

ORDINANCE NO. 2013-_____

**AN ORDINANCE TO AMEND CHAPTER 220 OF THE TOWN CODE, ENTITLED
"ZONING," RELATED TO PARKING.**

WHEREAS, the Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, the Charter of the Town of Milton vests power in the Town Council to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material, and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

WHEREAS, the Town Council of the Town of Milton has previously found it necessary for the aforementioned purposes to enact a zoning ordinance, codified as Chapter 220 of the Town Code; and

WHEREAS, pursuant to Chapter 220, the Town Council of the Town of Milton may, from time to time, on its own motion or on petition or upon recommendation by the Planning and Zoning Commission, amend, supplement or change the boundaries of the districts or the zoning regulations after public notice and hearing; and

WHEREAS, the Town Council referred the matter of off-street parking to the Planning and Zoning Commission; and

WHEREAS, the Town of Milton Planning and Zoning Commission held a duly noticed hearing on _____ and voted _____ in the Advisory Report received by Town Council; and

WHEREAS, The Town Council held a public hearing on _____, as scheduled by prior resolution, with proper notice by publication as required by Town Code Section 220-101;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton:

Section 1. Amend Section 220-42 of the Town Code, with additions shown by underlining and deletions shown by strikethrough as follows:

A. General requirements.

(1) Parking shall not be permitted in front yard setback areas following site plan review as provided for in Article VI of this chapter. For single-family homes parking may be permitted in the front yard setback area on approved driveways. Under all circumstances,

except for single-family homes, a four-foot-wide area shall be provided between the adjacent sidewalk or public right-of-way and all permitted parking areas.

(2) It shall be the responsibility of the owner of a property to provide the total number of off-street parking spaces required by this chapter for any uses which are enlarged, erected or structurally altered after the effective date of this chapter.

(3) A parking space shall be a minimum of 10 feet by 20 feet for perpendicular parking and 10 feet by 22 feet for parallel parking, exclusive of parking aisles and driveways appurtenant to and giving access thereto.

(4) An area containing one or more parking spaces shall have direct access to a public street or alley.

(5) No exit or entrance drive connecting a parking area and a street shall be permitted within 30 feet of the intersection of two public rights-of-way.

(6) Where appropriate, the ~~Board of Adjustment~~ ~~Planning and Zoning Commission~~ may, upon the presentation of evidence, vary the number and circumstances of the following parking space requirements, in order that the general welfare be served and the proposed uses be equitably treated.

(7) The outdoor lighting of off-street parking lots shall be designed to shield adjacent properties from glare.

(8) If the uses, structures or parcels for which parking is provided are under separate ownership, the right to joint use of parking spaces shall be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use. Upon application by an owner or owners, the ~~Board of Adjustment~~ ~~Planning and Zoning Commission~~ may, ~~without requiring a variance,~~ authorize the joint use of parking facilities upon a finding that ~~up to 50%~~ of the parking spaces required for a specified use which is primarily a daytime activity may be used to satisfy the parking requirements for a specified use which is primarily an evening activity. Applicants seeking such authorization shall submit written documentation justifying their requests.

(9) The use of off-street parking areas in residential areas for the parking or storage of commercial vehicles of 10,000 pounds or more shall be prohibited.

(10) Parking shall be prohibited in the lawn area in front of ~~any structure~~ ~~a residence~~ in any district, except on the driveway of such ~~residence~~ ~~structure~~.

