



Town of Milton

115 Federal Street, Milton, Delaware 19968

www.milton.delaware.gov

Phone: 302-684-4110 Fax: 302-684-8999

ORDINANCE NO. 2022-008

AN ORDINANCE TO AMEND CHAPTER 220 OF THE TOWN CODE, ENTITLED "ZONING," IN ITS ENTIRETY.

WHEREAS, the Charter of the Town of Milton vests power in the Mayor and 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 Mayor and Town Council has the power to zone or district the Town and make provisions for particular zones or districts with regard to structures, building, and building material, and 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 of Milton Planning and Zoning Commission held a duly noticed hearing on May 9, 2022 and voted 7-0 in the Advisory Report received by Town Council; and

WHEREAS, The Town Council held a public hearing on August 1, 2022, as scheduled by prior resolution, with proper notice by publication as required by Town Code Section 220-101A;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby be incorporated into Chapter 220 of the Town Code, entitled "Zoning," with deletions shown by strike-through and additions shown by underline on Exhibit A.

I, **JOHN R. COLLIER** 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 9th day of January, 2023 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.

A handwritten signature in dark ink, appearing to read "John R. Collier", is written over a horizontal line.

MAYOR

SYNOPSIS

This ordinance amends the Town Code's zoning ordinance. The amendments include the following:

- Referencing the Town Comprehensive Plan and conditional uses in the purpose in the Zoning Ordinance.
- Clarifying the Zoning Ordinance's definitions for various terms such as "government uses," "public utility service," and "wetlands."
- Correcting typographical errors.
- Including electric vehicle charging stations as a permitted accessory use.
- Adding government uses to districts.
- Adding requirements for a bed-and-breakfast special use.
- Requiring that certain additional information be shown on preliminary site plan applications, including sourcewater information and access points, and that building elevations, landscape plans and lighting plans accompany the application.
- Requiring posting on the property for a public hearing.
- Revising the off-street parking table for medical offices and clinics.
- Updating buffer references.
- Adding mitigation of light pollution as a consideration.
- Adding digital signage to the animated sign.
- Adding LLI-1 to existing sign regulations.

Chapter 220. Zoning

Article I. Title, Purpose, Authority

§ 220-3. Long title.

The long title of this ordinance is "An Ordinance Establishing a Comprehensive Zoning Plan for the Town of Milton by Dividing the Territory Thereof ~~into~~ into Certain Zoning Use and Overlay Districts and Prescribing Regulations and Standards for Permitted Uses, Densities and Design of Buildings, Other Structures and Land Therein."

§ 220-4. Purpose.

A. This chapter and use districts herein set forth, as identified upon the Official Zoning Map of the Town of Milton, are made for the purpose of protecting the character of the community in terms of its design, mix of uses, scale, architecture and history, helping implement the Town of Milton Comprehensive Plan and facilitating community economic development in terms of job development, retention and investment. This chapter promotes public health, safety, and general welfare, conserves the value of land throughout the Town and prescribes the most desirable uses for which the land in each zoning use district may be adapted as well as those uses to be subjected to special regulations. The height, bulk and location of buildings and other structures, the area of yards, courts, setbacks and other open spaces, the density of population and intensity of use of buildings and land, the use and conservation of unique waterfront areas, and the use of structures and land for a diversity of residential choices, a Town center, commercial/business, limited industrial, institutional or other purposes, are hereby restricted and regulated as hereinafter provided.

B. The Town of Milton Zoning Ordinance has been designed to preserve open space; to lessen congestion in the streets; to protect the Broadkill River and its tributaries, to preserve nearby agricultural lands, to secure safety from fire, flood, and other dangers; to provide adequate light, air, and convenience of access; and facilitate the adequate provision of transportation, water, sewage, schools, parks, public recreational facilities and other public services. They have ~~The Ordinance~~ been made with reasonable regard, among other things, to the character of each district and the suitability of each district for particular uses as well as to the conservation of the value of buildings, land, and uses in order to promote the most appropriate use of land, preservation of the natural and historic environment and enhancement of the local economy throughout the Town of Milton.

C. The regulations contained in this chapter have been designed in accordance with the current Town of Milton Comprehensive Plan as recommended by the Planning and Zoning Commission of the Town of Milton and adopted by the Town Council of the Town of Milton and certified by the State of Delaware ~~by resolution dated December 1, 2003.~~

D. All such zoning regulations and maps shall be enacted for the purposes of:

- (1) Preserving and promoting the health, safety and welfare of the citizens of the Town of Milton.
- (2) Protecting and preserving the architectural and historic character of Milton's built environment and extending this character as growth occurs within the Town or through annexation.
- (3) Guiding the future growth and development of the Town in accordance with the Town of Milton Comprehensive Plan in a manner ~~which that~~ results in positive and beneficial land use relationships among residential, nonresidential and public areas.
- (4) Providing for the orderly growth and development of the Town and its environs in a manner which will protect, conserve and stabilize the value of land, structures and neighborhoods.
- (5) Providing adequate light, air and privacy to building areas and lots, securing safety from fire and other danger and preventing overcrowding of land and undue congestion of population.
- (6) Providing for coordination between the use of land and structures and the street and highway system in order to avoid congestion in the streets and to promote safe and convenient traffic circulation.

- (7) Regulating and coordinating development activities to provide for the adequate provision of public facilities and services.
- (8) Providing for a diversity of housing types in varied living environments.
- (9) Providing open space to protect the archeological, historic, scenic and natural features of the Town, as well as providing recreation spaces for existing and future needs.
- (10) Facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public facilities.
- (11) Preserving farmland and the agricultural land base.
- (12) Providing for the preservation and protection of high tidal and freshwater ponds, lakes, and rivers.
- (13) Promoting and implementing goals of the adopted and certified Town of Milton Comprehensive Plan.

E. Minimum and uniform regulations that shall apply in the respective districts include the following:

- (1) Use regulations establishing permitted principal and accessory uses, ~~and~~ uses allowed by special permit, and conditional uses for each zoning use district.
- (2) Maximum area, density, and bulk regulations, vehicle parking, minimum lot size and yard requirements, minimum lot coverage and maximum structural height, building setback and flood level requirements.
- (3) Creation of a Town of Milton Planning and Zoning Commission with powers conferred by 22 Del. C. § 306.
- (4) Creation of a Town of Milton Board of Adjustment with powers conferred by 22 Del. C. § 321 et seq.

Article II. Interpretation; Definitions

§ 220-5. Interpretation, separability and conflict.

A. The following rules of construction of language shall apply to the text of this chapter:

- (1) Words used in the present tense include the future tense.
 - (2) Words used in the singular include the plural, and words used in the plural include the singular.
 - (3) Words used in the masculine form shall also include the feminine.
 - (4) The word "lot" includes the word "plot" or "parcel."
 - (5) The word "person" includes an individual, trust, artificial entity, firm or corporation.
 - (6) The word "shall" is always mandatory; the word "may" is always permissive.
 - (7) The words "used" or "occupied" as applied to any land or building shall be interpreted to include the words "intended, arranged or designed to be used or occupied."
 - (8) A "building" or "structure" includes any part thereof.
 - (9) The phrases "to erect," "to construct," and "to build" a building each have the same meaning and include to excavate for a building and to relocate a building by moving it from one location to another.
- B. If any section, paragraph, subdivision, or provision of this chapter shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this chapter shall remain valid and effective.

C. Wherever possible this chapter shall be interpreted in such a way that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect.

D. This chapter is not intended to abrogate or annul any easement, covenant, or any other private agreement. Such private agreements shall not allow what this chapter prohibits.

E. Whenever the requirements of this chapter are at variance with the requirements of other fully adopted rules, regulations or ordinances, the ordinance with the most restrictive provisions or those imposing the higher standards shall govern.

§ 220-6. Definitions.

The following words or phrases, as used in this chapter, are defined as follows:

ABANDONMENT

To cease or discontinue a use or activity for at least one year.

ACCESSORY STRUCTURE

A structure subordinate to a principal structure on the same lot and used for purposes customarily incidental to those of the principal structure. Accessory structures include but are not limited to portable, demountable or permanent enclosures, shade structures, carports, above- and below-ground swimming pools, garages and storage sheds.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use or occupancy of a building and located on the same lot with such principal use or building.

ADULT-CARE FACILITY

A family-type home for adults, a shelter for adults, a residence for adults or an adult home, ~~which~~ that provides temporary or long-term residential care and services to adults.

AGGREGATE AREA OR WIDTH

The sum of two or more designated areas or widths to be measured, limited, or determined under the provisions of this chapter.

AGRICULTURAL USE

The raising of horticultural products only.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities of such building or structure, or any enlargement thereof, whether by extension on any side, front or rear or by any increase in height, or the moving of such building or structure from one location to another. "Alteration" also means any appreciable change in the external architectural features of any structure or building, which is visible from adjoining property, and is equal to or exceeds 15% of the current market value of the building or structure.

AMUSEMENT GAME CENTER

A continuous commercial use ~~in which~~ where four or more mechanical, electrical or electronic machines or devices used or designed to be operated for entertainment or as a game, and either activated by the insertion of a coin, token, ~~etc.,~~ or other form of payment ~~use for which a charge is made.~~

ANTENNA

Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

ANTENNA, MINOR

Any antenna not attached to a tower and ~~which does not extend~~ not extending more than 40 feet above the ground and ~~which may be approved by the Code Enforcement Officer~~ as an accessory use to any single-family home or commercial, industrial, professional, light industry, or multifamily structure.

APARTMENT

See "~~dwelling unit~~ DWELLING UNIT."

APPLICANT

A landowner or developer, as hereinafter defined, who has filed application for development, including ~~his~~ their heirs, successors and assigns.

AREA, BUILDING

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of terraces and uncovered steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LOT

The total area within the lot boundary lines excluding any area included in a public street right-of-way.

ATTIC

That space of building ~~which is~~ between the top of the uppermost floor construction immediately below and wholly or partly within the roof framing and that is not finished as habitable space. (See also "story, half.")

BAR

A business establishment licensed by the State of Delaware to serve alcoholic beverages and which establishment is designed primarily for the consumption of such alcoholic beverages on the premises, irrespective of whether or not food and/or entertainment are also provided as accessory uses.

BASE FLOOD ELEVATION and BASE FLOOD

~~Base flood elevation is that height or elevation in relation to mean sea level, which is expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.~~ The base flood, in accordance with the regulations established by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program (NFIP), is the flood having a one-percent chance of being equaled or exceeded in any given year. The term "base flood" has the same meaning as the one-hundred-year flood under the regulations of the NFIP.

BASEMENT

Any space of a building ~~which~~ that is partly below finished grade, but having more than 1/2 of its height measured from floor to ceiling above average finished grade. (See also "~~cellar~~ CELLAR.")

BED-AND-BREAKFAST

A single-family, owner-occupied dwelling ~~which~~ that is used for lodging for up to six transient guests at any one time, none of who remain for more than five consecutive nights each, and ~~which provide~~ provides no food or beverage service for the transient guest other than for breakfast provided in the areas of the dwelling generally utilized by the resident family for the consumption of food.

BED-AND-BREAKFAST UNIT

A Bed-and-Breakfast room for guests.

BILLBOARD

An outdoor sign, ~~which~~ that communicates a commercial or noncommercial message related to an activity conducted, a service rendered or a commodity sold at a location other than the location of the sign.

BOARDINGHOUSE

~~A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three, but no more than six, sleeping rooms are offered for rent, with or without meals to nontransient guests. A lodging house or rooming house shall be deemed a boardinghouse.~~

BUFFER YARDS

An area of land forming a visual and/or physical separation or barrier between two uses, typically between the property line and the building setback line, or an area within a defined easement. In the case of a visual barrier the land shall be covered with ~~natural~~ a mix of coniferous and evergreen plantings, installed at a minimum of 5 feet in height, or man-made material, such as a privacy fence, to provide a physical screen limiting visual access and reducing noise.

BUILDABLE AREA

The area of that part of the lot not included within the yards or open spaces herein required.

BUILDABLE WIDTH

The width of that part of a lot not included within the yards or open spaces herein required.

BUILDING

Any structure ~~which~~ is wholly or partially enclosed within exterior walls, is permanently affixed to the land, ~~has~~ having one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING, ACCESSORY

See "accessory structure."

BUILDING, DETACHED

~~A building surrounded by open space on the same lot.~~

BUILDING GROUP

~~A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.~~

BUILDING HEIGHT

The vertical distance measured from the average elevation of the proposed or existing finished grade to the highest point of the roof for flat roofs, to the deck of mansard roofs, ~~and or~~ or to the mean height between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE

The line, established by statute, local law or ordinance, beyond which the exterior surface of a building on any side shall not extend. In the instance of a cantilevered section of a building or projected roof or porch, said line shall coincide with the most projected surface. (See also "SETBACK.")

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING, SEMIDETACHED

A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

BULK

A term to describe the size, volume, area, and shape of buildings and structures, and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.

CANOPY

A detachable, roof-like cover, supported from the ground, or deck, floor, or walls or a building, for protection from sun or weather.

CAR WASH

A building, premises or portions thereof where automobiles and other vehicles are washed either by the patron or others either by hand or using machinery and mechanical devices specifically designed for this purpose.

CELLAR

Any space in a building ~~where~~ the structural ceiling level ~~of which~~ is less than four feet above average finished grade where such grade meets the exterior walls of the building. (See also "~~basement~~ BASEMENT.")

CERTIFICATE OF COMPLIANCE

A certificate issued by the Code Enforcement Officer upon completion of construction, alteration or change in occupancy or use of a building. Said certificate shall acknowledge compliance with all the requirements of this chapter and such adjustments thereto granted by the Board of Adjustment.

CHANGE OF USE

A structure changing its existing and/or last-known occupied use to a permitted use in the same zoning district.

CHARACTERISTICS

Unique attributes or qualities of a property.

CHILD-CARE FACILITY

Any building or structure operated for the purpose of providing daytime care and instruction for two or more children on a regular schedule and also known as a "day-care center." (See also "~~day-care~~ DAY CARE.")

~~CHURCH~~ or PLACE OF WORSHIP

A building or premises used for regular public worship by members or representatives of a religious ~~sect~~ or organization as defined by state statute.

CLINIC

A building or portion thereof designed for, constructed or under construction or alteration for, or used by two or more physicians, surgeons, dentists, psychiatrists, physiotherapists, or practitioners in related specialties, or a combination of persons in these professions, but not including lodging or patients overnight.

CLUB, MEMBERSHIP

An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided they are not conducted as vending stands, merchandising or commercial activities, except as required generally for the membership and purposes of such club.

CLUSTER HOUSING

A subdivision technique ~~in which~~ ~~where~~ detached dwelling units are grouped relatively close together, leaving open spaces as common areas.

CODE ENFORCEMENT OFFICER

The Town official in charge of enforcement of the Zoning Ordinance. The Code Enforcement Officer is the person appointed for this purpose by the Town Council or its designee.

COMMERCIAL VEHICLE

A vehicle of a type required to be registered under Title 21 of the Delaware State Code and designed, used or maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

CONDITIONAL USE

~~A temporary special exception use which is nonconforming in nature and which is granted by the Mayor and Town Council for a period of one year or less~~ A use that is desirable for the general convenience and welfare but, because of its nature, requires additional review to assess the impact on neighboring properties and the zoning district where the use will be permitted.

CONDOMINIUM

A building or group of buildings, ~~in which~~ where residential, commercial or industrial units are owned individually while the structure, common areas and facilities are owned jointly by all the owners on a proportional basis.

CONTRACTOR'S YARD

Any space, whether inside or outside a building, used for the storage or keeping of equipment, machinery, or vehicles, or parts thereof, ~~which~~ that are in active use by a contractor.

CONVALESCENT HOME

See "~~nursing home~~ NURSING HOME."

CONVENIENCE/MINI-MARKET

A commercial retail use ~~which~~ that combines the sale of beverages, dairy and baked goods, snack foods, prepackaged grocery items and daily household items and which may also be accompanied by the sale of motor vehicle fuel and accessory substances for automobiles and other vehicles.

COURT, INNER

An open space enclosed on all sides by exterior walls of a building.

COURT, OUTER

Depth of the average dimension from the open side of the court to the opposite wall; width of the average dimension between the opposite sides of the court.

COVERAGE

That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

DAY-CARE CENTER

An establishment providing for the care, supervision and protection of children or adults away from their homes. Service is provided on a regular basis for periods of less than 24 hours per day, unattended by parent or guardian and for compensation.

DAY-CARE, HOME

A home occupation providing care, protection, supervision and guidance in private homes for one to six children or adults, excluding care provided by relatives. Service is provided on a regular basis for periods of less than 24 hours per day, unattended by parent or guardian and for compensation.

DECK

An unroofed platform above grade level that is freestanding or attached to a structure.

DEVELOPER

Any landowner or agent, or such landowner, who makes or causes to be made an application for approval of a site development plan.

DEVELOPMENT

The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension or any street or streets or the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water supply, storm drainage or other public facilities.

DEVELOPMENT COVERAGE

The percent of a site ~~which~~ that is covered with impervious surfaces. "Development coverage" shall include, but not be limited to, off-street parking, driveways and any public streets proposed in a site development plan.

DIKE

Any earthen levy or embankment, concrete flood wall, steel wall or embankment, wall or levy of similar materials ~~which~~ that is constructed for the purpose of flood control along the edge of a natural waterway subject to flooding, including the entire area within any permanent easement granted for this purpose.

DISTRICT or ZONE

That portion of the Town ~~within which~~ where specific uses are permitted according to the designation applied thereto in Article III and in conformity with the provisions of this chapter.

DOCK HOUSE

A building, ~~the primary usage of which shall be~~ primarily used for the storage of marine vehicles and related marine equipment. Such a building shall be built over water and on pilings, and the buildings may have walls, windows, doors, with a roof enclosing the storage space for boats. Part of the building may be rest room and shower facilities; provided, however, that such rest room, and facilities receive their water supply from and discharge their waste into ~~the municipal water and the~~ sanitary sewer system. Such building shall not contain any sleeping facilities.

DRIVE-IN USE

Any commercial or business activity ~~which~~ that incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

DRIVEWAY

A private road that connects a house, garage, or other building to a street.

DUMP

A lot or land used primarily for the disposal by abandonment, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste materials of any kind.

DWELLING

A building designed or used principally as the living quarters for one or more families in one or more dwelling units.

DWELLING, DETACHED SINGLE-FAMILY DETACHED

A building containing only one dwelling unit and having two side yards. This term shall not be deemed to include motel, hotel, ~~rooming house~~ or other accommodations used for ~~more or less~~ transient occupancy.

DWELLING, SINGLE-FAMILY SEMI-DETACHED

A building containing two dwelling units that share a party wall with each unit having one side yard. This term shall not be deemed to include motel, hotel, or other accommodations used for transient occupancy.

DWELLING GROUP

See ~~"cluster housing~~ CLUSTER HOUSING."

DWELLING, MULTIPLE-FAMILY

A building containing three or more dwelling units with shared or individual entrances and/or other ~~essential facilities and~~ public utility services. This term shall not be deemed to include motel, hotel, ~~rooming house~~ or other accommodations used for ~~more or less~~ transient occupancy.

