHEREAS, the Town of Wyoming is authorized pursuant to section 15-6 of its Land Use and Development Code to amend the text of the Land Use and Development Code after the amendment has been reviewed by the Planning and Zoning Committee and the Town Council has held a public hearing that was advertised in a newspaper of general circulation in the town at least 15 days prior to the hearing;

WHEREAS, in the opinion of the Town Council, it is necessary to amend the Land Use and Development Code to clarify the standards for the expiration of conditional use approvals in order to further the health, safety, and welfare of the town;

WHEREAS, the Planning and Zoning Committee reviewed the proposed text amendment at its meeting held 8/26/2020, 2020, and recommended approval to the Town Council;

WHEREAS, a public hearing on the proposed text amendment was held before the Town Council on October 5, 2020, notice of which was published on September 19, 2020 in the Delaware State News (newspaper), being at least 15 days before the public hearing; and

WHEREAS, all members of the public were given an opportunity to comment on the proposed amendment to the Land Use and Development Code at the public hearing, and after hearing comments from the public and considering the proposed amendment to the text of the Land Use and Development Code, the Town Council believes it is in the best interest of the town to clarify the conditional use expiration standards found in the Land Use and Development Code.

NOW THEREFORE, BE IT HEREBY ENACTED by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that the Land Use and Development Code of the Town of Wyoming is hereby amended as follows:

Section 1. Amend Section 15-5. (Conditional-Use Permits) by making insertions as shown by underline and deletions as shown by strike through as follows:

E. Duration, Revocation, Extensions, Expiration.

1. Duration – The duration of an approved conditional-use application is 1 year following its approval date.
2. Revocation – If the applicant, owner, or agent fails to make substantial progress in developing or construction on the property within 1 year of the approval date, the conditional use approval is automatically revoked.
3. Extensions – The Town Council may grant one, 6-month extension for good cause especially when an applicant can demonstrate that delays were beyond his/her control.
4. Expiration – Conditional-use approvals expire when a use is abandoned; the property is not used for the purposes of the conditional use for a period of six (6) consecutive months.
5. The Town Council has the power to revoke a conditional use approval if the applicant or occupant of the property fails to meet any of the conditions of approval. A property owner or occupant shall have 15 calendar days from the date of the revocation notice to file a written appeal requesting a hearing before the Board of Adjustment.
6. The Town Council may cause as a condition of approval that a notice of the conditional use approval, including the terms thereof and the grounds for expiration or revocation of the approval, be recorded with the Kent County Recorder of Deeds.

Section 2. 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 the Town 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 Town Council's intent.

Section 3. Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

Synopsis

This ordinance amends the Land Use and Development Code of the Town of Wyoming to clarify that conditional use approvals expire if the property is not used for the purpose of the conditional use for a period of six (6) consecutive months. This amendment grants a 15-day period for a property owner or occupant to appeal to the Board of Adjustment a decision revoking a conditional use approval. Lastly, this amendment authorizes the Town to require notice of conditional use approval to be recorded with the Kent County Recorder of Deeds.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on Oct. 5, 2020.

So Certifies:

Attest: Audrey Lendale
Town Clerk

Steve Bilko
Mayor

This shall certify that a copy of this Ordinance was posted at the Town Hall on October 10, 2020.

So Certifies:

10/6/2020
Date

Michael J. [Signature]