B. Required off-street parking spaces. The minimum number of parking spaces required shall be determined by the number or amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings, uses or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structure, as follows:

Table of Required Off-Street Parking Spaces, By Permitted Use	
Permitted Use	Number of Spaces Required
Single-family dwelling unit	2 spaces per unit
Two-family dwelling	2.5 spaces per unit
Townhouses or multifamily dwelling units	2.5 spaces per unit

Hospitals, nursing homes	1 space per 200 gross square feet
Bed-and-breakfasts, inns	1 space for each bedroom within the facility plus 2 for the property owners
Motels/hotels	1 space for each unit, plus 1 space per 500 square feet of common area
Offices	1 space for each 300 gross square feet
Retail establishments, veterinary hospitals, banks, and related commercial establishments of a personal service nature	1 space per 200 gross square feet
Restaurants	1 space per 100 gross square feet
Health club	1 space per 100 gross square feet
Warehouse	1 space per 500 gross square feet
Assembly	1 space per 200 gross square feet
Medical office	1 space per 200 gross square feet
Schools	1 space per 3.5 seats in assembly rooms plus 1 space per faculty member
Industry	1 space per 500 square feet
Funeral homes	1 space per 20 square feet of floor area used for seating accommodations, plus 1 space per employee

C. Calculation of required parking spaces. In the case of combination of uses, the total requirements for off-street ~~automobile~~ parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit joint use of parking areas or other modifications. Whenever a major fraction of a space is required, a full space shall be provided.

D. Location of required parking spaces.

(1) Residential Districts (R-1, R-2 and R-3 Districts):

(a) Required parking spaces shall be provided on the same lot as the residence. This space shall be graded for parking use and readily accessible from the street.

(b) Open parking areas may encroach on any required side or rear yard to within three feet of a property line except that in existing lots with six-foot side yards, required spaces may, ~~upon approval of the Planning and Zoning Commission,~~ extend to the side and/or rear lot lines.

(2) Commercial Districts (~~T-C and~~ C-1), Light Industrial Districts (LI-1) and Marine Resources (M-R) Districts:

(a) Required parking spaces shall be provided on the same lot as the business, residential, institutional or industrial use, or not more than 400 feet distant from them.

(b) Where such parking is situated adjacent to a residential use, it shall be set back a minimum of six feet from the residential lot line, and an adequate landscape buffer in conformance with § 220-54 shall be provided within such setback area.

(3) Any property within the Town Center District (T-C) shall not be required to provide off-street parking.

E. Off-street parking ~~waiver. Off-street parking requirements~~ requirements may be ~~varied~~ waived in whole or in part upon findings by the Board of Adjustment pursuant to Article XI of this Chapter ~~Planning and Zoning Commission that:~~

~~(1) Adequate public off-street parking facilities are available within 400 feet of the lot containing the subject use; or~~

~~(2) Evidence of satisfactory off-site parking arrangements has been documented; or~~

~~(3) The area in question is located within the Town Center District.~~

F. Construction of parking areas. All off-street parking areas shall be ~~paved~~ constructed with [insert list of materials that the Town currently permits] or with a suitable all-weather, dust-free, permanent, stable surface approved by the Planning and Zoning Commission, with the exception of those for single-family residences, and shall meet the following construction standards:

(1) The individual spaces shall be visibly marked with paint or other durable material.

(2) Be provided with curbing or wheel stops to keep parking vehicles within proper boundaries.

(3) Be designed, graded and surfaced for proper drainage.

G. Landscaping. At least 10% of the area of a lot usable for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars shall be screened adequately, as set forth in § 220-54, from adjoining properties. All parking areas and landscaping shall be properly maintained in accordance with applicable Town ordinances.

Section 2. This Ordinance shall take effect immediately, except as to any applications filed for a parking waiver or site plan filed prior to this Ordinance's effective date. For any such application, the provisions preceding this Ordinance shall apply.

I, **MARION JONES**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the ____ day of _____, 2013, following a duly noticed public hearing, at which a quorum was present and voting throughout and that the same is still in full force and effect.

MAYOR

SYNOPSIS

This Ordinance amends the Town Code's processes with regard to parking requirements and obtaining a waiver or variance therefrom. Specifically, by removing the general authority to grant a waiver of the off-street parking requirements from the Planning and Zoning Commission, that authority returns to the Board of Adjustment under Article XI of Chapter 220, the Town's zoning code.