DWELLING, SEMIDETACHED SINGLE-FAMILY

~~A building containing one dwelling unit and having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.~~

DWELLING, SINGLE-FAMILY

~~A building containing one dwelling unit only. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.~~

DWELLING, TWO-FAMILY

~~A building containing two dwelling units. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.~~

DWELLING UNIT

One room or several rooms connected together, consisting of a separate, independent ~~housekeeping establishment for owner~~ familial or household occupancy (owner occupancy, rental or lease), and containing independent cooking, living, sanitary and sleeping facilities.

ELECTRIC VEHICLE CHARGING STATION

The equipment that connects an external source of electricity to recharge the internal battery of a motor vehicle that uses one or more electric motors for propulsion and is powered through an internal battery that is charged using an external electricity source.

FACADE

The face or front of a structure or any vertical surface adjacent to a public way.

FACTORY-MANUFACTURED HOME

A dwelling unit constructed off site, consisting of one or more segments and designed to be permanently anchored to and supported by a permanent foundation, to become a fixed part of the real estate. Such dwelling unit shall bear an insignia of approval issued by the State of Delaware.

FAMILY

A single person occupying a dwelling unit and maintaining a household, or two or more persons related by blood or marriage or adoption occupying a dwelling unit, living together and maintaining a common household, or not more than three unrelated persons occupying a dwelling unit and maintaining a common household.

FENCE

An artificially constructed barrier of wood, vinyl, masonry, stone, metal or any other permitted manufactured material or combination of materials erected for the enclosure of yard areas.

FINISHED GRADE

The elevation ~~at which~~ where the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade in computing height of buildings and other structures or for other purposes shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOD HAZARD AREA

Area subject to flood hazard, including alluvium soils, as defined and mapped by the Federal Insurance Administration of the Department of Housing and Urban Development.

FLOODPLAIN

The ~~low-lands~~ lowlands adjoining the channel of a river, stream or watercourse, lake or other body of standing water, ~~which~~ that have been or may be inundated by floodwater. The channel of a stream or watercourse is a part of the floodplain in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA).

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved ~~in order~~ to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA). Also referred to as "regulatory floodway."

FLOOR AREA

The sum of gross horizontal areas of the several floors of the building or buildings or a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

FRONTAGE, LOT

The distance ~~for which~~ where the front boundary line of the lot and the street line are coincident.

FRONTAGE, STREET

All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

FUNERAL HOME

A building or part thereof used for human funeral services, including chapels, embalming, autopsies, storage of caskets, funeral urns and other related funeral supplies, and the storage of funeral vehicles, but does not include facilities for cremation.

GARAGE, PRIVATE

A garage used for storage purposes only and having a capacity of not more than four ~~automobiles~~ parking spaces. Space therein may be used for not more than one commercial vehicle, and that commercial vehicle may not exceed ~~of not more than~~ one ton capacity.

GARAGE, SERVICE/REPAIR

A building or premises used for the repair of motor vehicles, including painting, detailing, cleaning and the sale of related parts and accessories. A junkyard or auto salvage yard is not to be construed to mean or be the same as a garage.

GASOLINE FILLING STATION

An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, ~~which that~~ may include as accessory uses sale of motor vehicle accessories, and ~~which that~~ may or may not include facilities for lubricating, washing (~~which that~~ does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding, or painting.

GAZEBO

A freestanding, roofed, ~~accessory structure which will be~~ open on its sides, ~~such that all areas~~ Areas of the building above four feet ~~shall~~ may consist of either windows or screening, except that portion of the structure ~~which that~~ houses rest room or shower facilities. ~~As part of the main structure, a~~ A gazebo may contain rest room facilities and shower facilities; provided, however, that the water source and discharge or liquid waste shall be connected to the ~~municipal water and sewer system~~ public utility water and sanitary sewer systems. The structure shall not contain sleeping facilities. ~~Such a building shall be built over water and on pilings or on a dock adjacent to water.~~

GENERAL BUSINESS OFFICE

A nonretail service-oriented office or agency such as insurance brokers, travel agents, computer programming, consulting organizations, or similar uses.

GRADE

Grade elevation shall be determined by averaging the elevations of the finished ground at all corners and/or other principal points in the perimeter wall of the building; except that grade elevation for any building, ~~which that~~ is required to be elevated, shall be measured from the minimum elevation required for the site by the flood zone.

GREENHOUSE

A structure, ~~constructed primarily of glass or similar materials, in which~~ where temperature and humidity can be controlled for the cultivation or protection of plants.

GROSS LEASABLE AREA

The total floor area designed for tenant occupancy and exclusive use, including basement, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

GROSS RESIDENTIAL DENSITY

The number of dwelling units per acre in a proposed development, computed by dividing the number of dwelling units ~~which that~~ the applicant proposes to construct by the total number of acres in the site proposed for development.

GOVERNMENT USES

A. Local: provided by the Mayor and Council of the Town of Milton to promote the health, welfare, and public safety of the citizens of Milton.

B. Non-local: provided by a governmental entity other than the Mayor and Council of the Town of Milton.

GUESTHOUSE

Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separate dwelling.

HAZARD AREA

~~Area subject to flood hazard, including alluvium soils, as defined and mapped by the Federal Insurance Administration of the Department of Housing and Urban Development.~~

HEIGHT

The vertical distance measured from grade, the average of the finished ground level adjoining the building at the side facing the nearest street to the highest point of the coping of the highest flat roof if the building has more than one flat roof level, or to the highest point of a mansard, gable, hip or gambrel roof building. Chimneys, spires, towers, elevators, penthouses, tanks and other similar projections shall not be included in calculating the height.

HOME OCCUPATION

A. Any occupation, profession, enterprise or activity conducted solely by one or more members of a family on the premises, which is incidental and secondary to the use of the premises for dwelling, provided that no commodity is stored or sold, except such as it is made on the premises, and there shall be no group instruction, assembly or activity and no outside storage or display material on the premises. Within the above requirement, a home occupation includes but is not limited to the following:

- (1) ~~Art or crafts studio~~ Studio for an artist, sculptor, musician, photographer, or author.
- (2) The practice of cosmetology or barbering, limited to one chair.
- (3) Dressmaking, custom baking, day care or baby-sitting.
- (4) Professional ~~office~~ offices such as for of a physician, dentist, lawyer, engineer, architect, accountant or ~~salesman~~ salesperson.
- (5) Private instruction, including music, dance, art and craft classes, and tutoring, and limited to one or two pupils at a time.

B. A home occupation, however, shall not be interpreted to include nursing homes, convalescent homes, rest homes, restaurants, tearooms, tourist homes, or similar establishments.

HOSPITAL

An institution for the care and treatment of the sick and injured, equipped with technical facilities, medical, nursing and other professional and technical personnel necessary for diagnosis and treatment of persons suffering from sickness or injury ~~which require~~ that requires bed care, out-patient care or emergency room care.

HOTEL

A building, or any part thereof, ~~which~~ that contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and which may or may not include dining facilities. This term shall not be deemed to include an inn, bed-and-breakfast, boardinghouse, or other such accommodations.

HOUSEBOAT

~~A barge, a flat bottomed boat or a vessel set upon a series of pontoons fitted out or equipped in order to be used for living quarters generally for use on sheltered waters, whether or not such barge, flat-bottomed boat or vessel is self-propelled.~~

IMPERVIOUS SURFACES

Those that do not absorb ~~rain~~ moisture. All buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete or asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the Engineer of the Town of Milton to be impervious within the meaning of this definition will also be classed as impervious surfaces.

INDUSTRIAL/BUSINESS PARK

A planned, coordinated development of a tract of land with two or more separate parcels or lots for industrial, business or mixed industrial/business development. ~~Such development is planned, designed, constructed and managed on an integrated and coordinated basis with special attention given to site planning and layout, attractive appearance, entrance signage, general landscaping, vehicular circulation, service and delivery, parking, utility needs, building design and orientation, equipment storage, refuse disposal and open space. Typically, an industrial/business park is developed or controlled by one proprietary interest and has an enforceable master plan and/or covenants, conditions, and restrictions.~~

INDUSTRIAL USE, LIGHT

~~Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.~~

INN

A building containing a single dwelling unit ~~in which~~ where more than four and less than 15 sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests, with or without meals.

JUNK

The outdoor storage or deposit of any of the following shall constitute junk:

- A. One or more ~~junk motor~~ abandoned or inoperable vehicles.
- B. One or more ~~junk~~ abandoned or inoperable mobile homes.
- C. One or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
- D. One or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
- E. One or more used parts or waste materials from motor vehicles, which remain outdoors in excess of three months or more.
- F. Any combination of the above or parts of the above that total one or more items.

JUNK MOBILE HOME

A structure, transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, ~~which~~ that is currently not inhabited and is no longer habitable under the Town Code of Milton ordinances; includes but is not limited to mobile homes, travel trailers and campers.

JUNK VEHICLES

- A. One or more motor vehicles ~~which~~ that are unregistered for a period in excess of three months and not in any condition for legal use upon the public highways or in any such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.
- B. One or more recreational vehicles (i.e., including but not limited to snowmobiles, ATVs, motorcycles, boats) not in operable condition and or in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair and is in such condition in excess of three months

JUNKYARD

Any lot, parcel of land or structure, or part thereof, where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled, stored or abandoned, including automobile or other vehicle or machinery, wrecking or dismantling yards; or where any unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of resale or sale of used parts therefrom, for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. A junkyard includes the outdoor storage or deposit of any of the following:

- A. One or more junk motor vehicles.
- B. One or more junk mobile homes.
- C. One or more junk appliances.
- D. One or more pieces of junk furniture.
- E. Hazardous materials as defined by local, state, or federal regulations.
- F. Any combination of the above that totals one or more such items.

KENNEL

A structure used for the keeping of domestic ~~dogs and cats~~ animals for sale, breeding, boarding or treatment purposes.

LAKES AND PONDS

Natural or artificial bodies of water ~~which~~ that retain water year round. Artificial ponds may be created by dams or may result from excavation. The shoreline of such water bodies shall be measured from the maximum condition rather than the permanent pool, if there is any difference.

LAUNDROMAT

A business that provides washing, drying, and/or ironing machines or drying machines for hire to be used by customers on the premises.

LIGHT INDUSTRIAL USE

Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products, all or any part of which is marketed off the premises or marketed to other than the ultimate consumer.

LIVING QUARTERS

Accommodations, including but not limited to facilities for cooking, sleeping and disposal of human waste, or any combination thereof.

LOADING SPACE

A space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum width of 12 feet, and a vertical clearance of at least 14 feet.

LODGING HOUSE

See ~~"boardinghouse."~~

LOT

A contiguous parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership, and the customary accessories and open spaces belonging to the same and which abuts and is accessible from a private or public street.

LOT, CORNER

A lot situated at the junction of and adjacent to two or more intersecting streets or alleys, when the interior angle of intersection does not exceed 135°.

LOT COVERAGE

See ~~"coverage"~~ COVERAGE.

LOT, DEPTH OF

The mean distance from the front street line of a lot to its rear line.

LOT FRONTAGE

A lot line ~~which~~ that is coincident with the right-of-way line of a public road.

LOT LINES

The lines bounding a lot as defined herein.

LOT, THROUGH

A lot ~~which~~ that faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH

The shortest horizontal distance between the side lot lines measured at the required building setback line. If the angle, between the front and sidelines is less than 90°, the lot width shall be measured from side to side of right angle to the length of the setback line.

MAIN FLOOR

The largest area found by the projection of a horizontal plane through the livable floor area, which is enclosed by the exterior walls of the building.

MANUFACTURED HOME (MOBILE HOME)

A structure, transportable in one or more sections, that, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length or when erected on site is 300 or more square feet, that is built on a permanent chassis and designed to be used as a dwelling with a permanent foundation, when connected to the required utilities, and that includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MANUFACTURING

Any process whereby the nature, size or shape of articles is assembled or packaged in quantity.

MEDICAL CLINIC

A place where medical or dental care is furnished to persons on an out-patient basis by ~~three or more physicians~~ multiple medical professionals who have common offices in a building ~~which shall~~ and also offer laboratory and diagnostic facilities to patients on an out-patient basis and not just in conjunction with normal professional services.

MINING

Any use involving the process or business of extracting ore, minerals, soils, or other natural resources from the earth.

MOTEL

A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, every type of similar establishment known variously as an auto court, motor hotel, motor court, motor inn, motor lodge, tourist court, tourist cabins, or roadside hotel.

NONCONFORMING BULK

That part of a building, other structure or tract of land ~~which~~ that does not conform to one or more of the applicable bulk regulations of this chapter, either following its effective date or as a result of subsequent amendment thereto.

NONCONFORMING USE

Any use of a building, other structure, or tract of land ~~which~~ that does not conform to the use regulations for the district ~~in which~~ where such use is located, either at the effective date of this chapter or as a result of subsequent amendment thereto.

NONRESIDENTIAL PLANNED DEVELOPMENT

One or more commercial uses proposed as a unit or one or more industrial uses proposed as a unit, in conformance with Article VII.

NURSERY SCHOOL

Any place, however designated, operated for the purpose of providing both daytime care and instruction for two or more children from two to five years of age, inclusive, and operated for compensation on a regular basis, including kindergartens, day nurseries, and day-care centers.

NURSING HOME

A building containing accommodations for persons where nursing and convalescent services including meals are furnished.

OFFICIAL ZONING MAP

The map of zoning districts as described in § 220-10.

OPEN SPACE

An undeveloped area ~~which is not developed with~~ without principal or accessory structures and ~~which~~ is intended to provide light and air and is designed for either environmental, scenic or recreational purposes. Open space ~~may include, but is not limited to, decorative planting, includes buffers or other landscaped common areas, preservation of existing natural areas, walkways, active and passive recreation areas, and playgrounds, and stormwater management facilities.~~ Open space shall not be deemed to include driveways, roadways, ~~stormwater management ponds~~ or parking areas.

OWNER

Any person or legal entity possessing a fee simple interest in property.

PARKING LOT, COMMERCIAL

Any tract of privately owned land ~~which~~ that is used for the storage of motor vehicles and is not accessory to any other use on the same or any other lot, and contains parking space rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

PARKING LOT, PRIVATE

Any tract of privately owned land ~~which~~ that is used for storage of motor vehicles and is accessory to a use on the same parcel or lot or on another parcel or lot and contains parking spaces reserved or leased in some manner for that principal use and not available to the general public.

PARKING LOT, PUBLIC

An off-street parking area ~~where motor vehicles may be stored~~ used for storage of motor vehicles by the general public, with or without a fee, for temporary, daily or overnight parking.

PARKING SPACE

An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PARKING STRUCTURE (GARAGE, DECK)

Any structure ~~in which~~ where motor vehicles may be parked or stored that is not accessory to any other use on the same lot, and contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

PARTY WALL

A wall built along the line separating two properties, partly on each parcel. Either owner has the right to use the wall and has an easement over that part of the adjoining owner's land covered by the wall.

PATIO

A horizontal flat surface not higher than grade level; constructed of natural or synthetic materials.

PERSON

A natural person, a partnership, a corporation, a limited partnership, a trust, a joint-stock company, a voluntary association, a club, a society or any group of persons acting as a unit.

PERSONAL SERVICE ESTABLISHMENT

A commercial operation, office, store or other place of business catering to the personal needs of a customer, such as normally conducted by a beautician, tailor or dressmaker.

PLATFORM

A flat horizontal surface constructed of natural or synthetic materials.

PREMISES

A lot together with all the buildings and uses thereon.

PROFESSIONAL OFFICE

An office principally occupied by a licensed professional such as a physician, dentist, lawyer, engineer, architect, accountant, insurance or real estate agent, or similar occupation.

PUBLIC

Open to common use whether or not public ownership is involved.

PUBLIC UTILITIES or ESSENTIAL SERVICES UTILITY SERVICE

The erection, construction, alteration, maintenance or operation by utility companies, or public safety companies or agencies, of underground, surface or overhead gas, electrical, steam, wastewater, stormwater or water transmission systems, including but not limited to poles, wires, mains, drains, sewers, pipes, conduits, cables, communication lines, fire alarm boxes, police call boxes, traffic signals, light stations, telephone lines, hydrants, pumping stations and other similar equipment, structures and accessories thereto, reasonably necessary for the furnishing of ~~adequate service~~ services by such companies or agencies or for the public health, safety or general welfare.

PUBLIC UTILITY SYSTEM

Any use or structure associated with providing public utility services.

RECREATION USES, COMMERCIAL

Uses designed as recreational activities operated by private businesses for profit, including privately operated amusement parks or rides, games, miniature golf courses and similar uses.

REFLECTOR, SOLAR

A device ~~for which with~~ the sole purpose ~~is to increase~~ of increasing the solar radiation received by a solar collector.

REGISTERED COMPASSION CENTER

A use by a registered compassion center, as defined in 16 Del. C. § 4902A.

REGULATIONS

The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this chapter.

REHABILITATION

The act or process of returning a building, object, site, or structure to a state of utility through repair, remodeling or alteration that enables an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values.

RENTAL UNIT

~~A dwelling unit intended for rental to transients on a day-to-day basis, but not intended for use or used as a permanent dwelling and not including culinary facilities.~~

REPAIR SHOP, PERSONAL SERVICE

A store or other place of business at which is conducted the repair of personal customer items, such as shoes, clothing, jewelry, etc.

RESTAURANT, FAST-FOOD

~~An establishment whose principal trade is the sale of food and/or beverages in a form for consumption either on or off premises where most customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises or are able to be taken to a table or counter to be consumed on premises.~~

RESTAURANT, HIGH TURNOVER

An establishment, typically sit-down and full-service, where a typical customer may wait to be seated and stays approximately one hour or less, is moderately priced, and normally belongs to a restaurant chain that typically serves lunch and dinner but may be open for breakfast. High turnover restaurants include fast food restaurants.

RESTAURANT, STANDARD

~~Any~~ An establishment, however designated but not a high turnover restaurant, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises. However a snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, playfield or park, ~~which that~~ is operated by an approved sponsoring group, agency or vendor for the convenience of the patrons of the facility, shall not be deemed to be a restaurant.

RESTORATION

The act or process of accurately recovering the form and details of a building, object, site or structure and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

RETAIL USE

Business or commercial use or activity involving primarily the sale of merchandise or stock-in-trade to the public.

RIGHT-OF-WAY

The property under public and or private ownership or easement normally used for movement of vehicles, utilities and or persons, including but not restricted to any pavement area.

ROAD

See "~~street~~ **STREET**."

ROADSIDE STAND

A light structure with a roof, either attached to the ground or movable, not for year-round use and ~~at~~ which where produce is offered for sale to the general public.

ROOMING HOUSE

See "~~boardinghouse~~."

SATELLITE TELEVISION ANTENNA

An antenna the purpose of which is to receive television and/or radio signals from orbiting satellites and which is located external to or attached to the exterior of any structure.

SELF-SERVICE STORAGE FACILITY

Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes or operate a business from the rented self-service storage space. A self-service storage facility is not a warehouse.

