

AN ORDINANCE TO AMEND CHAPTER 48 OF THE CITY CODE TO REQUIRE THE ZONING BOARD OF ADJUSTMENT TO NOTIFY AT-LARGE COUNCILMEMBERS OF PENDING HEARINGS

#0137

Sponsor:

**Council
Member
Spadola**

WHEREAS, development projects within City neighborhoods can have a substantial impact on the neighborhood's unique characteristics beyond the project's immediate vicinity; and

WHEREAS, at-large City Councilmembers have a responsibility to the City as a whole; and

WHEREAS, currently, notice of proposed zoning board of adjustment hearings only must go to adjoining property owners and the affected City Councilmember; and

WHEREAS, City Code also requires notices to the affected County Councilmember and State Representative; and

WHEREAS, the Code is silent on if the "affected [City] Councilmember" language includes at-large City Councilmembers; and

WHEREAS, it is possible that at-large City Councilmembers who live nearby or in close proximity to the proposed affected property/ies are not made aware of the adjustment petition; and

WHEREAS, notice of proposed development projects to at-large City Councilmembers will serve to engage a greater number of citizens in the development of their neighborhood.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 48 of the City Code is hereby amended by amending Section 48-67 by deleting the stricken language and adding in the underlined language to read as

follows:

Sec. 48-67. – Meetings, procedures and records.

(b) *Procedure for obtaining permission of the board.* Any person desiring to obtain the permission of the board for any purpose for which permission is required under this chapter, or for any use not otherwise covered, shall make written application therefore and such written application shall include:

(5) An affidavit certifying that he/she is not delinquent in payment of city property taxes, water and sewer billing, or any other lienable fee or taxes for which amounts are past due to the city, for the property that is the subject of the written application, subject to verification by the city department of finance as of the date of the application.
~~application;~~

~~and the board shall hold a public hearing thereon, after public notice and notification to the property owners affected, and render a decision. Such public notice shall be given not less than ten days before any public hearing except for an emergency, special or rescheduled meeting, provided, however, that any such emergency, special or rescheduled meeting shall still comply with the notice requirements of the Delaware Freedom of Information Act. Any notice required under this section shall include the posting of the board's agenda, as required by the Delaware Freedom of Information Act, the forwarding of copies of each agenda stating, as it does, the hearing location,~~

~~hearing date and hearing time, with copies of the case number notice being provided to: the president of city council; to the city council district member, the county council member and the state representative in whole districts the subject property is located; and to the chair of the officially recognized neighborhood or civic association(s) in the area within which the subject property is located, as listed in the planning department community organization directory. Such notice and its accompanying list of property owners and addresses shall also be sent to each owner of record of properties located within not less than the city block surrounding the subject property, as well as to the "occupants" of the properties that are dwellings that are directly adjacent to or abutting the subject property or directly across a street or public alley from the subject property. For purposes of this section, "one city block" shall mean a city block, defined as the area within the perimeter of the rectangle formed by the sides of the four street within which the subject property is located, or a radius of 250 feet, whichever is greater. In the event that an application or appeal is withdrawn or is to be rescheduled and that fact is known prior to the hearing date and time, the zoning administrator shall make his/her best efforts to notify by telephone the president and the district member of council, the county council member, the state representative and the community organization in order that they may assist in providing further notification to property owners and occupants, given the short amount of time involved, of the fact that the appeal or application will not be heard on the date scheduled.~~

(c) Public Notice.

- (1) Once permission of the board is obtained, the board shall hold a public hearing thereon, after public notice and notification to the property owners affected, and render a decision.
- (2) Such public notice shall be given not less than ten days before any public hearing except for an emergency, special, or rescheduled meeting, provided, however, that any such emergency, special, or rescheduled meeting shall comply with the notice requirements of the Delaware Freedom of Information Act.
- (3) Any notice required under this section shall include the posting the board's agenda stating, as it does, the hearing location, hearing date, and hearing time, with copies of the case number notice being provided to:
 - i. the president of city council;
 - ii. the city council district member in whose district the subject property is located;
 - iii. all at-large council members;
 - iv. the county council member in whose district the subject property is located;
 - v. the state representative in whose district the subject property is located; and
 - vi. the chair of the officially recognized neighborhood or civic association(s) in the area within which the subject property is

located, as listed in the planning department community organization directory.

