

**Town of Milton**  
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**ORDINANCE NO. 2019-004**

**AN ORDINANCE TO AMEND TOWN CODE, CHAPTER 220, ENTITLED "ZONING,"  
REGARDING THE HISTORIC PRESERVATION OVERLAY DISTRICT**

**WHEREAS**, the Town Charter of the Town of Milton authorizes the Mayor and Town Council to provide for and preserve the health, cleanliness, ornament, good order and public welfare of the Town, its inhabitants and affairs; and

**WHEREAS**, the Town of Milton currently has Ordinances providing for proper zoning regulations; and

**WHEREAS**, the Charter of the Town of Milton vests power in the Mayor and 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 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;

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, by the Town Council of the Town of Milton, a majority thereof concurring, that the following amendments be hereby incorporated into Chapter 220 of the Town Code:

Section 1. Amend § 220-21E(3)(e) with deletions shown by strike-through and additions shown by underline as follows:

(e) If, after review of the application by the Project Coordinator, he/she determines that the proposed activity will require a variance, the Project Coordinator shall notify the applicant and provide information on the process for application to the Board of Adjustment, forward the application to the Historic Preservation Commission, and shall schedule a conceptual review between the applicant and the HPC. The purpose of concept review is to allow the applicant to review input from the HPC prior to the Board of Adjustment process. If no application to the Board of Adjustment is made by the applicant within 30 days after ~~notice~~ has been given by the Project Coordinator the conceptual review, the application to the

~~Historic Preservation Commission HPC shall be deemed to have been withdrawn. However, if the applicant desires to have the HPC review an application prior to applying to the Board of Adjustment, the applicant shall request the Project Coordinator to forward the application to the HPC.~~

Section 2. Amend § 220-21F with deletions shown by strike-through and additions shown by underline as follows:

F. Criteria.

(1) In reviewing the plans for any construction, change, or demolition, the HPC shall base its decision on the Secretary of the Interior's Standards for Rehabilitation:

<http://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>.

(2) The HPC shall also give consideration to:

(a) Historic or architectural value and significance of the structure and/or its relationship to the historic value of the surrounding area.

(b) Relationship of the exterior architectural features of the structure to the remainder of the structure and/or to the surrounding neighborhood, including proximity to other structures. Distinctive stylistic features and/or examples of skilled craftsmanship shall be preserved, if possible.

(c) General compatibility of exterior design, arrangement, texture and materials proposed to be used with other structures contributing to the established character of the Historic District of Milton.

(d) When application is made to demolish a structure or any part thereof, the impact of its removal from the area in which it is located, and its structural condition and the economic feasibility of alternatives to the proposed demolition.

(e) When application is made to move an historic structure, the potential loss of history to its original site and to the Historic District as a whole, and the reasons for not keeping the structure at its present location.

(f) When application is made for new construction in the Historic District, or for relocating an existing structure from outside the Historic District into that district, the general compatibility in style, scale, proximity, composition, usage and construction of other structures in the neighborhood.

(g) A proposed new structure, or any alterations to an existing structure in the Historic District, or to a designated historic site, shall be permitted to expand to the height and yard setbacks permitted in the zoning district for that particular property absent a specific finding that such expansion defeats the purpose of this section.

(h) The effect of the proposed structure on the health, safety and general welfare of the Town of Milton, its residents and visitors.

(i) Other factors that the HPC deems to be pertinent, consistent with the Town Code, the laws of the State of Delaware and the laws of the United States of America.

Section 3. Amend § 220-21G(2) with deletions shown by strike-through and additions shown by underline as follows:

(2) Height and location within the lot. New and renovated structures should be in harmony with the streetscape.

Section 4. Amend § 220-44 with deletions shown by strike-through and additions shown by underline as follows:

§ 220-44. Accessory building and uses.

A. Accessory buildings. Accessory buildings not attached to principal buildings shall comply with the following:

(1) All accessory buildings shall require a building permit.

(2) Accessory buildings shall only be located on the same lot as the principal use stated in the Density Control Table.

(3) Accessory buildings shall only be located in a rear or side yard, except that any accessory building in the Historic Preservation Overlay District (HP-OD) shall only be located in a rear yard. ~~and the~~ The minimum setback from the side and rear property line shall be a minimum of six feet.

(4) Accessory buildings shall not be located closer than five feet to the principal building or any other permitted accessory structure.

B. Accessory uses. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as or on a lot adjacent to the principal structure, shall not be located in front yard on such lots, and shall be located not less than six feet from side and rear lot lines and shall not adversely affect the character of any residential neighborhood or any other accessory structure by reason of noise or glare or safety.

**I, Theodore Kanakos**, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Town Council of the Town of Milton at its meeting held on the \_\_\_\_ day of \_\_\_\_\_, **2019**, at which a quorum was present and voting throughout and that the same is still in full force and effect.

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**MAYOR**

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**SYNOPSIS**

This ordinance amends the Town Code's zoning ordinance relating to the Historic District. Specifically, the ordinance requires that an applicant to the Historic Preservation Commission ("the HPC") meet with the HPC before going to the Board of Adjustment for a variance. Currently, that meeting is only voluntary. The ordinance also adds the ability of the HPC to specifically consider the location of a proposed structure on its lot and the proximity to other structures in determining an application. Finally, the ordinance limits accessory buildings in the Historic District to location in the rear yard. They are currently permitted in the side yard, which frequently has a substantial impact on the streetscape.