SENIOR CITIZEN HOUSING

~~A building or group of buildings where occupancy is restricted to persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age.~~

SETBACK

The minimum distance whereby any building or structure must be separated from a street right-of-way, lot line, or parcel boundary. ~~The required distance in feet from:~~

~~A. Any survey boundary forming a lot or contiguous parcel; or~~

~~B. The right-of-way of a public street.~~

SHOPPING CENTER

A building or group of buildings containing a combination of three or more separate shops, stores or offices on a single lot or adjacent parcels providing primarily retail services with supporting service and office establishments.

SIGN

Any structure or part thereof, or any device attached to a structure or painted or represented on a structure ~~which that~~ shall display or include any lettering, wording, model, drawing, picture, banner, flag, insignia, device, marking, or representation used as, or ~~which~~ is in the nature of, an announcement, direction or advertisement. A "sign" includes a billboard, but does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, or of any campaign, drive, movement, or event ~~which that~~ is temporary in nature.

SIGN, ADVERTISING

A sign, ~~which that~~ directs attention to a business commodity, service or entertainment, conducted, sold or offered elsewhere than on the same lot. This shall include billboards.

SIGN, BUSINESS

A sign, ~~which~~ that directs attention to a business or profession conducted or to products sold on the same lot. A for-sale sign relating to the lot ~~on which~~ where it is displayed is a business sign.

SIGN, IDENTIFICATION OR PROFESSIONAL

A sign showing the name and profession, occupation or pursuit conducted on the premises.

SINGLE OWNERSHIP

Possession of land under single or unified control, whether by sole, joint, common or other ownership, regardless of any division of such land into parcels for the purpose of financing.

SITE PLAN

Maps and supporting information required under Article **VI** of this chapter.

SOLAR COLLECTOR

A device, or combination of devices, structure or part of a device or structure that transforms direct solar energy into thermal, chemical or electrical energy, and that contributes to a structure's energy supply, together with any components for containing and supporting such device.

SOLAR COLLECTOR, DETACHED

A solar collector, ~~as defined herein, which~~ that is physically detached from the structure ~~for which~~ where solar energy is to be supplied.

SOLAR ENERGY SYSTEM

A complete design or assembly consisting of a solar energy collector (herein called a "solar collector"), an energy storage facility (where used), and components for the distribution of transformed energy (to the extent that they cannot be used jointly with a conventional energy system), including passive solar energy systems.

STORY

The part of a building comprised between a floor and the floor or roof next above it. A basement shall be considered a story. A cellar shall not be considered a story.

STORY, HALF

That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 the floor-to-ceiling height of the story below. An attic with a finished floor shall be considered a half story. Half stories have structural headroom of less than seven feet six inches and shall not be included within the definition of "floor area" for the purposes of this chapter. (See "floor area.")

STREET

Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way ~~which~~ that is an existing state, county or municipal road or ~~a street or~~ travel way shown upon a plat.

STREET LEVEL

The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

STRUCTURE

A static construction of building materials, framed of component structural parts for occupancy or use, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands, gasoline pumps, mobile dwellings, and the like.

SUPPORTIVE HOUSING (See TRANSITIONAL HOUSING) (See TRANSITIONAL HOUSING)

~~A combination of housing and services intended as a cost-effective way to assist people in living more stable and productive lives. Supportive housing is set up to transition qualified residents into accredited (minimum State of Delaware accreditation), licensed, and insured organizations who provide permanent, affordable supportive housing.~~

~~[Added 7-6-2020 by Ord. No. 2020-002]~~

SWIMMING POOL

Any portable pool or permanent structure containing a body of water 18 inches or more in depth area, intended for recreational purposes.

TOPSOIL

A surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation; the "A" horizon of the soil solum.

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice

towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

TOWNHOUSE

A building consisting of three or more attached single-family dwelling units each having separate entrances and party walls. ~~(See also "building, semidetached.")~~

TRAFFIC

The movement of people, through any public space, including but not limited to pedestrians, pedestrians with assistive mobility devices, bicycle riders, other non-motorized vehicle users and motorized vehicle users.

TRAILER

A nonmotorized wheeled vehicle designed to be transportable when towed by a motorized vehicle and ~~which~~ has been designed for human occupancy as a dwelling unit.

TRAILER, UTILITY

A nonmotorized wheeled vehicle designed to be transportable when towed by a motorized vehicle and ~~which~~ has been designed for the storage of tools and/or equipment.

TRANSITIONAL HOUSING

Temporary housing for certain segments of the population, including working homeless people who are earning too little money to afford long-term housing. Transitional housing is set up to transition qualified residents into accredited (minimum State of Delaware accreditation), licensed, and insured organizations who provide permanent, affordable housing. It is not in an emergency homeless shelter, but an apartment in a residence with support services.

TRAVEL TRAILER

A vehicle ~~which that~~ is used or designed to be used for seasonal and/or temporary living or sleeping purposes and ~~which~~ is customarily standing on wheels or rigid supports. A recreational vehicle (RV) is also considered a travel trailer.

TRUCKING TERMINALS

A building or part of a building or premises for the storage and/or transfer of goods, wares and merchandise for the owner or others by truck transport.

USE

This term is employed in referring to:

A.

The purpose for which any building, other structure, or land may be arranged, designed, intended, maintained, or occupied;

B.

Any occupation, business activity, or operation conducted in a building or other structure, or on land.

USE, PRINCIPAL

The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended or for which it may be used, occupied or maintained under this chapter.

UTILITY EQUIPMENT

Any structures or facilities owned by a government entity, nonprofit organization, corporation, cooperative or any other entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, heating and cooling service or electrical power.

VACATION RENTAL

A dwelling or structure, or part thereof, used to provide sleeping accommodations for compensation.

VEHICLE SALES AREA

A premises, including open areas, other than a street or way, and enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, boats, and/or recreational vehicles.

VETERINARY HOSPITAL

A building for the treatment of animal illness, including facilities for boarding animals receiving hospital treatment.

WAREHOUSE

A building or premises for storing of goods, wares and merchandise, whether for the owner or for others, whether publicly or privately owned or used.

WATERCOURSE

A natural or artificial channel where a flow of water regularly occurs, whether continuously or intermittently.

WATERWAY

Any body of water, including any creek, canal, river, lake or bay, or any other body of water, natural or artificial, except a swimming pool or ornament pool located on a single lot.

WAY

A thoroughfare, street, alley or right-of-way, however designated, permanently established for passage of persons or vehicles.

WETLANDS

Those areas of land that fall within the definition of wetlands currently used by the U.S. Army Corps of Engineers, or those areas of land within the definition of wetlands adopted by the State of Delaware.

WHOLESALE STORE, BUSINESS OR ESTABLISHMENT

A business establishment engaged in selling to retailers or jobbers rather than directly to consumers.

WIND ENERGY CONVERSION SYSTEM (WINDMILL WIND TURBINE)

Any mechanical device designed for the purpose of converting wind energy into electrical or mechanical power.

YARD, FRONT

An open area extending the full width of the lot between the street right-of-way and the building line projected to the side lot lines.

YARD, REAR

An open area extending the full width of the rear lot line situated between the rear lot line and the building line projected to the side lot lines.

YARD, REQUIRED

That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a setback depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE

An open area extending between the building line and the side property line of a lot and extending from the front yard rear line (or from the front lot line, if there is no required front yard) to the rear yard front line (or to the rear lot line if there is no required rear yard).

Article III. Establishment of Districts

§ 220-7. Application of regulations.

A. No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, or altered, unless in conformity with the regulations herein specified for the district ~~in which~~ where it is located, except as hereinafter provided.

B. The regulations contained in this chapter are supplemented and specifically subject to regulations contained in other ordinances of the Town of Milton; see for example:

- (1) Animals (Chapter 63).
- (2) Building (Chapter 85).
- (3) Fire (Chapter 121).
- (4) Housing (Chapter 136).
- (5) Refuse (Chapter 179).
- (6) Water (Chapter 215).
- (7) Streets and sidewalks (Chapter 183).
- (8) Subdivision (Chapter 188).
- (9) Sewer (Chapter 170).
- (10) Bed-and-breakfasts (Chapter 76).

(11) Flood Ordinance (Chapter 125).

(12) Source water protection areas (Chapter 181).

§ 220-8. General regulations.

A. No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein for the district ~~in which~~ where such building or structure is located.

B. No part of a required yard or other open space about any building required for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building.

C. No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than those required by this chapter.

D. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

E. Any uses not specifically permitted shall be deemed to be prohibited.

F. Regardless of any other provisions of this chapter, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or ~~which~~ presents a hazard to public health safety, is prohibited, in accordance with the standards of Article VII of this chapter.

§ 220-9. Establishment of districts.

~~In order to~~ To fulfill the purpose of this chapter, the Town of Milton establishes the following zoning use and overlay districts:

R-1	Single-Family Residential Use District
R-2	Single-Family Residential Use District
R-3	General and Multifamily Residential Use District
T-C	Town Center Use District
C-1	Commercial and Business Use District
M-R	Marine Resources Use District
<u>MURC</u>	<u>Mixed-Use Residential and Commercial District</u>
LI-1	Light Industrial Use District
<u>LLI-1</u>	<u>Limited Light Industrial Use District</u>
LPD	Large Parcel Development District
HP-OD	Historic Preservation Overlay District

§ 220-10. Official Zoning Map.

A. The Town is hereby divided into districts or zones as shown on the Official Zoning Map of the Town of Milton ~~which that~~, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this chapter.⁽¹⁾

B. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Secretary of the Town Council and bearing the Seal of the Town under the following words: "This is to certify that this is the Official Zoning Map of the Town of Milton referred to in Article III of the Town of Milton Zoning Ordinance."

C. The location and boundaries of said zoning use districts are hereby established on the Official Zoning Map of the Town of Milton ~~which that~~ is kept on file and will be available for public viewing in the Town office, and shall be final authority as to the current zoning status of land and water areas.

D. In accordance with the provisions of this chapter and Chapter 3, Title 22, of the Delaware Code, if changes are made in district boundaries or other matter portrayed on the Official Zoning Map of the Town of Milton, such changes shall be made promptly after the amendment has been approved by

the Mayor and Council, together with an entry on the Official Zoning Map as follows: "On _____ by official action of the Mayor and Council, the following change(s) was (were) made in the Official Zoning Map: (brief description of change, ~~which that~~ entry has been signed by the Mayor and attested to by the Mayor and Secretary of the Town Council." ~~The amending ordinance shall provide that such~~ Such changes or amendments shall not become effective until they have been duly entered upon the Official Zoning Map by the Town Clerk.

E. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided in Article XIII of this chapter.

F. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Mayor and Town Council may by ordinance adopt a new Official Zoning Map ~~which that~~ shall supersede the prior Official Zoning Map.

G. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the ~~other members~~ Secretary of the Town Council, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ as part of Ordinance Number _____ of the Town of Milton."

§ 220-11. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

A. Center lines and right-of-way lines. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, public utility easements, or watercourses, said boundaries shall be constructed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way of such street, highway, public utility system, or watercourse is moved not more than 20 feet.

B. Lot or boundary lines. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

C. Parallel to lot or boundary lines. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

D. Lands under tidal or fresh waters are included within zoning districts adjoining those water bodies, and where two or more different zoning districts adjoin the same water body, the boundary between them shall be construed as lying midway between the opposite shores.

E. Where natural or man-made features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances are not covered by the above subsections, the Board of Adjustment shall interpret the district boundaries.

F. District boundaries shall be determined by use of an accurate scale, ~~which that~~ shall be shown on the Zoning Map. In no instances shall a district boundary be set at less than the minimum lot depth required in § 220-24, Density Control Table, of this chapter.

G. In the event of a questionable district boundary, the questionable boundary shall be referred to the Board of Adjustment, and it shall, to the best of its ability, establish the exact boundary.

H. The copy of the Zoning Map showing any such determinations under this section shall be on file at the Town office.

I. Precise zone boundary determinations made by the Board of Adjustment in accordance with the above rules shall be considered final and conclusive, and may only be altered by amendment of the Zoning Map by the Town Council of the Town of Milton.

J. Lots divided by zoning district lines. Where a lot is divided by a district boundary line, the regulations for each respective district shall apply except:

(1) In all cases where a lot in one ownership, other than a through lot, is divided by a district boundary so that 50% or more of such lot lies in the less restricted district, the regulations prescribed for such less restricted district shall apply to the more restricted portion of said lot for a distance of 30 feet from the zoning district boundary. For purposes of this chapter, the more restricted district shall be deemed that district ~~which is~~ subject to regulations ~~which~~ that prohibit the particular use intended to be made of said lot or ~~which regulations~~ that set higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.

(2) In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.

K. Buildings divided by zoning district lines. Where a district boundary line divides a building existing on the effective date of this chapter, so that 50% or more of such building lies within the less restricted district, the regulations prescribed by this chapter for such less restricted district (as defined in Subsection J above) shall apply to the entire building. Such provisions shall apply only if, and as long as, the building is in single ownership and its structural characteristics prevent its use in conformity with the requirements of each district.

Article IV. Zoning Use and Overlay Districts

§ 220-12. Delineation of districts.

A. For the purpose of this chapter, the Town of Milton and the lands ~~over which~~ where its governing body has jurisdiction are hereby divided into zoning use and overlay districts to be designated as set forth herein.

B. The zoning use and overlay districts are shown on the Official Zoning Map ~~which~~ that accompanies this chapter and ~~which~~ is hereby declared to be part of this chapter. District map designations, ~~line~~ lines, figures, letters and symbols shown on said map are hereby declared to be part of this chapter.

§ 220-13. Single-Family Residential Use District (R-1).

A. Intent. The intent of the R-1 Single-Family Residential Use District is to delineate areas where predominantly single-family detached, low-density residential development has occurred or is desired and likely to occur in the future and to protect the integrity of these residential areas by encouraging diversity in dwelling styles and construction ~~which~~ that preserves existing land features and neighborhood scale. The R-1 district will prohibit the intrusion of any use which is not compatible with this predominant type and intensity as well as clear cutting of trees on the lot or major alteration of existing topography. The R-1 District recognizes the value of such other permissible uses as churches, schools, libraries and other educational buildings, and playgrounds.

B. Permitted uses. Within the R-1 District, permitted principal, accessory and special uses shall be as specified in the following sections.

(1) Permitted principal uses.

(a) Agricultural uses.

(b) ~~Detached single-family dwellings~~ Dwelling, single-family, detached.

(c) ~~Governmental~~ Government uses Local.

~~(d)~~ Public parks and noncommercial recreational uses.

(2) Permitted accessory uses, buildings and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district and on the same lot.

(b) Antennas, minor.

(c) Electric vehicles charging stations.

(d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-1 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:

- (a) Adult-care facilities.
- (b) Bed-and-breakfasts.
- (c) Cemeteries.
- (d) Churches or places of worship.
- (e) Funeral homes.
- (f) Home occupations.
- (g) Libraries.
- (h) Museums.
- (i) Nonprofit membership clubs.
- (j) Golf courses.
- (k) Public or private schools.
- (l) Government uses Non-local.

~~(4)-(m) Public utilities or essential uses utility systems.~~

C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which that~~ is part of this chapter.

D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

E. Signage. Signs are permitted as listed in Article VIII of this chapter.

F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-14. Single-Family Residential Use District (R-2).

A. Intent. The intent of the R-2 Single-Family Residential Use District is to delineate areas for the development of detached or attached single-family residential uses at densities similar to that of the R-1 Use District, but with the ability to utilize design and planning concepts to create a planned and desirable residential living environment while protecting existing and future uses. The R-2 District protects the integrity of these residential areas by prohibiting the intrusion of any use ~~which that~~ is not compatible with these types and intensities of use.

B. Permitted uses. Within the R-2 District, permitted principal, accessory and special uses shall be as specified in the following sections.

(1) Permitted principal uses.

~~(a) Detached single-family dwellings~~ Dwelling, single-family, detached.

~~(b) Semidetached single-family dwelling~~ Dwelling, single-family, semi-detached.

~~(c) Governmental~~ Government uses Local.

~~(d) Public parks and noncommercial recreational uses.~~

(2) Permitted accessory uses, buildings and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

(b) Antennas, minor.

(c) Electric vehicles charging stations.

(d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-2 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:

(a) Bed-and-breakfasts.

(b) Cemeteries.

(c) Churches or places of worship.

(d) Cluster housing.

(e) Funeral homes.

(f) Golf courses.

(g) Home occupations.

(h) Libraries.

(i) Museums.

~~(j) Public utilities or essential uses~~ utility systems.

(k) Public and private schools.

(l) Townhouses.

(m) Government uses Non-local.

(n) Adult day-cares.

C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which that~~ is part of this chapter.

D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

E. Signage. Signs are permitted as listed in Article VIII of this chapter.

F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-15. General and Multifamily Residential Use District (R-3).

A. Intent. The intent of the R-3 General and Multifamily Residential Use District is to delineate areas where conditions are favorable for the development of multifamily dwellings and where specific conditions of site size, unitary ownership, topography, utility provisions, street capacity and accessibility, landscaping, buffering and scenic quality, compatibility with neighboring uses and areas and drainage are such that multifamily dwelling development exists or is desired and likely to occur and be appropriate in future years.

B. Permitted uses. Within the R-3 District, permitted principal, special and accessory uses shall be as specified in the following sections.

(1) Permitted principal uses.

~~(a) Detached single-family dwellings~~ Dwelling, single-family, detached..

~~(b) Governmental~~ Government uses Local.

~~(c) Multifamily dwellings~~ Dwelling, Multiple-family.

~~(d) (c)~~ Public parks and noncommercial recreational uses.

~~(e) (d) Semidetached single-family dwellings~~ Dwelling, single-family semi-detached.

~~(f) (e)~~ Townhouses.

~~(g) Two-family dwellings.~~

(2) Permitted accessory uses, buildings and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

(b) Antennas, minor.

(c) Electric vehicles charging stations.

(d) Swimming pools.

(3) Special permitted uses. The following uses may be permitted in the R-3 Residential Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:

(a) Adult-care facilities.

(b) Bed-and-breakfasts.

(c) Cemeteries.

(d) Churches or places of worship.

(e) Cluster housing.

(f) Day-care center.

(g) Golf courses.

(h) Government uses Non-local.

(i) Home occupations.

~~(j) (i)~~ Libraries.

~~(j) (k)~~ Museums.

~~(k) (l)~~ Nursery schools.

~~(l) (m)~~ Nursing and convalescent homes.

~~(m) (n)~~ Public or private schools.

~~(n) (o)~~ Public utilities or essential uses utility systems.

- C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which~~ that is part of this chapter.
- D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.
- E. Signage. Signs are permitted as listed in Article VIII of this chapter.
- F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-15.1. Mixed-Use Residential and Commercial District (MURC).

A. Intent.

(1) The intent of the Mixed-Use Residential and Commercial District is to encourage and promote well-planned, suitable, sustainable and appropriate mixed-use developments with residential and commercial components within appropriate areas of the Town. The focus is to: allow a more balanced mix of uses in a mixed-use development, provide for the diverse needs of the residents of the Town, allow development flexibility without sacrificing the existing image and character of the surrounding neighborhood, encourage efficient land use by minimizing the amount of land needed for building area, reduce neighborhood vehicle trips, and facilitate development that supports public transit where applicable. A mixed-use development should be safe, comfortable and attractive to pedestrians, patrons and residents. The purpose of the district is to encourage carefully planned mixed-use developments as a means of creating a superior shopping, working and living environment through unified developments, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the Comprehensive Plan.