(4) Such notice and its accompanying list of property owners and addresses shall also be sent to each owner of record of properties located within not less than the city block surrounding the subject property, as well as to the “occupants” of the properties that are dwellings that are directly adjacent to or abutting the subject property or directly across a street or public alley from the subject property.

(5) In the event that an application or appeal is withdrawn or is to be rescheduled and that fact is known prior to the hearing date and time, the zoning administrator shall make his/her best efforts to notify by telephone in order that they may assist in providing further notification to property owners and occupants, given the short amount of time involved, of the fact that the appeal or application will not be heard on the date scheduled:

- i. the president of council;
- ii. the district member of council;
- iii. all at-large members of council;
- iv. the county council member;
- v. the state representative; and
- vi. the community organization.

(6) For purposes of this section, “one city block” shall mean a city block, defined as the area within the perimeter of the rectangle formed by the

sides of the four streets within which the subject property is located, or
a radius of 250 feet, which is greater.

- (~~e~~) (d) *Meetings to be public; minutes; records.* All meetings of the board shall be open to the public, and 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. All records of the board shall be filed in the office of the board and shall be open to public inspection.
- (~~d~~) (e) *Rules and regulations for transaction of business.* The board shall adopt such other rules and regulations, not inconsistent with the state law or the provisions of this chapter, as it may deem necessary for the transaction of its business.
- (~~e~~) (f) *Applications for approval to operate rooming houses.* The zoning board of adjustment shall not accept applications for approval to operate a rooming house from any person who is delinquent in payment of city property taxes, water and sewer billings, or any other account or loan for which amounts are past due and owing to the city, nor if any of such taxes, billings, accounts or loans are unpaid by the owner, if other than the applicant of the proposed rooming house building, until and unless all such taxes, water billings or other accounts and loans are paid in full, together with interest and penalties.
- (~~f~~) (g) *Multi-family conversions.* Any building that had been designed for use as a single family residence but has been converted to a multi-family use and has been vacant for one year or more shall not thereafter be used for multi-family use, but may continue to be used as a single-family residence.

~~(g)~~ (h) *Applications for single-family to multi-family conversions.* The applicant for a single-family to multi-family conversion shall be required to submit:

- (1) An affidavit from a licensed realtor stating that the proposed property has been actively marketed as a single-family dwelling for at least six months, unless the zoning administrator deems it unnecessary;
- (2) An affidavit certifying that he/she is not delinquent in payment of city property taxes, water and sewer billing, or any other account or loan for which amounts are past due to the city, subject to verification by the city department of finance; and
- (3) Plans at a scale of not less than ¼ inch to the foot, showing the dimensions and square footage.

Such application shall be approved only if in the opinion of the zoning board of adjustment the proposed activity will not adversely affect the character and future development of the neighborhood within which it is proposed to be located and such use will not increase motor vehicle parking problems and congestion in the neighborhood. The board in its determinations shall consider the cumulative effect on the availability of motor vehicle parking spaces particularly in light of all other existing uses within a radius of 300 feet of the proposed location.

SECTION 2. This Ordinance shall become effective thirty (30) days after its passage by City Council and approval by the Mayor.

First Reading.....November 6, 2025
Second Reading.....November 6, 2025
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2025.

Mayor

SYNOPSIS: This Ordinance adds a requirement for the Zoning Board of Adjustment to inform at-large Council members of pending appeals.

FISCAL IMPACT: Any fiscal impact shall be *de minimis*.