

Ordinance No. 507

An Ordinance to revise Section 230.21.1 of the Zoning Code of the City of New Castle to: (1) Make Multi-Family Dwelling Development and Mixed Use Projects in the Downtown Gateway (DG) Zoning District Permissible Only with the Grant of a Special Exception from the Board of Adjustment; (2) require Planning Commission Review and Recommendation for all Special Exception Applications in the DG Zoning District; (3) create a seven (7) year “sunset” provision on land use approvals in the DG Zoning District; and (4) to require commercial uses in mixed use developments in the DG Zoning District to be oriented to face a public right of way.

WHEREAS, the Council of the City of New Castle (“Council”) has previously adopted Section 230-21.1 to establish the Downtown Gateway (DG) Zoning District; and

WHEREAS, Section 230-21.1 B, Table 1, lists “Multifamily Dwelling” as a permitted use as a matter of right in the DG zoning district; and

WHEREAS Section 230-21.1 B, Table 1, lists “a mix of uses in a single building or group of building with first-floor nonresidential uses and office or multifamily residential on the upper floors” as a permitted use as a matter of right in the DG zoning district; and

WHEREAS, Council has determined that certain multifamily dwelling and mixed use projects may have the effect of frustrating the stated intent of the DG zoning classification to: (a) extend the built-form, character and scale of the historic district; and (b) encourage lively, human-scaled gathering places for the community through building design and orientation and by encouraging a mix of uses; and

WHEREAS, Council has further determined that limiting multifamily dwelling and mixed use projects in the DG District may be suitably controlled by permitting such uses only after the grant of a special exception by the Board of Adjustment; and

WHEREAS, Council has further determined that proposed uses in the DG zoning district permitted by special exception from the Board of Adjustment may be granted only following review and recommendation of such proposals by the Planning Commission; and

WHEREAS, the Planning Commission has recommended that any land use approvals for development within the DG Zoning District be implemented via the procurement of a building permit for such development within seven (7) years of approval, or, failing such, the approval shall be deemed expired; and

WHEREAS, the Planning Commission has further recommended that for mixed use developments in the DG Zoning District, the commercial uses (i.e., retail, office or other non-residential uses) front on public right of ways.

NOW, THEREFORE, be it ordained by the Council of the City of New Castle, as follows:

SECTION 1: Section 230-21.1 B, Table 1 of the Code of the City of New Castle entitled “Permitted Uses” is hereby amended so that multifamily dwellings and mixed use development projects are permitted only by means of a special exception (designated as “SE” in Table 1) granted by the Board of Adjustment.

SECTION 2: The first sentence of section 230-21.1 B of the Zoning Code is hereby amended to read as follows:

“B. The following uses in the DG Districts are either: (a) permitted by right, or (b) permitted by special exception following review and recommendation by the Planning Commission.”

SECTION 3. Section 230-21.1 of the City Code is hereby amended to add a new subsection H which shall read, in its entirety, as follows:

H. All land development approvals in the DG Zoning District shall expire seven (7) years following final approval of same unless a building permit has been issued for such development within such seven (7) year period. If such building permit is issued within said seven (7) year period but expires more than seven (7) years following such final approval and before a certificate of occupancy is issued for such development project, then such approval shall be deemed expired and no additional building permit shall be issued for such development project unless it is again approved pursuant to the terms of this Chapter.

SECTION 4: Section 230-21.1 G of the City Code, entitled “Design Standards”, is hereby amended to add a new subsection (3) which shall read, in its entirety, as follows:

G. Design Standards.

* * *

(3) In mixed use development projects, commercial, retail and office uses shall be primarily oriented to face public rights of way.

SECTION 5: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase irrespective of the fact that any one or more thereof is declared unconstitutional or invalid.

SECTION 6. Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

SECTION 7. This Ordinance shall become effective immediately upon passage.

First Reading **April 6, 2016**
Second Reading **May 12, 2016**

Signed this _____ day of _____, 2016

Linda Ratchford, President of Council

I hereby certify that the foregoing Ordinance was duly approved by the Council of the Mayor and Council of New Castle upon the dates above set forth and signed by the President of Council.

Janet E. Wurtzel, City Clerk

Approved this _____ day of _____, 2016

Donald A. Reese, Mayor