(2) The MURC District standards are based on the following principles:

- (a) Ensure efficient use of land and public services.
- (b) Located along Town's principal arterials.
- (c) Create a mix of housing and employment opportunities.
- (d) Provide transportation options for employees and customers and reduce reliance on the automobile.
- (e) Promote business services close to employment centers.
- (f) Ensure compatibility of mixed-use developments with the surrounding area and minimize off-site impacts associated with such development.
- (g) Create economically successful mixed-use centers and transit corridors.
- (h) For an individual development, maintain a minimum size of five acres and a maximum size of 25 acres.
- (i) Maintain a raw ratio of 8:2 residential to commercial.

B. Permitted uses. The following permitted uses are intended to create and maintain developments with a compatible mix of residential and commercial uses. A broad range of uses are permitted to provide options for commercial opportunities and to promote the development of affordable and workforce housing. This mix of retail, offices, commercial services, housing, and civic uses is intended to create economic and social vitality while encouraging the linking of trips and shortening trip distances between uses and services.

(1) Commercial:

- (a) Administrative, financial and professional offices.
- (b) Antique and craft stores.
- (c) Art galleries.
- (d) Artist's and photographer's studios.
- (e) Bakery shops.
- (f) Barber shops and beauty salons.
- (g) Blueprinting and photostatting.
- (h) Book and stationery stores.
- (i) Clothing stores.
- (j) Confectionery stores.
- (k) Day-care centers.

- (l) Florists and plant shops.
- (m) Hardware and paint stores.
- (n) Home appliance stores.
- (o) Interior decorating shops.
- (p) Jewelry stores.
- (q) Neighborhood markets.
- (r) Media operations (TV and internet).
- (s) Medical and dental offices and clinics.
- (t) Pet shops.
- (u) Pharmacies.
- (v) Post offices.
- (w) Standard restaurants, coffee shops, tea rooms.
- (x) Shoe repair shops.
- (y) Shoe shops (retail).
- (z) Tailor shops.
- (aa) Theaters.
- (2) Residential:
 - (a) Dwelling, Multiple-family dwellings.
 - ~~(b) Two-family dwellings.~~
 - ~~(c) Townhouses.~~
 - ~~(d) Semidetached single-family dwellings~~ Dwelling, single-family semi-detached.
 - ~~(e) Detached single-family dwellings~~ Dwelling, single-family, detached, provided they are developed in conjunction with dwellings, multiple-family dwellings.
- (3) Other:
 - (a) Churches or places of worship.
 - (b) Public parks and noncommercial recreational uses.
 - (c) Open space.
 - (d) Government uses Local.
- C. Permitted accessory uses, buildings and structures.
 - (1) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
 - (2) Antennas, minor.
 - (3) Electric vehicles charging stations.
 - (4) Swimming pools.
 - (4) ~~(5)~~ The following, subject to site plan review under Article VI of this chapter:
 - (a) Outdoor dining.
- D. Special permitted uses. The following uses may be permitted in the MURC District consistent with the provisions of this chapter and provided that a special use permit is approved under Article VI of this chapter:
 - (1) Adult-care facilities.
 - (2) Bed-and-breakfasts.
 - (3) Cemeteries.
 - (4) Cluster housing.
 - (5) Electric vehicle (EV) charging station.
 - (6) Enclosed amusement facilities.
 - (7) Golf courses.
 - (8) Government uses Non-local
 - (9) Home occupations.
 - ~~(9)~~ ~~(10)~~ Laboratories, medical and dental.
 - ~~(10)~~ ~~(11)~~ Libraries.
 - ~~(11)~~ ~~(12)~~ Licensed establishments serving alcoholic beverages for consumption on the premises, provided the establishment of such a business would not adversely affect the health, safety, and general welfare of the community.
 - ~~(12)~~ ~~(13)~~ Lodges and meeting halls.
 - ~~(13)~~ ~~(14)~~ Museums.

~~(14)~~ (15) Nursery schools.

~~(15)~~ (16) Nursing and convalescent homes.

~~(16)~~ (17) Public ~~utilities or essential uses~~ utility systems.

~~(17)~~ (18) Schools, public or private.

~~(18)~~ (19) Supportive housing, subject to those restrictions that apply to other dwellings of the same type in the MURC District.

~~(19)~~ (20) Transitional housing, subject to those restrictions that apply to other residential dwellings of the same type in the MURC District.

~~(20)~~ (21) Vocational or professional colleges or training centers, including but not limited to barber and beauty colleges, modeling schools, medical training, and other trades located within enclosed facilities.

E. Prohibited uses. The following uses are incompatible with the MURC District and are specifically prohibited:

(1) Adult-oriented businesses.

(2) Automotive repair facilities.

(3) Automotive service stations.

(4) Car wash facilities.

(5) Commercial parking lots.

(6) Commercial uses other than specifically identified in this section as permitted or specially permitted.

(7) Contractor yard/storage.

(8) Fast food and drive-through restaurants.

(9) Gasoline filling stations.

(10) Gun shops.

(11) Industrial uses.

(12) Landfills.

(13) Motels and hotels.

(14) Motor vehicle dealerships.

(15) Pawn shops.

(16) Sale of any boat or vehicle from a vacant or unimproved lot.

(17) Swap meets.

(18) Transfer stations.

F. Area and bulk regulations; density control.

(1) The MURC District is subject to the area and bulk regulations in Article V of this chapter.

(2) In addition, a development may have a maximum of 40% of its gross area consist of residential dwellings.

(3) In addition, the dimensional requirements for this district are incorporated from § 220-24, Density Control Table as follows:

(a) Two-family dwellings, multiple-family dwellings and townhouses shall comply with the dimensional requirements of the R-3 District.

(b) Semidetached single-family dwellings shall comply with the dimensional requirements of the R-2 District.

(c) Detached single-family dwellings shall comply with the dimensional requirements of the R-1 District.

(d) Commercial and nonresidential uses shall comply with the dimensional requirements of the C-1 District.

G. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

H. Signage. Signs are permitted as listed in Article VIII of this chapter, with residential uses subject to the regulations of residential districts in § 220-64 and commercial and nonresidential uses subject to the regulations of the C-1 District in § 220-66.

I. Site plan review; concept plan required.

(1) Site plan review and approval shall be required for all uses permitted within the MURC District in accordance with Article VI of this chapter.

(2) However, notwithstanding § 220-35D, a concept plan conference shall be required prior to site plan review for a mixed-use development:

§ 220-16. Town Center Use District (T-C).

A. Intent. The intent of the T-C Town Center Use District is to delineate the Town Center area which is historic and pedestrian in scale and is predominantly utilized and is appropriate for a more intensive and traditional mixture of interactive retail, cultural, conference and meeting, lodging, business and personal service, financial, institutional, office, residential and governmental uses and to provide and promote a full range of Town Center uses that serve the needs of the surrounding town and county populations and to ensure that any use permitted is compatible with the character of the district and its permitted types and intensities of use. The purpose of the T-C District is also to recognize the unique historical character of the Town Center as a part of the heritage of the Town of Milton and Sussex County.

B. Permitted uses. Within the T-C Town Center Use District, permitted principal, special and accessory uses shall be as specified in the following sections.

(1) Permitted principal uses.

(a) Antique and craft shops.

(b) Art galleries.

(c) Banks and financial institutions.

(d) Barber- and beauty shops.

(e) Colleges and institutions of higher education.

(f) Day-care centers.

(g) ~~Detached single-family dwellings~~ Dwelling, single-family, detached.

(h) Dry-cleaning businesses, ~~drop-off~~ drop-off and pickup service only.

(i) Dwelling units above first-floor businesses.

(j) General merchandise stores.

~~(k) General business offices.~~

~~(l)~~ (k) Governmental Government uses Local.

~~(m)~~ (l) Libraries.

~~(n)~~ (m) Museums.

~~(o)~~ (n) Newspaper and publishing facilities.

~~(p)~~ (o) Nonprofit membership clubs.

~~(q)~~ (p) Nursery schools.

~~(r)~~ (q) Personal service establishments.

~~(s)~~ (r) Photographic studios.

~~(t)~~ Professional offices.

~~(u)~~ (s) Public or private schools.

~~(v)~~ (t) Public parks and recreational uses.

~~(w)~~ (u) Repair shops, nonvehicle.

~~(x)~~ (v) Restaurants, standard and fast-food.

~~(y)~~ (x) Retail businesses and commercial uses of a convenience and pedestrian-oriented nature.

~~(z)~~ (y) Theaters.

(z) Dwelling, single-family semi-detached.

(2) Permitted accessory uses.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

(b) Electric vehicles charging stations.

(3) Special permitted uses. The following uses may be permitted in the T-C Town Center Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:

(a) Adult-care facilities.

(b) Amusement game centers.

(c) Antennas, minor.

(d) Bars and night clubs.

(e) Bed-and-breakfasts.

(f) Churches or places of worship.

(g) Convenience/mini-markets.

- (h) Drive-in uses.
- (i) Food stores.
- (j) Funeral homes.
- (k) Home occupations.
- (l) Hotels.
- (m) Inns
- (n) Medical clinics.
- (o) Parking lots, public and private.
- (p) Parking structures.
- (q) ~~Public utilities or essential uses~~ utility systems.
- (r) Recreation areas, private.
- (s) Research laboratories.
- (t) Self-service laundries.
- (u) Swimming pools.
- (v) Government uses Non-local.

C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which~~ that is part of this chapter.

D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

E. Signage. Signs are permitted as listed in Article VIII of this chapter.

F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-17. Commercial and Business Use District (C-1).

A. Intent. The intent of the C-1 Commercial and Business Use District is to delineate areas in the Town ~~which~~ that are currently used or are appropriate for general commercial or business uses ~~which~~ that provide a range of retail and personal services in order to fulfill recurring needs of residents and visitors and ~~which~~ by the nature or scale of the operations permitted and careful site planning are compatible with adjoining commercial and residential areas.

B. Permitted uses. Within the C-1 Commercial and Business Use District, permitted principal, accessory and special uses shall be as specified in the following sections.

(1) Permitted principal uses.

- (a) Adult-care facilities.
- (b) Agricultural uses.
- (c) Amusement centers.
- (d) Banks and financial institutions.
- (e) Car washes.
- (f) Churches or places of worship.
- (g) Colleges and institutions of higher education.
- (h) Day-care centers.
- (i) ~~Detached single-family dwelling~~ Dwelling, single-family, detached and Dwelling, single-family semi-detached.
- (j) Drive-in uses.
- (k) Eating establishments, including but not limited to:
 - [1] Coffee shop.
 - [2] Delicatessens.
 - [3] Luncheonettes.
 - [4] Restaurants, standard and ~~fast-food~~ high turnover.
- (l) Fabrication, extraction, assembly and other handling of material, including offices and showrooms.
- (m) Food stores, including but not limited to:
 - [1] Bakeries.
 - [2] Confectionery shop.
 - [3] Convenience/mini-markets.
 - [4] Dairy product outlet.

[5] Ice cream shop blending.
[6] Grocery store.
[7] Liquor store.
[8] Meat, fish or poultry store.
[9] Food takeout or delivery services.
[10] Supermarket.
(n) Funeral homes.
(o) General merchandise stores, including but not limited to:
[1] Automotive parts store.
[2] Clothing store.
[3] Department store.
[4] Drugstore.
[5] Dry goods.
[6] Hardware store.
[7] Home furnishing store.
[8] Household appliance store.
[9] Marine supplies.
[10] Pet store.
[11] Paint store.
[12] Shoe store.
[13] Sporting goods.
[14] Variety store.
(p) General business office uses.
(q) Government uses.
(r) Greenhouses.
(s) Hospitals.
(t) Hotels and motels.
(u) Inns.
(v) Libraries.
(w) Medical clinics.
(x) Museums.
(y) Newspaper and publishing facilities.
(z) Nonprofit membership clubs.
(aa) Nursery schools.
(bb) Nursing and convalescent homes.
(cc) Personal service shops, including but not limited to:
[1] Barbers.
[2] Beauticians.
[3] Dressmakers.
[4] Dry-cleaning businesses, pickup and ~~drop-off~~ drop-off only.
[5] Laundry, self-service.
[6] Laundry service.
[7] Shoe repair.
[8] Tailors.
(dd) Photographic studios.
(ee) Professional offices.
(ff) Public parks and recreational uses.
(gg) Research laboratories.
(hh) Recreation areas, private.
(ii) Repair or craftsman services, including but not limited to:
[1] Cabinetmakers.
[2] Furniture repair.
[3] Household appliance repair.
[4] Lawn mower repair.
[5] Nonvehicle repair shops.

- [6] Sign fabrication.
- (jj) Retail business establishments, including but not limited to:
 - [1] Antique and craft shops.
 - [2] Art galleries.
 - [3] Cosmetic store.
 - [4] Florist shop.
 - [5] Gift shop.
 - [6] Hobby store.
 - [7] Jewelry store.
 - [8] Music store.
 - [9] Newspaper store.
 - [10] Photography store.
 - [11] Tobacco store.
- (kk) Public and private schools.
- (ll) Theaters.
- (mm) Veterinary hospitals.
- (nn) Warehousing and wholesale and retail distribution centers including offices and showrooms.
- (2) Permitted accessory uses, buildings and structures.
 - (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
 - (b) Antennas, minor.
 - (c) ~~Private parking lot~~ Electric vehicle charging stations.
 - (d) Private parking lots.
 - ~~(e)~~ (e) Swimming pools.
- (3) Special permitted uses. The following uses may be permitted in the C-1 General Commercial Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:
 - (a) Bars and nightclubs.
 - (b) Bed-and-breakfasts.
 - (c) Cemeteries.
 - (d) Contractor yard.
 - (e) Dwelling units above first-floor businesses.
 - (f) Home occupation.
 - (g) Garage service and repair uses.
 - (h) Gasoline filling stations.
 - (i) Gasoline/convenience/mini-markets.
 - (j) Parking lots, public.
 - (k) Parking structure.
 - (l) Golf courses.
 - (m) Mining and quarrying.
 - (n) ~~Public utilities or essential uses~~ utility systems.
 - (o) Retail businesses and commercial uses other than those listed above.
 - (p) Self-service storage facilities.
 - (q) Trucking terminal.
 - (r) Registered Compassion Center

C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which that~~ is part of this chapter.

D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

E. Signage. Signs are permitted as listed in Article VIII of this chapter.

F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-18. Marine Resources Use District (M-R).

A. Intent. The intent of the Marine Resources Use District established in this section is to recognize the unique role ~~which~~ that the Broadkill River and its waterfront areas have played in the formation, growth and life of the Town of Milton. The intent of this district is:

- (1) To provide for a compatible mixture of waterfront-related uses, including recreational, park, open space and boating uses;
- (2) To encourage appropriate and environmentally sensitive land development, including the utilization of land and buildings and the adaptive reuse of existing structures, that is in harmony with the conservation of the district's general recreational and open space character and the historic environmental areas adjacent to the river;
- (3) To recognize the sensitivity of the unique waterfront environment and reinforce appropriate safeguards to protect the area from periodic flooding, soil erosion, sedimentation and slope failure due to unregulated construction, removal of vegetation, dredging, filling, damming, construction of unnecessary bulkheads, or channelization;
- (4) To further protect scenic views of the river;
- (5) To encourage public access to the river; and
- (6) To protect and create buffers along the waterways while promoting responsible development of upland portions of the lot.

B. Permitted uses. Within the M-R Use District, permitted principal, accessory and special uses shall be as specified as follows:

- (1) Permitted principal uses.
 - (a) Agricultural uses.
 - (b) Antique and craft shops.
 - (c) Art galleries.
 - (d) Boat docks, slips, piers, etc.
 - (e) Watercraft sales, rentals and storage, etc.
 - (f) ~~Detached single-family dwellings~~ Dwelling, single-family, detached and Dwelling, single-family semi-detached.
 - (g) Marine and yacht clubs.
 - (h) Nonprofit membership clubs.
 - (i) Public parks and recreational uses.
 - (j) Restaurants, standard and high turnover.
 - (k) Churches or places of worship.
 - (l) Government uses Local.
- (2) Permitted accessory uses, buildings and structures.
 - (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
 - (b) Antennas, minor.
 - (c) Swimming pools.
 - (d) Electric vehicle ~~recharging~~ charging stations.
- (3) Special permitted uses. The following uses may be permitted in the M-R Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:
 - (a) ~~Antenna and towers~~ Antennas.
 - (b) Aquarium, commercial.
 - (c) ~~Antennas~~ Towers.
 - (d) Bed-and-breakfasts.
 - (e) Colleges and educational institutions.
 - (f) Dwelling units above first-floor business.
 - (g) Fabrication, maintenance and repair of watercraft.
 - (h) Golf courses.
 - (i) Government uses Non-local.
 - (j) Home occupation.
 - (k) Inns.
 - (l) Hunting and Fishing supply sales.
 - (m) Marine research facilities.

- (n) Marine fueling facilities.
- (o) Museums.
- (p) ~~Public utilities or essential uses~~ utility systems.
- C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, located as part of this chapter.
- D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.
- E. Signage. Signs are permitted as listed in Article VIII of this chapter.
- F. Site plan review. Site plan review and approval shall be required for all uses permitted within the M-R District in accordance with Article VI of this chapter.

§ 220-19. Light Industrial Use District (LI-1).

A. Intent. The intent of the LI-1 Light Industrial Use District is to delineate areas ~~which~~ that are used for and suited for limited types of manufacturing and industrial uses ~~which~~ that are compatible with adjacent residential and other uses and are permitted by special permit. These types of uses include light manufacturing, distribution, wholesaling, research and testing, warehousing, and processing or other uses ~~which~~ that contribute jobs and tax base to the economy of the region, are compatible with nonindustrial neighboring uses and are consistent with the standards described in Article VII.

B. Permitted uses. Within the LI-1 Use District, permitted principal, accessory and special uses shall be as specified in the following sections.

- (1) Permitted uses.
 - (a) Beverage blending, distilling, bottling, etc.
 - (b) Contractor yards and equipment.
 - (c) Drive-in uses.
 - (d) Dry-cleaning businesses.
 - (e) Fabrication, extraction, assembly and other handling of material.
 - (f) General business offices.
 - (g) Greenhouses.
 - (h) Manufacturing of medical, dental, ~~or~~ drafting, etc equipment.
 - (i) Newspaper and publishing facilities.
 - (j) ~~Public utilities or essential uses~~ utility systems.
 - (k) Repair shops, nonvehicle.
 - (l) Self-service storage facilities.
 - (m) Trucking terminals.
 - (n) Vehicle rental facilities.
 - (o) Professional offices.
 - (p) Medical clinics.
 - (q) Government uses Local.
- (2) Permitted accessory uses, buildings and structures.
 - (a) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
 - (b) Antennas, minor.
 - (c) Electric vehicle charging stations.
- (3) Special permitted uses. Within the LI-1 Use District, special permitted and accessory uses shall be as specified in the following sections.
 - (a) Agricultural processing, storage and service facilities.
 - (b) Antennas and towers.
 - (c) Banks.
 - (d) Car washes.
 - (e) Garage, service and repair uses.
 - (f) Government uses Non-local.
 - (g) Mining and quarrying.
 - (h) Parking lots, private.
 - (i) Public parks and recreational uses.

(j) Research laboratories.

(k) Vehicle repair.

C. Dimensional requirements. The dimensional requirements for this district are specified in § 220-24, Density Control Table, ~~which~~ that is part of this chapter.

D. Off-street parking requirements and loading requirements. The off-street parking and loading regulations are specified in Article VII of this chapter.

E. Signage. Signs are permitted as listed in Article VIII of this chapter.

F. Site plan review. Site plan review and approval shall be secured as required in Article VI of this chapter.

§ 220-19.1. Limited Light Industrial Use District (LLI-1).

A. Intent. The intent of the LLI-1 Limited Light Industrial Use District is to:

(1) Delineate areas that are used for and suited for limited types of clean industrial uses compatible with adjacent residential and selected uses that are permitted by special permit. These types of uses include selected light manufacturing, distribution; wholesaling; research and testing; warehousing; processing; and other uses that contribute jobs and tax base to the economy of the Town of Milton, are compatible with nonindustrial neighboring uses, and are consistent with standards described in Article VII of this chapter;

(2) Provide locations for the development of clean, light-intensity industrial, office, warehouse, wholesale, and research establishments to be compatible with a neighboring residential zone, and appropriately located for access by arterial and collector roadways, where all lots shall be used only for limited light manufacturing and other permitted uses as described within this section;

(3) Provide for performance standards and site design requirements that would control and confine offensive features such as noise, vibration, heat, smoke, glare, dust, odors, light, and storage; and

(4) Provide employment opportunities close to places of residence with corresponding reduction of travel time from home to work.

B. Permitted uses. Within the LLI-1 Limited Light Industrial Use District, permitted principal, accessory, and special uses are specified in the following sections.

(1) Permitted principal uses.

(a) General business and professional offices.

(b) Greenhouses.

(c) Newspaper, printing and publishing facilities.

(d) ~~Public utilities or essential services, e.g., telephone, cable, electric services~~ utility systems.

(e) Repair shop, personal service; not garage, service/repair.

(f) Self-service storage facilities.

(g) Medical clinics.

(h) Manufacturing of boats, electrical appliances, and wood products.

(i) Manufacturing of rugs, mattresses, pillows, clothing, fabrics, and textiles.

(j) Manufacturing of furniture, baskets, and similar products.

(k) Banks and financial institutions.

(l) Bakery operations.

(m) Millwork and lumberyards.

(n) Emergency uses, e.g., police, fire and rescue.

(o) Packing of previously prepared materials (excluding food/animal items).

(p) Industrial and technical training schools.

(q) HVAC, plumbing manufacturing and storage.

(r) Sign fabrication.

(s) Warehouses.

(t) Wholesale store, business or establishment.

(u) Artisans and craft work.

(v) Retail display rooms.

(w) Contractor's yards.

(x) Fabrication, extraction, assembly, and other handling of nonhazardous materials.

(y) Solar collector farms.

(z) Churches or places of worship.

(aa) Government uses Local.

(2) Permitted accessory uses and structures.

(a) Accessory uses and structures customarily incident to any of the uses mentioned for LLI use district, and on the same lot.

(b) Antennas, minor.

(c) Electric vehicle charging stations.

(3) Special permitted uses. The following uses may be permitted in the LLI-1 Limited Light Industrial Use District consistent with the provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission:

(a) Antennas and towers.

(b) Car washes.

(c) Manufacturing of medical, dental, optical, drafting, and other materials, equipment, and products not permitted under Subsection B(1) of this section.

(d) Garages, service/repair.

(e) Public parks and recreational areas.

(f) Research and testing in medical laboratories (excluding live animals).

(g) Radio, TV, cable broadcasting facilities.

(h) Vehicle rental facilities.

(i) Government uses Non-local.

(4) Special permitted accessory uses. An accessory use, if found necessary, can be drawn from the list of permitted principal uses or list of prohibited uses in this § 220-19.1 or can relate to new uses if consistent with the other provisions of this chapter and provided that a special use permit is approved by the Planning and Zoning Commission.

C. Prohibited uses. The following uses are incompatible with the LLI-1 Limited Light Industrial Use District and are specifically prohibited.

(1) Beverage blending and bottling.

(2) Compounding of cosmetics, toiletries, drugs or pharmaceuticals.

(3) Trucking terminal.

(4) Residential dwellings of all types.

(5) Gasoline filling stations.

(6) Asphalt or concrete batching plants.

(7) Kennels.

(8) Sawmills.

(9) Bulk or bagged building material storage or sale.

(10) Dairy operations.

(11) Livery stables and riding academies.

(12) Raising of animals.

(13) Processing, packing, storing, rendering or slaughtering of animals.

(14) Blending or storing of insecticides, disinfectants, and industrial or household chemicals, and similar hazardous materials.

(15) Processing or manufacturing of rubber products, including tire recapping.

(16) Restaurants, ~~including standard, fast-food, and drive-in use~~.

(17) Trailer and truck body assembly.

(18) Junkyards and recycling centers for any materials.

(19) Dumping, disposal, and incineration of garbage, sewage or dead animals.

(20) Refining or smelting operations.

(21) Vehicle sales areas and storage of new and used vehicles.

(22) Personal service establishments, e.g., barber shops and beauty shops.

(23) Dry cleaning, commercial.

(24) Commercial parking lots or garages.

D. Area and bulk regulations; density control.

(1) The LLI-1 Limited Light Industrial Use District is subject to the area and bulk regulations in Article V of this chapter.

(2) In addition, each business or use within an industrial/business park shall comply with the following:

- (a) The minimum size is one acre or 43,560 square feet.
- (b) There shall only be one principal structure and one principal use.
- (c) Maximum coverage for principal building and all accessory buildings is 60%.
- (d) The setbacks abutting nonresidential zones are:
 - [1] A front yard setback of at least 40 feet.
 - [2] A side yard setback of at least 25 feet.
 - [3] A rear yard setback of at least 25 feet.
- (e) For any property line abutting a residential zone, a landscape buffer of at least 100 feet is required, as described in Subsection E(2)(a)[1] of this section. No structure other than fences shall be erected within the buffer zone, ~~which~~ that must be created before any other construction commences, unless otherwise approved by the Planning and Zoning Commission in the site plan review process.

E. Site plan review.

(1) Site plan review and approval shall be required for all uses within the LLI-1 Limited Light Industrial Use District in accordance with Article VI of this chapter.

(2) In addition, the site plan shall include the following:

(a) In addition to § 220-54 of this chapter, landscaping shall comply with the following:

[1] Within the buffer area required under Subsection D of this section:

[a] The landscaping individually or in combination with a berm shall be of an initial height not less than 6.5 feet, and dense enough to screen any commercial or industrial activities that may occur from view on the adjacent residentially zoned lots.

[b] Buffer area plantings shall fill an area of at least 25 feet within a reasonable amount of time period, weather permitting, as deemed appropriate by the Planning and Zoning Commission during the site plan review.

[2] The landscape design or plan shall show typical placement and types of planting for the area immediately surrounding the main building and any other structures.

[3] Landscaping shall be placed in all unpaved areas not used for the structures, parking, loading, or storage.

[4] Each property owner, occupant, and lessee shall maintain all landscaping according to the standards of the Town of Milton Code.

[5] The Planning and Zoning Commission may specify or suggest plantings in the site plan review process.

[6] All landscaping shall be installed according to the approved site plan no later than 90 days after the issuance of a certificate of occupancy, weather permitting.

[7] A maintenance bond equal to 125% of the value of the plantings shall be in place for 18 months after notice of completion of said plantings is submitted to the Town Project Coordinator.

(b) Lighting plan.

[1] An exterior lighting plan, including the structures and the areas for parking, loading or unloading areas, shall be submitted as part of the site plan.

[2] The lighting plan shall include the type and location of each lighting fixture and identify lighted areas by showing where the light from each fixture will be on the ground/plan-a photometric distribution line.

[3] Lighting shall not overlap, shine onto any adjacent property, or be of a type or design that produces any light upward beyond minimal light.

[4] The maximum height of any freestanding light, whether pole or stanchion, shall be 25 feet, including fixture.

(c) Signage. Signs are permitted as listed in Article VIII of this chapter, with the sign regulations for the C-1 General Commercial Use District in § 220-66 applied and incorporated by reference for the LLI-1 Limited Light Industrial Use District.

(d) Off-street parking requirements.

[1] The off-street parking requirements are specified in Article VII of this chapter.

[2] In addition, each use shall provide a sufficient number of parking spaces in the appropriate and approved location, so that no driveway, aisle, fire lane, or street right-of-way is used at any time for parking.

(e) Loading and unloading requirements.

[1] The loading and unloading requirements are specified in Article VII of this chapter.

[2] In addition, all loading and unloading shall take place in the locations designated on the site plan and shall be located so that any vehicle maneuvering into a load/unload location does not interfere with any parking space, driveway, fire lane or street right-of-way.

[3] All load/unload locations shall be paved according to this chapter prior to issuance of a certificate of occupancy.

[4] No vehicle shall be permitted to idle its engine during the process of loading or unloading.

(f) Construction of buildings and other structures.

[1] The maximum height of any structure on the lot is 42 feet, except as permitted in § 220-30.

[2] Unless equivalent materials are approved during the site plan process:

[a] Rear exterior walls shall be made of masonry block, either concrete or cinder block.

[b] Other exterior walls, including front walls, shall be made of any of the following: natural stone; precast concrete; steel; aluminum; glass; or any combination thereof.

(g) Screening and fencing.

[1] Screening of service containers and waste disposal areas shall be included and shall identify the specific location and type of screening.

[2] The maximum height of all screening and fencing shall be eight feet.

[3] Fences may be constructed of metal, plastic (PVC), or other materials approved in the site plan process but shall not be constructed of wood.

[4] All fencing on a lot shall have a uniform and durable character and shall be properly maintained.

(h) Utilities placement and design.

[1] All utility lines, including electrical, telephone, sewer, water, and heating fuel, shall comply with § 220-49.

[2] In addition, all mechanical equipment, including roof mounted and wall mounted, shall be enclosed or screened, with the location shown on the site plan.

F. No outside assembly, manufacturing, or storage.

(1) No assembly, manufacturing, fabrication, extraction, packing, millwork, or repairs shall occur except in a fully enclosed building.

(2) Neither raw materials nor finished product shall be stored outside; all storage of these items shall be within a fully enclosed building.

(3) No materials shall be stored in any area on a site except inside a closed building or behind a visual barrier that screens the view from public streets, service roads, and all adjacent property, including those materials in active use by a contractor in a contractor's yard.

(4) No trailer or shipping container shall be used for storage purposes on any lot.

(5) Vehicles associated with or utilized by the use may be stored on-site overnight, provided these vehicles are not visible from any adjacent property, and all security lighting meets the lighting standards provided for in this section; however, no such stored vehicle shall exceed 24 feet in length.

G. Nuisance control. No use in the LLI-1 Limited Light Industrial Use District shall violate the prohibitions in § 220-22, § 220-8F, or the more specific regulations in this subsection. Where a conflict exists between any of the provisions, the most restrictive provision shall control.

(1) Noise.

(a) No use or activity shall produce a noise or sound that is objectionable because of its volume, duration, frequency or shrillness.

(b) The regulations governing the control of noise in 7 Del. Admin. C. § 1149, as amended, are hereby adopted and incorporated by reference as if fully set out herein and shall be controlling for the purposes of this district.

(2) Fumes and smoke.

(a) No operation, storage of material, or use shall be permitted, or maintained, that affects any adjacent site or property by emitting noxious, toxic or corrosive fumes or gases.

(b) No smoke shall be emitted when the shade of such smoke is darker than No. 2 on the Ringelmann Scale for Grading the Density of Smoke published by the United States Bureau of Mines.

(c) Air discharges at any venting pipe, stacks or windows shall contain no air contaminants that would require a permit for discharge from a governmental agency without the applicable permit.

(3) Odors. No use or activity shall produce odor or emissions that are detectable beyond the boundary of the property of origin and are objectionable because of continuity, regularity, or frequency.

(4) Dirt and dust. During the normal operation of any use, no unnecessary dirt or dust shall be created, nor shall be allowed to escape to an adjacent property.

(5) Exemptions. Activities related to public or private construction or maintenance work, agriculture, timber harvesting, emergency warning devices, or other similar short-term or temporary activities may be administratively exempted from the more specific requirements of this subsection if the Town Code Enforcement Officer determines there is sufficient reason to do so. In making that determination the Town Code Enforcement Officer may place reasonable conditions (such as time limitations and hours of operation) on such an exemption.

H. Hours of operation. All uses in the LLI-1 Limited Light Industrial Use District shall comply with the hours of business regulations in § 93-11.

§ 220-20. Large Parcel Development District (LPD).

A. Intent. The purpose of this district is to develop new and redevelop older neighborhoods that reflect the urban design and scale of the Town of Milton. The LPD District provides for design ingenuity while protecting existing and future developments. In order to encourage large-scale developments as a means of creating a superior living environment, the LPD District shall encourage the following:

(1) Special and historic relationship with the Town. Awareness of and appreciation for the connection between man-made and natural environments necessitates the protection of public open spaces, wetlands, ponds, ~~trees~~ tree canopy, and unique vegetation in the district.

(2) Community of diversity. Diversity is achieved by mixing a variety of housing and building types and uses, architectural styles and dwelling unit densities and ranges of affordability within neighborhoods, while maintaining the principles of good design. The scale and style of the existing Town of Milton is to be evident in the planning of new LPD communities.

(3) Human Town scale and neighborhood interaction. To create pedestrian accessways in neighborhoods where there are places ~~which~~ that can be reached by walking, such as parks, churches and convenience shops, and safe places to walk, such as sidewalks and pedestrian corridors. Connections to create networks of pedestrian accessways to existing streets and neighborhoods is beneficial to provide integration with the Town of Milton. Appropriately proportioned streets, shallow setbacks, front porches, open yards, sidewalks, street trees, sidewalk furniture and places for people to gather, such as parks and playgrounds promote neighborhood interaction.

(4) Busy days and quiet nights. Neighborhood business, commercial and institutional uses should be limited in size and intensity so as to enhance a predominantly residential neighborhood.

B. Permitted principal uses.

(1) ~~Single-family detached dwellings~~ Dwelling, single-family detached.

(2) ~~Semidetached single-family dwellings~~ Dwelling, single-family semi-detached.

(3) ~~Multifamily dwellings~~ **Dwelling, multiple-family, including townhouses and apartments.**

(4) Mixed residential and business uses in the same building.

(5) Government uses, social, civic, or charitable organization meeting halls and offices.

(6) Churches.

(7) Public or private schools.

(8) Parks, playgrounds, athletic recreation facilities, noncommercial swimming pools and community centers.

(9) Fire stations.

(10) Libraries or museums.

(11) Bed-and-breakfasts/inns.

(12) Day-care centers, day nurseries and preschool centers.

(13) Continuing care, assisted living and retirement uses ~~which~~ that provide a combination of living accommodations for older adults, generally 55 years of age and older, together with a "continuum of care," i.e., care ~~which~~ that progresses or increases as the needs of the individual resident increase.

(14) Educational and cultural uses ~~which~~ that enrich and benefit the residents of the Town of Milton through:

(a) College or university primary or continuing education courses.

(b) Musical or theatrical venues for rehearsals, performances, and the like.

(c) Individual professional development programs.

(d) Art galleries and art studios.

(15) Commercial and neighborhood business uses of convenience and necessity to the development as a whole; such uses and accessory off-street parking and loading spaces incident to such commercial uses not to exceed one acre for each 50 dwelling units in the planned LPD.

~~(16) Townhouses.~~

C. Permitted accessory uses, buildings and structures.

(1) Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

(2) Antennas, minor.

(3) Parking lots, private.

(4) Electric vehicle charging stations.

D. Superimposed district. To enable the LPD to operate in harmony with the plan for land use within the Town of Milton Land Use Plan, the LPD District is created as a special district to be superimposed on other districts contained in this chapter and is to be so designated by a special symbol for its boundaries on the Official Zoning District Map.

E. Minimum district area. The minimum area for an LPD District shall be 25 acres.

F. Concurrent establishment of other districts. An application for approval of an LPD District may show and be processed concurrently with separate applications for establishment of any other district established by this chapter, in accordance with the regulations which apply to those districts.

G. Master plan submission.

(1) An applicant for the LPD District shall submit a master plan to the Milton Planning and Zoning Commission and the Town of Milton Town Council for approval; this plan shall include the following:

(a) The total number of dwelling units.

(b) Parking requirements for each housing type.

(c) Accessory building requirements.

(d) Height, area and bulk requirements related to each proposed land use.

(e) Proposed landscaping.

(f) Proposed sidewalks, multipurpose or recreational paths, and trails.

(g) Proposed streetlighting.

(h) Signage.

(i) Open space.

(j) Recreation facilities.

(k) Trash containment.

(m) Streets, alleys, and their right-of-way dimensions.

(2) The Planning and Zoning Commission and the Town of Milton Town Council shall review the conformity of the proposed development with the standards of the Milton Comprehensive Plan and recognized principles of land use planning and landscape architecture.

(3) The minimum lot and yard requirements and maximum height requirements of the zoning district ~~in which~~ where the LPD is located need not apply, except that the Town shall ensure an appropriate relationship between proposed land uses and existing land uses near the boundaries of the proposed LPD District.

(4) The Planning and Zoning Commission and the Town Council may impose conditions regarding the layout and design of the proposed development to assure compliance with the development plan presented by the applicant.

H. Procedure for master plan approval.

(1) A preliminary master plan shall be subject to a public hearing by the Planning and Zoning Commission at a public noticed meeting upon direction of the Town Council. The Town Council shall review the recommendations from the Planning and Zoning Commission. When a preliminary master plan is approved by the Town of Milton Council, it shall be returned to the Milton Planning and Zoning Commission pending preparation of the final master plan by the applicant. A final master plan incorporating all of the requirements, amendments and conditions of the Town of Milton Council shall be reviewed by the Milton Planning and Zoning Commission and shall be placed on record after such approval.

(2) No public hearing shall be required for approval of amendments to the record master plan unless changes proposed significantly alter a provision of the approved record master plan.

I. Prohibited uses. In an LPD Large Parcel Development District, any use not permitted shall be prohibited. Specifically prohibited are:

(1) Business uses with bulk storage of hazardous materials.

J. Ownership. The land in an LPD Large Parcel Development District need not be under single ownership; provided, however that proper assurances are given through the procedures contained in this chapter that the project can be successfully completed.

K. Schedule of construction. Before the approval of the LPD Large Parcel Development District, the Town may request a sequence and schedule of construction from the applicant.

L. Additional land area. If, after approval and recording of the master plan, the owner/developer desires to incorporate additional land or after-acquired adjacent land area into the development plan, a conference shall be held with ~~zoning officials~~ the Planning and Zoning Commission for purpose of reviewing the additional land. If an application is filed, the procedural requirements shall be as for all other LPD Large Parcel Development districts and shall be considered as the establishment of a new and separate district.

M. Minimum lot area and width. The minimum lot area and minimum lot width of detached single-family dwelling lots shall be no less than 5,000 square feet ~~or~~ and no less than 50 feet wide. The minimum lot area and minimum lot width of lots for semidetached single-family dwellings shall be no less than 3,000 square feet ~~or~~ and no less than 30 feet wide. The minimum lot area and minimum lot width of lots for townhouses shall be no less than 2,500 square feet ~~or~~ and no less than 20 feet wide.

N. Number of dwelling units permitted. The maximum number of dwelling units permitted shall be determined by dividing the net development area (total acreage) by the minimum lot area per dwelling unit required by the district or districts ~~in which~~ where the area is located. Net development area shall be determined by subtracting the area set aside for state wetlands and 25% of the remainder for streets or the actual area for proposed streets, whichever is less. The area of land set aside for common open space or recreational use shall be included in determining the number of dwelling units permitted.

O. Requirements regarding parking, streets, alleys and driveways. Design of parking areas, streets, alleys and driveways intended to be dedicated to the Town of Milton shall meet the minimum construction requirements of the Town of Milton with respect to right-of-way, horizontal and vertical curvature, pavement section, material and tabulation of structural numbers.

P. Modification of development standards.

(1) The Planning and Zoning Commission, using the Large Parcel Development District, may recommend that the following development standards be modified. The recommendation for approval shall be forwarded to Town Council for consideration and final approval, denial or modification:

(a) Building setbacks (§ 220-24, Density Control Table);

(b) Required number of off-street parking spaces (§ 220-42, Off-street parking requirements);

(c) Landscaping requirements (§ 220-54, Buffer and landscaping requirements);

(d) Sign requirements (Article VIII, Signage); and

(e) Street width, right-of-way, design and layout; however, construction requirements with respect to pavement sections, material and tabulation of structural numbers may not be modified (§ 220-41, Streets, roads, and sidewalks).

(2) Basis for approval of alternative development standards. Approval of alternative development standards using the Large Parcel Development District differs from the variance procedure described in Article XI of this chapter in that rather than being based upon a hardship or unusual circumstance related to a specific property, the approval of alternative development standards proposed by a large parcel development shall be based upon the criteria listed in this section. In evaluating a large parcel development ~~which~~ that proposes to modify the development standards, the Planning and Zoning Commission shall consider and base its findings upon the ability of the proposal to satisfy the following criteria:

(a) The proposed planned development's compatibility with surrounding properties, especially related to:

[1] Landscaping and buffering of buildings, parking, loading and storage areas;

[2] Public safety;

[3] Site access, on-site circulation and off-street parking;

[4] Light and shadow impacts;

- [5] Number, size and location of signs;
- [6] Generation of nuisance irritants such as noise, smoke, dust, odor, glare, vibration or other undesirable impacts;
- [7] Architectural design of buildings and harmonious use of materials.
- (b) The unique characteristics of the subject property;
- (c) The unique characteristics of the proposed use(s);
- (d) The arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development;
- (e) Visual impact of the planned development upon the surrounding area;
- (f) Public improvements proposed in connection with the planned development;
- (g) Preservation of unique natural features of the property;
- (h) The public benefit derived by allowing the proposed alteration of development standards.

§ 220-21. Historic Preservation Overlay District (HP-OD).

The Town of Milton's HP-OD includes a large National Register Historic District placed on the National Register of Historic Places in 1982. The Town of Milton is a Delaware Certified Local Government. The following code enforces a Zoning Ordinance for the designation and protection of historic properties located within the HP-OD.

A. Intent. These regulations are applicable to real property and improvements within the Residential (Historic), Commercial (Historic) and Town Center (Historic) Zoning Districts, hereafter referred to as the "Historic Preservation Overlay District (HP-OD)." Because structures in the Historic District are individual in their location, size, style, and history, the Town of Milton Historic Preservation Commission will consider each property as a unique entity and make decisions according to § 220-21 of the Town Code with consideration of the Secretary of the Interior's Standards for Rehabilitation: <http://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>.

B. Purpose. The purpose of this section shall be to accomplish the following:

- (1) To assist in preserving the historic character and the cultural significance of the Town of Milton.
- (2) To safeguard the heritage of the Town by preserving the elements ~~which~~ that reflect the cultural, social, economic, political or architectural history of the Town.
- (3) To promote the use and preservation of the values as established by the Town of Milton Comprehensive Plan.
- (4) To recommend alteration or new construction in keeping with the National Register historic district standards.
- (5) To recommend rehabilitation rather than demolition of contributing structures or historic properties.
- (6) To encourage the proper maintenance, preservation and, when necessary, alteration of structures in the Historic District.
- (7) To promote the use of the district for the education, pleasure and welfare of Milton's citizens and visitors.
- (8) To strengthen the local economy.

C. Definitions. In addition to the definitions in Article I of this chapter, ~~in this section~~, the following definitions shall be applicable within this District unless the context clearly indicates to the contrary:

~~ADDITION(S)~~ ADDITION

Any enlargement of a structure, whether by extension on any side, front or rear portion of the structure or by an increase in height of the structure.

~~ALTERATION(S)~~ ALTERATION

Any activity requiring a building permit, the approval of the Town of Milton Code Department, and/or any change in the exterior appearance (other than maintenance) or structural change, including but not limited to construction, reconstruction, renovation, modification, change, moving or demolition of a noncommercial structure within the Town of Milton HP-OD.

ARCHITECTURAL VALUE OR SIGNIFICANCE

Exists when a ~~property~~ built structure embodies the distinctive characteristics of a type, period or method of construction and/or represents an established or familiar visual feature of the neighborhood, community or Town due to its singular physical characteristic ~~or landscape~~.

BUILDING

A combination of materials to form a construction for use as shelter for any form of human activity.

BUILDING HEIGHT, ESTABLISHED

Subject to approval by the Historic Preservation Commission pursuant to this section, the height of any single-family dwelling located in the Historic District and in public view may be increased to the same height as any other existing single-family dwelling within 100 feet of the front property line, on the same side of the street and within the same block upon confirmation by the Project Coordinator that all applicable requirements are met. An addition to an existing single-family structure that is located within the Historic District, but will not be in public view, may be built to the height of the existing structure to maintain existing rooflines and architectural features. No structure shall exceed the height as stated in the Density Control Table for the underlying district.

CODE ENFORCEMENT OFFICER

The Town official charged with enforcement of the Zoning Ordinance. The Code Enforcement Officer is the person hired for this purpose as an employee by the Town.

COMMERCIAL STRUCTURE/SITE

Any structure or site ~~which~~ that is currently used primarily for commercial activities and not primarily for residential uses.

CONTRIBUTING BUILDINGS BUILDING

~~A Buildings~~ building that is judged to add to the Historic District's sense of time, place, and historic development under criteria established by the HPC, including historical significance, integrity and context. Such structures are so designated because they meet an architectural test (i.e., compatible with surrounding buildings, or represent an architectural style identified with Milton's history).

DEMOLITION

Destruction, razing, commencement of the work or steps of total or partial destruction with the purpose of completing the same; includes any willful neglect in the maintenance and repair of a structure that threatens to result in substantial deterioration of the exterior features or the structural integrity of the building.

HISTORIC DISTRICT

An overlay zone within the Town of Milton identified and designated as having historic importance. The Historic District is shown on the Town of Milton Zoning Maps as a series of zoning districts characterized as "historic."

HISTORIC PRESERVATION COMMISSION

A Commission consisting of five to nine members recommended by the Mayor and confirmed by the Town Council to serve a term of three years each. A majority of the members of the HPC shall reside within the Historic Preservation Overlay District of the Town of Milton.

HISTORIC PROPERTIES

Commercial and noncommercial structures and sites, public right-of-way or areas designated by the Town Council as having importance in the history of the Town of Milton as listed in Appendix A. [Note: Appendix A (List of Structures within the Historic Preservation Overlay District) is on file in the Town offices.]

HISTORIC VALUE OR SIGNIFICANCE

Exists when a property embodies the distinctive characteristics of a type, period or method of construction and/or represents an established or familiar visual feature of the neighborhood, community or Town due to its singular physical characteristic or environmental setting.

IN PUBLIC VIEW

That portion of a structure that is visible or could be visible in the absence of a fence or landscaping, from the section of a public right-of-way or public street. If the dwelling is located on more than one street, then that portion of a structure that is visible or could be visible in the absence of a fence or landscaping from any section of a public right-of-way or public street abutting a property line of the property on which the structure exists.

MAINTENANCE/REPAIR

Ordinary repairs and maintenance, including design, materials, features or finishes of a structure ~~which~~ that do not alter the exterior appearance of the structure and have no material effect on the historical, archaeological or architectural significance of the structure. Paint color is not subject to review.

MAYOR AND TOWN COUNCIL

The elected, or duly appointed, Mayor and members of the Town Council of the Town of Milton, Delaware. ~~Hereinafter~~ Also known as the "Town Council."

MIXED-USE BUILDING/STRUCTURE/SITE

Any building, structure or site that is currently used for both commercial and residential uses, including structures, sites or unimproved land that may fall under the zoning definition of "Town Center."

NONCONTRIBUTING BUILDING/~~STRUCTURES~~ STRUCTURE

A structure that does not add to the Historic District's sense of time, place and historic development (i.e., compatible with surrounding buildings or represent an architectural style identified with Milton's history) or those buildings/structures ~~which~~ that may have been moved from their original locations within the Historic District to another location within the Historic District.

OUTBUILDING

A term used to refer to all nonresidential structures on a site, including any accessory structure.

PROJECT COORDINATOR

The Town official responsible for assisting members of the public with the application process before the Historic Preservation Commission, as well as assisting the HPC with the performance of its obligations and responsibilities as set forth in this section. The Project Coordinator is the person hired for this purpose as an employee by the Town.

RHYTHM

The rhythm of a structure and its components is the spacing or repetition of architectural elements or details. The regularity, frequency and placement of doors, windows, porches, railings, and ramps and their placement within a facade is a type of rhythm. Rhythm between adjoining structures can exist when building types are repeated along a streetscape.

SCALE

Scale is the relationship of the architectural mass of the structure in the context of the streetscape.

STREETSCAPE

The visual appearance of a street formed by the location and size of buildings, walkways, street trees, accessories, and other facilities.

STRUCTURE

A combination of materials to form a construction for use or ornamentation other than human shelter, including but not limited to buildings, sheds, outbuildings listed in Appendix A, fences, mechanical equipment, storage tanks, signs, bulkheads, jetties, groins, whether installed on, above, or below the surface of land or water. [Note: Appendix A (List of Historic Structures) is on file in the Town offices.]

VERNACULAR

Being of an indigenous building style using local materials and traditional methods of construction and ornament, especially as distinguished from academic or historical architectural styles.

D. Historic Preservation Commission composition; qualifications; appointment. There is hereby established a commission to be called the "Historic Preservation Commission" (hereafter "HPC").

(1) The HPC shall consist of five to nine members to be appointed by the Mayor of the Town of Milton, subject to confirmation by a majority of the members of the Town Council present and voting for a term of three years. To the extent possible, appointments shall be made with consideration of the diverse talents and communities represented in Milton; consideration for appointments shall be given to residents who possess knowledge or experience in architectural design and historic preservation. At least a majority of members shall be residents of and have legal or equitable title to property in the Historic District, and all members shall be residents of and have legal or equitable title to property in or be leaseholders of public lands within the Town of Milton.

(2) Vacancies on the HPC must be filled within 90 calendar days of an expired term or receipt of a letter of resignation. The appointed member shall reflect the geographic residency and expertise of the member who vacated the position. The appointment shall be for the remainder of the term of the vacating member or for the full three-year term if the vacancy results from an expired term. The appointment is subject to confirmation by a majority of the members of the Town Council present and voting.

(3) A member of the Town Council may, and the Town Project Coordinator shall, be ex officio members of the HPC. An ex officio member may exercise all the powers of the regular members of the HPC except that ~~he/she~~ they shall not have a vote. No ex officio member shall hold an office on the HPC.

(4) The HPC shall adopt and consistently adhere to bylaws or rules of procedures that are publicly available and include a section prohibiting conflicts of interest.

(5) The HPC shall establish its own rules and procedures and describe them in the Town of Milton Historic Preservation Bylaws and determine the times of its meetings. All meetings and actions of the HPC shall be open to the public except appropriate executive sessions. All records of the HPC shall be public except those otherwise required to be confidential.

(6) The HPC shall schedule monthly meetings. If no agenda items are available or requested 15 working days prior to the time of the scheduled meeting, such meeting may be cancelled. An agenda item may be withdrawn at any time up to and including the opening of a scheduled meeting; however, if such matter has been withdrawn prior to the meeting and it is the only matter for that agenda, the meeting may be cancelled. HPC meetings must occur at least four times per year.

(7) At least once annually, all members of the HPC must make a reasonable effort to participate in historic preservation training ~~which that~~ may include conferences, presentations, or workshops by preservation professionals or the State Historic Preservation Office (SHPO). Ideally, such sessions will be identified and scheduled by the Commission's Education Chair.

(8) Town staff review for certain new construction. In certain circumstances, the Project Coordinator may decide to unanimously approve an HPC application without a formal hearing. A Project Coordinator review may be used for routine and minor Historic District new construction applications whose costs are estimated at less than \$15,000 and meet the requirements of this chapter. The requests may include such items as the addition of fences, signage, decking, patios, and other projects where the HPC has a history of approving similar projects. All Project Coordinator decisions are subject to periodic review by the HPC.

E. Procedures.

(1) Before the construction, alteration, reconstruction, moving or demolition of any dwelling, residence or related structures on property within the Historic District or on historic properties not within the Historic District that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way, the owner, agent or representative proposing to construct or change shall file with the Project Coordinator of the Town of Milton an application for permission from the HPC to construct, build, alter, reconstruct, move, demolish or make the addition.

(2) Actions not requiring review by the HPC. Ordinary repairs, maintenance, and replacements that do not constitute a change to the appearance of the structure and using identical material include:

- (a) Repair of existing windows or doors, including storm windows.
- (b) Replacement of existing vinyl windows or doors with same design.
- (c) Repair of existing roof material.
- (d) Repair of existing roof structures, such as cupolas, dormers and chimneys.
- (e) Repair of existing shingles, existing shutters, clapboards, or other siding, fences, or retaining walls.
- (f) Change of paint color.

(3) Application and approval procedures for matters other than demolition.

(a) The applicant shall apply for a building permit; if the proposed site is in the Historic District, the Project Coordinator or designee shall notify the applicant that the project must be approved by the HPC [unless the project falls under § 220-21E(2)] and shall give the applicant an HPC application.

(b) For the initial application, the applicant shall fill out the application form, ~~and attach~~ provided by the Town and submit 11 copies that include: of the documentation required in this § 220-21E(3)(b). An application is deemed complete when the items required by the Project Coordinator have been submitted. After the review process is completed and approved, the Project Coordinator will return two sets of plans to the applicant and retain the remainder for Town records.

[1] A site plan, survey sealed by a professional engineer or surveyor, if required by the Project Coordinator, identifying all existing and new structures, required setbacks and easements.

[2] Plan and elevation drawings of the proposed change, construction, alteration, or modification.

[3] A description and/or providing of samples illustrating the type and texture of the materials to be used for the exterior.

[4] Current photographs of the property to include front, side, and/or rear street views if applicable.

[5] Current photographs of adjacent and neighborhood properties, including the streetscape of both sides of the street on which the subject property is located.

[6] An architectural rendering for new house construction, proposed additions or a significant alteration of an existing structure.

~~An application is deemed complete when the items required by the Project Coordinator have been submitted. After the review process is completed and approved, the Project Coordinator will return two sets of plans to the applicant and retain the remainder for Town records.~~

(c) The HPC will meet at regular intervals to ensure timely consideration of all applications pending before the HPC. Completed applications submitted to the Project Coordinator no less than two weeks (14 calendar days) prior to a regularly scheduled meeting will be heard at that next scheduled meeting. Applicants or their designee must attend the HPC meeting at the time their application(s) is/are heard.

(d) The HPC shall endeavor to arrive at a decision at the first meeting ~~at which~~ when the application is presented; however, if the HPC decides that it needs more information or time ~~in which~~ to make a decision, it shall either place the application on the agenda for the next meeting or schedule a special meeting. The HPC shall grant or deny the application as expeditiously as possible, but in no event later than the second meeting ~~at which~~ when the application is on the agenda and the applicant appears, except when the application is for demolition [see § 220-21E(4)]; failure to act within said time frame shall be deemed to be approval of the application as submitted; however, an extension may be granted if agreed to by both the applicant and the HPC.

[1] If an applicant or a member of the public has information, evidence or testimony that contradicts the current designation of contributing or noncontributing, or has information about the history or other information that could materially affect the decision-making process of Commission members, the HPC shall consider that information, evidence or testimony before addressing the application. Such information shall be presented to the HPC as a notarized statement, or a copy of official document(s), and shall be made available to the Project Coordinator, the HPC, and applicant at least five working days before the scheduled meeting.

[2] If the members of the HPC, by simple majority vote of the Commissioners present, determine that additional time is needed to digest the new information, the decision will be postponed for one meeting and the requirement for a decision at the end of the second meeting ~~at which~~ when the application is considered shall be suspended.

(e) If, after review of the application by the Project Coordinator, ~~he/she determines~~ it is determined 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 the conceptual review, the application to the HPC shall be deemed to have been withdrawn.

(f) The HPC may either grant approval, grant approval with conditions, or deny the application. A denial shall include the reasons that the proposal does not meet the criteria § 220-21F, Criteria, and § 220-21G, Standards. The applicant shall have the opportunity to resubmit ~~his/her~~ the application with modifications; such resubmissions shall meet the same requirements as the original. If the second submission of the application is denied, the applicant may either modify the application for another submission or appeal the denial to the Board of Adjustment. In no event may the HPC make recommendations for changes that will require violation of other requirements of this chapter.

(g) Written notice of the decision of the HPC will be forwarded promptly by the Project Coordinator to the applicant. The notice will inform the applicant to meet with the Project Coordinator to complete the application for a building permit. Approval shall be valid for one year for the approved project; if the project is commenced but not completed before the end of that period, the owner shall apply to the Project Coordinator for an extension that may not exceed an additional period of one year, unless there are special circumstances, in which case, the owner may apply to the HPC for an extension.

(h) Substantive changes to the HPC-approved project prior to or during construction shall require review and approval by the HPC. For such changes, the applicant shall submit one copy of the original application and a description of the proposed changes, as well as any supporting documentation to illustrate the effect ~~or noneffect~~ of such proposed changes or lack thereof. Consideration of such changes shall be placed at the top of the HPC's agenda at the next regularly scheduled meeting.

(i) No reapplication for essentially the same purpose shall be reviewed by the HPC within one year of denial of any application hereunder, except in cases where the applicant purports to be in compliance with the conditions of approval set forth by the HPC in an earlier application denial.

(4) Demolition or removal. When the application is for demolition of all or part of a structure, a report from a licensed structural engineer shall be required. No demolition or removal of any structure from the premises may take place until after an initial meeting with the HPC and a subsequent public hearing. Presentation of a conceptual plan for reuse of the property shall be required prior to the approval to move and/or demolish the structure. Efforts may be taken to either mitigate or eliminate the demolition or removal through informal discussions among the applicant, an HPC Commissioner and the Town Project Coordinator. In addition, the HPC may delay its final decision for up to an additional 60 days over and above the usual two-meeting requirement for a decision, ~~in order~~ to obtain an independent opinion from a licensed professional engineer regarding the structural integrity of the property. A final decision on demolition or removal must be rendered no later than 120 days after the initial application, unless delayed by federal, state or local holidays, severe weather or other natural disasters, emergencies, or unless an extension is agreed to by the applicant and the HPC.

(a) Approved demolition must be done within 45 days of when the party is granted the final required permit for the demolition. The party would have a one-time option to renew this permit with the Town for another 45 days if the demolition could not be done within the first forty-five-day period.

(5) Interior features. The HPC shall consider only exterior features and shall not consider interior arrangements except to the extent that an interior alteration affecting the exterior is required by law or disability of owner or tenant.

(6) Signage. Signage for businesses located in the Historic District is permissible pursuant to the regulations of Article VIII of Chapter 220 of the Municipal Code of the Town of Milton and in historic character with the property as approved by the HPC under this article.

(7) Antennas, towers, microwave dishes and satellite dishes. Any antenna, tower, microwave dish or satellite dish for residences within this district, or included on or eligible for inclusion on, the National Register of Historic Places shall only be located in rear yards or, if not visible from the street level along the entirety of the front lot line, ~~in~~ within side yards. All reasonable efforts shall be made to limit or eliminate the visual impact on the adjoining properties, such as screening by landscaping. Notwithstanding Article IX of this chapter, all properties subject to this subsection shall come into compliance within 18 months of the date of this subsection's passage.

(8) Designation of historic sites. Owner(s) of properties outside of the boundaries of the Historic Preservation Overlay District (HP-OD) may request that ~~his/her~~ their property be designated as a Town of Milton historic property. Before any designation may be assigned, specific procedures, in compliance with Local Certified Government guidelines, information required and recordation procedures and requirements shall have been determined. Such procedures shall include reference to the guidelines of the United States Department of the Interior (National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation"); also see HPC bylaws and procedures. When considering a site for inclusion, the HPC will take into consideration the following seven aspects:

(a) Location. Location is the place where the historic property was constructed or the place where the historic event occurred. The relationship between the property and its location is often important to understanding why the property was created or why something happened. The actual location of an historic property, complemented by its setting, is particularly important in capturing the sense of historic events and persons. The relationship between a property and its historic associations is usually destroyed if the property is moved. However, there are certain circumstances ~~under which~~ where moved buildings can retain their local status even if moved.

(b) Design.

[1] Design is the combination of elements that create the form, plan, space, structure and style of a property. It results from conscious decisions made during the original conception planning of a property (or its significant alteration) and applies to activities as diverse as community planning, engineering, architecture and landscape architecture. Design includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials. A property's design reflects historic functions and technologies as well as aesthetics. It includes such considerations as the structural system; massing; arrangement of spaces; pattern of fenestration; textures and color of surface

materials; type, amount, and style of ornamental detailing; and arrangement and type of plantings in the design and landscape.

[2] Design can apply to districts whether they are important primarily for historic association, architectural value, information potential, or a combination thereof. For districts significant primarily for historic association or architectural value, design concerns more than just the individual buildings or structures located within the boundaries. It also applies to the way in which ~~in which~~ where buildings, sites, or structures are related; for example, spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archaeological sites.

(c) Setting.

[1] Setting is the physical environment of historic property. Whereas location refers to the specific setting where a property was built or an event occurred, setting refers to the character of the place in which ~~in which~~ where the property played its historical role. It involves how, not just where, the property is situated and its relationship to surrounding features and open space. Setting often reflects the basic physical conditions under which a property was built and the functions it was intended to serve. In addition, the way in which a property is positioned in its environment can reflect the designer's concept of nature and aesthetic preferences.

[2] The physical features that constitute the setting of historic property can either be natural or man-made, including such elements as:

[a] Topographic features (a gorge or the crest of a hill);

[b] Vegetation;

[c] Simple man-made features (paths or fences); and

[d] Relationships between buildings and other features or open space.

[3] These features and their relationships should be examined not only within the exact boundaries of the property, but also between the property and its surroundings. This is particularly important for districts.

(d) Materials. Materials are the physical elements that were combined or deposited during a particular period of time in a particular pattern configuration to form a historic property. The choice and combination of materials reveal the preferences of those who created the property and indicate the availability of particular types of materials and technologies. Indigenous materials are often the focus of regional building traditions and thereby help define an area's sense of time and place. A property must retain the key exterior materials dating from the period of its historic significance. If the property has been rehabilitated, the historic materials and significant features must have been preserved. The property must also be an actual historic resource, not a re-creation. Likewise, a property whose historic features and materials have been lost and then reconstructed is usually not eligible.

(e) Workmanship. Workmanship is the physical evidence of the crest of a particular culture or people during any given period in history. It is the evidence of artisans' labor and skill in constructing or altering a building, structure, object, or site. Workmanship can apply to the property as a whole or to its individual components. It can be expressed in vernacular methods of construction and plain finishes or highly sophisticated configurations and ornamental detailing. It can be based on common traditions or innovative period techniques. Workmanship is important because it can furnish evidence of the technology of a craft, illustrate the aesthetic principles of an historic period, and reveal individual, local, regional, or national applications of both active technological practices and aesthetic principle. Examples of workmanship and historic buildings include tooling, carving, painting, graining, turning, and joinery.

(f) Feeling. Feeling is a property's expression of the aesthetic or historic sense of a particular period of time. It results from the presence of physical features that, taken together, convey the property's historic character. For example, a rural historic district retaining original design, materials, workmanship, and setting will relate the feeling of agricultural life in the 19th century.

(g) Association.

[1] Association is the direct link between an important historic event or person and historic property. A property retains association if it is the place where the event or activity occurred and sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character.

[2] Because feeling and association depend on individual perceptions, their retention alone is never sufficient to support the historic significance of a property.

[3] Final approval must be approved by the Mayor and Town Council. Once approved, the HPC shall begin the process of recommending the property or properties to the National Register for Historic Places.

(9) Appeals. Any person aggrieved by a decision rendered by the HPC shall have the right to appeal to the Board of Adjustment of the Town of Milton.

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~~ where 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.

G. Standards. A proposed new structure or any alterations to an existing structure located in the Historic District or designated as an historic site shall conform to the Municipal Code of the Town of Milton and/or any other prevailing law or code in place at the time of application. The following standards shall be used by the HPC in preserving the architectural integrity and ensuring the compatibility of new construction and alterations with the existing body of architectural styles in the Historic District:

(1) Facade treatment. The exterior features of all buildings should be visually and physically compatible with those facades surrounding them.

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

(3) Proportion. The relationship between the width and height of the front elevation of a structure should be compatible to adjacent structures. Proportion is also the relationship of the different elements of the building itself, including but not limited to additions, porches, windows, and doors.

(4) Rhythm. The rhythm of the streetscape and building with its components should be considered as one of the criteria.

(5) Scale. Since the scale of the Town of Milton is intimate in nature, any building contrary to that of the streetscape will be deemed to be out of place.

(6) Roofs, pitch, dormers and types. The roof and pitch of the roof shall be in keeping with the tradition of roof types and styles in Milton, within the Historic District and on designated historic sites. Any of

the traditional roof types found within the Historic District are acceptable without the need to duplicate existing roof types of a specified home or area. The type of roof selected should be in keeping with the general type of structure it is to be used on and in keeping with the general scale and style of the neighborhood. Modern variations of roofing styles ~~which~~ that clearly bear no resemblance to traditional or historic styles will not be permitted within the Historic District or on a designated historic site.

(7) Roofing materials. Acceptable materials include wood, slate, metal, asphalt shingles, as well as roofing materials ~~which~~ that bear resemblance to these materials. Repair materials shall be consistent with the existing roofing material. When a flat roof is otherwise consistent with the design criteria established in this section, a rubber membrane or similar material may be used.

(8) Siding material. All materials shall be consistent with and appropriate in design, texture, and other visual qualities to the style and period of the structure and in keeping with the general appearance of other structures in the neighborhood. Siding, including aluminum, brick, stucco, wood, cement and vinyl, can all be considered but, if used, must not interfere with the historical architectural details and must have a traditional appearance and profile that fits both the style of the structure and the neighborhood.

(9) Foundation material. Traditional foundations, including brick and brick veneer, are encouraged. Concrete block is permitted; however, the foundation is to be covered in stucco so as to disguise the block joints.

(10) Chimney styles and materials. Chimneys in public view should be of brick or stucco. Metal chimneys are acceptable for use in nonpublic view.

(11) Porches. If a porch is to be installed in a new construction or alteration, it shall adhere to the height line and average depth of other porches in the surrounding neighborhood. When existing structures with traditional porches are renovated, owners shall preserve both the porch and its architectural detailing.

(12) Windows. New structures or alterations to existing designated historic sites and construction or alterations to structures in the Historic District shall have windows that are compatible in appearance to those in the existing structure and surrounding structures.

(13) Architectural details. This term applies to such building features as window and door trim styles, cornices, ornamental brackets, porch and entrance balustrades, porch pillars, corner pilasters, gable peak ornamentation, lattice work, traditional paneled and louvered shutters, and similar details. The applicant shall extend the design motif of the existing structure to any addition; and, in the case of alteration to an existing structure, the architectural details on the exterior shall be preserved.

(14) Walls, fences and gates. Materials shall be of a type compatible with the architecture of the Historic District and designated historic properties to which the walls, fences or gates would be included or affixed. Natural materials are encouraged, but man-made materials similar in appearance will be considered.

(15) The color of a structure shall not be reviewed by the HPC.

(16) The HPC shall not automatically deny the addition of items such as solar panels, cisterns or other inventions designed to produce energy or assist in conservation efforts but shall designate reasonable alternative design and/or placement.

(17) The HPC shall not deny any reasonable accommodations for a disability, compatible with this section; however, the HPC may suggest alternative design(s) or placement.

(18) When owners of structures in the Historic District that have been or are designated as "noncontributing" make application to the HPC for approval for alteration or demolition, the HPC evaluation shall be based on the potential impact on the streetscape setting of the property, rather than the potential impact on the property itself. When owners of structures in the Historic District designated as "contributing structures" make application to the HPC for alteration or demolition, preserving the property will be the HPC's primary criterion in evaluating the application. The HPC may require the applicant to submit both financial and construction details in support of any proposed demolition.

(19) A proposed new structure or any alteration to an existing structure or historic property shall conform to the Town Code. However, it is the intent of the HPC, consistent with its purpose (§ 220-21B1-7) to assist in preserving the historic character and the historic fabric of the Town of Milton, to work in conjunction with applicants to arrive at the most desirable and appropriate outcome of their application to maintain harmony within the streetscape. To this end, the HPC may focus on height,

rhythm, scale and proportion as issues that the applicant will be asked to consider and, when appropriate, to alter their plan and/or design.

(20) Other factors that the HPC deems pertinent, consistent with the Municipal Code of the Town of Milton, the laws of the State of Delaware and the laws of the United States of America.

H. Enforcement.

(1) The Code Enforcement Officer shall, at least once a month, view the sites within the Historic District, properties designated as historic sites and maintain records of all site visits and notifications:

(a) To ensure that building permits have been issued and that work is being done in accordance with the permit issued for that site.

(b) To ensure that routine maintenance is performed to preserve structures within the Milton Historic District.

(2) The Code Enforcement Officer shall keep the HPC and Town Council advised, in writing, monthly, of all matters pertaining to the enforcement of this section relating to properties in the Historic District and properties designated as historic sites.

(3) Where sufficient cause exists to believe that the terms of this section have been violated, the Code Enforcement Officer or Project Coordinator shall immediately issue an order to the property owner of record and the individual(s) or entity performing any construction and/or demolition to cease and desist immediately.

(4) The property owner shall appear before the HPC at its next scheduled meeting for that matter to be addressed.

(5) The HPC shall make the final determination of whether a violation has occurred. If the HPC deems that a violation has occurred, the property owner shall be subject to penalties as outlined in § 220-211.

I. Penalty.

(1) Where a property owner has not obtained a building permit prior to commencing construction on a property:

(a) The property owner shall immediately make such application and pay any fees required with that application. In making the application, the property owner shall provide the required information as specified in § 220-21E.

(b) The property owner shall appear before the HPC at its next scheduled meeting for the application to be addressed.

(2) Where a property owner has obtained a building permit and the construction being done does not comply with what was previously approved by the HPC:

(a) The property owner may choose to alter the construction so as to be in compliance with what was previously approved by the HPC and with the issuance of the building permit;

(b) If the property owner does not alter the construction so as to be in compliance with what was previously approved by the HPC, the property owner shall immediately make application for a building permit listing such changes in construction;

(c) The property owner shall appear before the HPC at its next scheduled meeting to seek approval for these changes to the previously approved construction.

(3) Where a property owner allows ~~his/her~~ their property to become a safety hazard through neglect:

(a) The property owner shall appear before the Historic Preservation Commission at its next scheduled meeting for that matter to be addressed.

(b) A licensed structural engineering report shall be required from the owner to determine if the property can be salvaged.

(c) If the property can be salvaged, the owner will be encouraged to sell the property.

(d) Refer to Chapter 220, Zoning, Article XIII, Remedies.

(4) Where a property owner demolishes a building/structure without first obtaining a permit for such a demolition or if the property has become a safety hazard:

(a) The property owner shall appear before the HPC at its next scheduled meeting for that matter to be addressed;

(b) No building permit shall be issued for this property for a period from one year from the date of the demolition; and

(c) The property owner shall cause the site to be cleaned up and secured to the satisfaction of the Town.

(d) Refer to Chapter 220, Zoning, Article XIII, Remedies.

§ 220-22. Activities prohibited in all districts.

A. No effluent or matter of any kind shall be discharged into any stream or body of water ~~which~~ that violates established stream standards of the Delaware Department of Natural Resources and Environmental Control or otherwise causes objectionable odors or fumes or ~~which~~ that is poisonous or injurious to human, plant or animal life.

B. No person, firm or corporation shall strip, excavate or otherwise remove topsoil for sale or for use other than on the premises from ~~which~~ where the same shall be taken except in connection with the construction or alteration of a building in such premises and excavation or grading incidental thereto.

C. No use shall be permitted ~~which~~ that will produce corrosive, toxic or noxious fumes, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.

D. Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.

E. No wastewater effluent or spray irrigation containing toxins, biohazards, or industrial waste in any form shall be applied or used, except as permitted for agricultural lands actively being farmed in compliance with Title 3, § 2301 of the Delaware Code, or for agricultural lands in preservation and in compliance with Title 3, § 909(a)(5)e, of the Delaware Code.

Article V. Area and Bulk Regulations; Density Control

§ 220-23. Purpose.

~~In order to~~ To provide a sound environment including adequate open spaces for access to light and air, to facilitate the prevention of fire, to prevent undue concentration of population, and to lessen congestion in the streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this article.

§ 220-24. Density Control Table; calculation.

A. The Town of Milton Density Control Table, ~~which is~~ hereby adopted and declared to be part of this Town of Milton Zoning Ordinance, shows height, area and bulk requirements within each zoning use district within the Town of Milton.

B. For purposes of calculating the permitted density or allowable density in all districts, the gross area shall be divided by the applicable lot area stated in each district, unless otherwise specifically set forth therein. For purposes of this section, "gross area" shall include the lot areas and the area of land set aside for common open space or recreational use but shall exclude any area designated as a buffer for any tidal tributary stream, freshwater pond, lake or river pursuant to § **220-59**, any wetlands, either tidal or freshwater, designated as protected by state or federal law or both, and any public or private right-of-way.

§ 220-25. Corner lots.

There shall be a front yard of at least 15 feet on the side street of a corner lot in any district.

§ 220-26. Projections into required yards.

A. The following projections from the primary structure into required yards are permitted subject to dimensional restrictions designed to protect adjacent areas:

(1) Awnings or movable canopies and overhangs: six feet into any yard.

(2) Cornices, eaves, retaining walls and roofs: three feet into any yard.

B. Utility equipment may project five feet into the side yard or rear yard setbacks.

C. Any open porch or deck shall be considered a part of the building and may encroach up to 1/2 the distance on the side yard or rear yard setback. Paved terraces ~~which~~ that are not covered shall not be considered a part of the building.

D. Accessory uses and buildings may be located in accordance with Article VII of this chapter.

§ 220-27. Compliance with maximum residential density.

In all districts where residences are permitted, a lot held in single ownership may be improved for residential use according to the minimum lot size per dwelling unit and area bulk regulations for the district as set forth in the Density Control Table, provided that there shall be no more than one principal building and use on each lot except as provided herein. If two or more residential structures are proposed to be located on the same lot, the maximum average density requirement must be complied with, and the lot shall be subdivided so as to provide adequate width and yards.

§ 220-28. Side yard for multifamily dwelling units.

Side yards for semidetached, townhouses or multifamily dwelling units, where permitted, shall be required at the ends of the total structure only.

§ 220-29. Exceptions to front yard requirements.

On a street or road with existing buildings having a front yard setback that is less than that required in the district, any new or relocated building may have a front yard setback that is equal to the average setback of those existing buildings located on the same side of the street or road and being within 300 feet of the new or relocated building. Any vacant lot shall be calculated as having the required setback for the district.

§ 220-30. General exception to height regulations.

Projections such as chimneys, silos, church spires, domes, elevator shaft housings, water tanks, antennas, aerials, flagpoles, solar energy collectors and equipment used for the mounting and operation of such collectors, and other similar objects not used for human occupancy shall be subject to site plan approval prior to issuance of a building permit.

§ 220-31. Through lots.

In the case of a lot running through from one street to another street or alley, the frontage ~~on which~~ for the majority of the buildings in the block front shall be considered the primary frontage for the purposes of this chapter. In cases where there is no clearly defined frontage, the owner, when applying for a building permit, shall specify which lot line is considered the primary frontage. The rear portion of such a lot shall, however, be treated as a lot front for the purposes of determining required setbacks and locations of permitted structures and uses.

§ 220-32. Transition yard requirements.

Where a residential district and a nonresidential district are separated by a street, there shall be provided in the nonresidential district a landscaped setback or yard area a minimum of 15 feet in depth.

§ 220-33. Agricultural preservation district buffer.

All parcels adjoining an agricultural preservation district shall provide a minimum fifty-foot-wide landscape buffer, to include trees, along the agricultural preservation district and the placement of any principal structure shall be 100 feet from the agricultural preservation district line.

Article VI. Planning and Zoning Commission Site Plan Review and Special Use Permits

§ 220-34. Special uses.

A. Purpose and intent. The purpose of special use approval is to allow the proper integration into the community of uses ~~which that~~ may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics or the special characteristics of the area ~~in which~~ where they are to be located, special uses require special consideration so that they may be properly located with respect to the objective of this chapter and their effect on nearby properties.

B. Authorization to grant or deny special uses.

(1) The Planning and Zoning Commission is authorized to approve special uses. The special uses listed in this chapter may be permitted, permitted with conditions or not permitted by the Planning and Zoning Commission in accordance with the standards and procedures set forth in this section. In permitting a special use or the modification of a special use, the Planning and Zoning Commission may impose those standards and requirements expressly specified by this chapter and any additional conditions ~~which that~~ the Planning and Zoning Commission considers necessary and reasonable to protect the best interests of the surrounding property, the neighborhood, or the Town as a whole. These conditions may include, but are not limited to, size or controlling the location and number of vehicle access points, increasing the street width, limiting the number, size and location of ~~sign~~ signage, limiting hours of operation, and required fencing, screening and landscaping or other facilities to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a special use, any change in use or in lot area or an alteration of structure shall conform with the requirements dealing with special uses.

(2) On application and after public notice and hearing, the Planning and Zoning Commission may authorize the issuance, by the Code Enforcement Officer, of a permit for any of the special uses ~~for which that~~ this chapter requires such permits.

C. Procedures for special uses.

(1) A property owner(s) or ~~his~~ agent(s) may initiate a request for a special use or modifications of a special use by filing an application ~~which that~~ includes a legal description of the property, a proposed current site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 250 feet of the lot, plans and elevations necessary to show the proposed development, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee. For applicable special use filing fees, please consult the currently effective Town of Milton Fee Schedule.

(2) In the case where a special use has been approved a building permit shall be issued after the granting of the special use by the Planning and Zoning Commission, and then only in accordance with the terms and conditions of the special use permit.

(3) Before a special use is permitted the proposed special use shall be subject to public notice and a public hearing.

(4) The Planning and Zoning Commission, on its own motion, may revoke any special use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing. The forgoing shall not be the exclusive remedy, and it shall be unlawful and punishable for any person to violate any condition imposed by a special use permit. In such cases a period of 60 days shall be granted the applicant for full compliance prior to revocation of said permit. In cases where there is imminent danger to the public health, safety or welfare, the revocation of the special use permit shall be immediate.

(5) The Planning and Zoning Commission may require that special use permits be periodically renewed after notice and a public hearing to determine if the original conditions have been complied with or whether conditions have changed since the original special use permit was granted.

(6) The Planning and Zoning Commission may, at its discretion, waive any submission requirements ~~which that~~ it deems to be not relevant to the proposed use and site.

D. Standards governing special uses.

(1) A special use shall comply with the standards of the district ~~in which~~ where it is located. In approving such uses, the Planning and Zoning Commission shall take into consideration the public health, safety and welfare and comfort and convenience of the public in general and of the residents of the immediate neighborhood in general and shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives:

- (a) ~~In order to~~ To grant any special use, the Planning and Zoning Commission shall find that the request is in compliance with the general purpose and intent of this chapter, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with the use and the size of the site with respect to street giving access thereto.
- (b) ~~In order to~~ To grant any special use, the Planning and Zoning Commission shall find that the establishment, maintenance, or operation of the use applied for, under the circumstances of the particular case, will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of such proposed use or will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.
- (c) The proposal will not result in the destruction, loss, or damage of any natural, scenic or significant historical resource.
- (d) The proposal will not create excessive additional requirements of public costs for public facilities and services and will not be detrimental to the economic welfare of the community.
- (e) The proposal will be served adequately by ~~essential public facilities~~ utility systems, such as highways, streets, police and fire protection, stormwater drainage, ~~water and sewer~~, schools, or that the applicant for the proposed special use shall provide that these services be adequately obtained.
- (f) The proposal ~~essentially~~ conforms with the Comprehensive Plan.
- (g) All proposed structures, equipment or material shall be readily accessible for fire and police protection.
- (h) The proposed use shall be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district ~~in which~~ where it is proposed to be situated and shall not be detrimental to the orderly development of adjacent properties, in accordance with the zoning classification of such properties.
- (i) The proposal conforms to all applicable requirements of Article VII, Development Guidelines.
- (2) In addition to the above, in the case of any use located in, or directly adjacent to, a residential district:
- (a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to existing streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, the said residential district or conflict with the normal traffic of the neighborhood.
- (b) The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.
- (3) Additional special use requirements for a bed-and-breakfast.
- (a) The primary use of a bed-and-breakfast structure shall be residential.
- (b) Individual bed-and-breakfast units shall not contain cooking facilities, subject to the provisions of the ordinances of the Town.
- (c) Interior residential features shall be retained in a manner that will allow reconversion to residential use.
- (d) The dwelling shall be owner-occupied and managed.
- (e) No more than three units shall be rented and no more than two adults shall occupy a unit per night. An exception for this subsection may be granted by the Planning and Zoning Commission upon request of the applicant and subject to the provisions of the ordinances of the Town.
- (f) A business license shall be obtained in accordance with Chapter 93, Business Licenses, of the Code of the Town of Milton.
- (g) The bed-and-breakfast shall be subject to the provisions of the Town ordinances, county, state, and federal laws.
- (h) If granted, the initial bed-and-breakfast special use permit shall be issued for a one-year duration, renewable upon request of the property owner and review for compliance by the Project Coordinator. Thereafter the special use permit shall be reviewed only if complaints have been received.
- (i) The bed-and-breakfast use shall be shown not to be detrimental to the neighborhood.
- (j) All signs must comply with Article VIII of this chapter.

§ 220-35. Site plan review and approval.

A. Intent. The intent of site plan approval is to authorize the Town of Milton Planning and Zoning Commission to review and approve site plans for uses otherwise permitted by this chapter in order to determine full compliance with the intent of the standards of this chapter. The objective is to evaluate site plans ~~in order~~ to minimize conflicts between the site layout and design of proposed uses and existing uses and natural site conditions and thereby minimize any adverse effects affecting the health, safety, and overall welfare of the community. Accordingly, all applications with the required document attachments are due for review and eligibility the first business day of the month for the following month's Planning and Zoning Commission meeting. If the requirements *infra* are not met, a deficiency notice will be issued, and the application will not be placed on the Planning and Zoning Commission meeting agenda until the submission requirements are corrected.

B. Authorization.

(1) Prior to issuing a building permit for new construction and additions to existing structures more than 500 square feet, a site plan and supporting documentation shall be submitted to the Planning and Zoning Commission for its review and approval. Requirements for the three separate plan review procedures (concept, preliminary and final) are set forth in this chapter.

(2) The Planning and Zoning Commission shall require that the site plans be prepared by a licensed architect, surveyor or professional engineer; this requirement may be waived by the Project Coordinator on recommendations from the Town Engineer and Town Planner based on the complexity of the site features and of the proposed structure(s) or land use as related to same and after coordination with the Planning and Zoning Chairperson.

C. Applicability and exceptions.

(1) Administrative review is developed for projects with minor impact, ~~which~~ that require less information than a planning and zoning site plan and can be reviewed and approved in a shorter time period. In administrative review, the Project Coordinator of the Town of Milton is the approving authority. Administrative review is required for change of use plans and site plan exceptions. The administrative review eligibility, requirements and process can be found in § 220-38, Administrative reviews.

(2) One or more elements of an administrative review (§ 220-38) may be referred to the Planning and Zoning Commission as requested by the Project Coordinator. For such referrals, materials submitted to the Project Coordinator for administrative review shall be deemed sufficient for Planning and Zoning Commission review, and no concept, preliminary or final site plans shall be required.

(3) The following items are reviewed administratively under the building permit review process:

(a) Construction or expansion of a single one-family dwelling and ordinary accessory structures and related land use activities.

(b) Landscaping or grading ~~which~~ that is not intended to be used in connection with a land use reviewable under the provisions of this chapter.

(c) Ordinary repair or maintenance to existing structures or uses.

(d) Agricultural or gardening uses not involving ~~substantial~~ timber cutting.

(e) All signs, except in conjunction with new construction.

(f) Garage, yard and porch sales, if such sales take place more than a total of three days in any calendar year, in addition to town-wide yard sales.

D. Concept plan conference. Concept plan submittal is optional but strongly encouraged. The purpose of concept plan submittal is to encourage the person applying for a use to consult early and informally with the Planning and Zoning Commission in order to save time and money and to make the most of opportunities for desirable development.

(1) Requirements.

(a) If a concept plan is prepared, the applicant shall submit 10 copies to the Planning and Zoning Commission. Before preparing a concept layout, the developer may discuss with the Code Enforcement Officer the general requirements as to design of streets, reservations of land, drainage, sewage, water supply, fire protection, and other improvements as well as procedural matters.

(b) Developers of land adjoining state or country highways are advised to consult with the Town Engineer and the Delaware State Department of ~~Transpiration~~ Transportation at the concept stage to resolve problems of street openings or stormwater drainage at the earliest possible stage in the design process. The Planning and Zoning Commission shall provide written comments on the concept plan

of a proposed development, and ~~in the course of its review~~ may consult with other interested public agencies.

(2) The concept plan shall include the following information:

(a) An area map showing:

[1] Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.

[2] All adjoining properties, subdivisions, streets, sidewalks, trails, and adjacent buildings.

(b) A site development plan, including but not limited to:

[1] Existing natural features, such as ~~water bodies~~ waterways, watercourses, wetlands, wooded areas, and flood hazard areas.

[2] All existing built features.

[3] All proposed buildings, structures and public improvements.

[4] Sourcewater protection areas, wellhead protection areas, and excellent groundwater recharge potential areas.

[5] Slopes greater than 20 percent deviation of the horizontal surface.

(c) Name and address of owner(s) ~~or~~ of record.

(d) Name and address of developer.

(e) Name and address of ~~surveyor or engineer~~ licensed professional preparing the plan.

(f) Scale.

(g) Date of preparation.

(h) North arrow.

(i) Boundaries of the project shown in heavy outline.

(j) Dimensions of the property.

(k) Sussex County property identification number.

(l) Location of proposed lots.

(m) Open space (parks, parkways, playgrounds).

(n) Location of proposed access points to streets, sidewalks, and trails.

E. Preliminary site plan application. Applications for preliminary site plan approval shall be made in writing at Town Hall. No application will be scheduled for consideration by the Milton Planning and Zoning Commission until all submission requirements are met and the application is deemed eligible as indicated in this § 220-35.

F. Preliminary site plan requirements.

(1) The preliminary site plan application shall include the information listed below. The Planning and Zoning Commission may, at its discretion, waive any preliminary requirements which are not relevant to the proposed use and site.

(a) An area map showing the portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all streets, zoning districts, easements and adjacent buildings within 500 feet of the applicant's property.

(b) A preliminary site plan shall include the following items of information:

[1] Proposed name of project and name and address of the developer as well as the name and address of the owner, surveyor or engineer preparing the plan.

[2] North arrow, scale and date.

[3] Boundaries of the project submitted as a scale drawing with the scale used indicated on the drawing and shown in heavy outline.

[4] Existing natural features, such as watercourses, ~~water bodies~~ waterways, wetlands, wooded areas and individual large trees, showing features to be retained.

[5] Existing and proposed contours at intervals of one foot, and slopes greater than 20 percent deviation of the horizontal surface.

[6] Locations of proposed land uses and their areas in square feet or acres; the uses proposed and the height of each existing and proposed structure.

[7] Location of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences and easements, whether public or private.

[8] Description of sewage disposal and water systems and the location proposed for such facilities.

[9] Provision for buffer areas and other landscaping.

[10] Delineation of residential areas, if proposed, indicating the general extent of each area, description of the dwelling unit types proposed, and a calculation of residential density in dwelling units per gross acre for each such area.

[11] Location of all parking and truck-loading areas, showing access and ingress drives.

[12] The location, design and size of all signs and lighting facilities.

[13] The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space, and locations of proposed access points to streets, sidewalks, and trails.

[14] Building orientation, proposed building materials, building footprint and elevations.

[15] The location and design of all energy distribution facilities, including electrical, gas and solar energy.

[16] Provision for energy efficiency.

[17] Grading and erosion control measures including the proposed location of sediment ponds and interceptor swales, etc.

[18] Location of stormwater management facilities.

[19] The lines and dimensions of all property ~~which~~ that is offered, or is to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

[20] Right-of-way lines.

[21] Easements.

[22] Notations and descriptions of deed restrictions, if any.

[23] Dimension from center line of site entrance to center line of nearest road intersection.

[24] Sourcewater protection areas, wellhead protection areas, and excellent groundwater recharge potential areas.

~~[24]~~ [25] A "data column" with the following information:

[a] Total acreage within the project.

[b] Total acreage within open space.

[c] Total acreage within lots.

[d] Number of lots.

[e] Dwelling units (type and number).

[f] Average lot area.

[g] Minimum lot area.

[h] Maximum lot area.

[i] Density.

[j] Zoning classification of property.

[k] Number of permanent monuments (also locate and describe on plan).

[l] Sussex County property identification number.

[m] Percentage of impervious surface coverage of parcel.

[n] ~~Paving~~ Pavement and pavement markings.

[o] Buildings.

~~[25]~~ [26] Name of current adjacent property owners.

~~[26]~~ [27] Location of proposed lots.

[a] Setback lines.

[b] Open space (parks, parkways, playgrounds).

[c] Easements.

~~[27]~~ [28] Major excavations.

~~[28]~~ [29] General location, size, height and material orientation of proposed and existing signs.

~~[29]~~ [30] In case of proposed streets being dedicated to public use add the following note: "Subdivision streets constructed within the limits of the right-of-way dedicated to the public use shown on this plan are to be maintained by the Town of Milton following the completion of the streets by the developer to the satisfaction of the Town. The Town assumes no maintenance responsibilities within the dedicated street right-of-way unit the Town has accepted the streets."

~~[30]~~ [31] Owner's certificate as follows:

I, _____, hereby certify that I am the owner of the property described and shown on this plan, that the plan was made at my direction,* and that I acknowledge the same to be my act and desire the plan to be recorded according to Ordinance.

*In the case of proposed streets to be dedicated, the following should be added after the word "direction" to the above certification:

"...that all streets shown hereon and not heretofore dedicated are hereby dedicated to the public use and that all proposed monuments and markers shown hereon will be set at the location indicated"

~~[34]~~ [32] Engineers, land surveyors or architect certification as follows:

I, _____, hereby certify that I am a registered engineer, land surveyor, or architect in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represents good engineering, surveying, and/or architectural practices as required by the applicable laws of the State of Delaware.

Date _____ Seal _____ Signature _____

(c) The Planning and Zoning Commission may require additional information ~~which~~ that appears necessary for a complete assessment of the project.

(d) The Planning and Zoning Commission's review of the preliminary site plan shall include, but is not limited to the following considerations:

[1] Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.

[2] Location, arrangement, appearance and sufficiency of off-street parking and loading.

[3] Location, arrangement, size and design of buildings, lighting and signs.

[4] Relationship of the various uses to one another and their scale.

[5] Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.

[6] Adequacy of stormwater and sanitary waste disposal.

[7] Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.

[8] Compatibility of development with natural features of the site and with surrounding land uses.

[9] Adequacy of floodproofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency (FEMA).

[10] Adequacy of building orientation and site design for energy; the extent ~~to which~~ that the proposed plan conserves energy use and energy adequate sunlight for use by solar energy systems.

[11] Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.

[12] Adequacy of pedestrian access, circulation, convenience, connectivity to adjacent development (existing and future), and safety, including compliance with the requirements for access by the physically challenged which are incorporated in the American Disabilities Act (ADA).

[13] Building elevations, landscape plans, and lighting plans.

~~[13]~~ [14] Those requirements that apply that are found in Articles VII and VIII.

(2) In its review of a preliminary site plan, the Planning and Zoning Commission may consult with the Code Enforcement Officer, the Town Engineer, Fire and Police Departments, other local and Sussex County officials, and any designated private consultants, in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation District, the Delaware Department of Transportation (DelDOT) and the Delaware Department of Natural Resources and Environmental Control (DNREC).

G. Public hearing.

(1) Upon the Planning and Zoning Commission's certification that the preliminary site plan application is complete and satisfactory, the Planning and Zoning Commission shall schedule a public hearing. The applicant shall mail notices of such public hearings to the owners of all lands within a radius of 200 feet from all boundary lines of the property ~~for which~~ where site plan review is requested. The Town will provide the applicant with the required information to be included in the notification letter. Such notices shall be mailed, certified and postmarked at least 10 days prior to the date scheduled for

the public hearing. A list of properties notified, copies of proof of mailings and return receipts shall be provided to the Planning and Zoning Commission prior to the public hearing.

(2) In addition to any public notice required by this article, the Town Manager shall cause to be posted at one or more prominent and easily visible places on the property that is the subject of the preliminary site plan application, on an 18 inch by 24 inch placard, a public notice setting forth the date and time at which the Planning and Zoning Commission has scheduled a the public hearing on the preliminary site plan application; the name of the applicant; a description and size of the property involved; and a statement, in plain language, of the matter involved. One such notice sign shall be posted for each street where said property fronts. It shall be the responsibility of the applicant to maintain the notice signs in good condition during the posting period. Said notice signage shall be posted at least 15 days prior to the meeting the date of the public hearing.

H. Notification of decision on preliminary site plan. Within 30 days of the public hearing ~~at which~~ when a preliminary site plan is considered and upon receipt of all requested information, the Planning and Zoning Commission shall act upon it. The Planning and Zoning Commission's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the appropriate minutes of the Planning and Zoning Commission shall be a sufficient report. The Planning and Zoning Commission's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning and Zoning Commission's statement will contain the reasons for such findings. In such a case the Planning and Zoning Commission may recommend further study of the proposal and resubmission of the preliminary site plan. The approval for a preliminary site plan shall expire one year after the date of the approval by the Planning and Zoning Commission. The Planning and Zoning Commission may grant an extension for a period of up to one year if the applicant shows just cause for the extension.

I. Final site plan application.

(1) After receiving approval, with or without conditions, from the Planning and Zoning Commission on a preliminary site plan, and approval for all necessary permits, approvals, and curb cuts from responsible local, county and state officials, the applicant may prepare its final site plan and submit it to the Planning and Zoning Commission for its review and approval. Final site plan approval shall include the same items as required for preliminary plan approval.

(2) If more than one year has elapsed between the time of the Planning and Zoning Commission's report on the preliminary site plan and submission by the applicant of a final site plan application, and if the Planning and Zoning Commission finds that conditions have changed significantly in the interim, it may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan application for review. The final site plan shall conform to the approved preliminary site plan, and shall incorporate any revisions or other features that may have been recommended by the Planning and Zoning Commission at the preliminary review. All revisions shall be clearly indicated by the applicant. ~~A final site plan approval shall expire one year after the date of its approval by the Planning and Zoning Commission unless substantial construction has commenced.~~

(3) A final site plan approval shall expire one year after the date of its approval by the Planning and Zoning Commission unless substantial construction has commenced. However, upon a showing of good cause, an applicant may request and receive up to three one-year extensions, provided all county, state and federal outside agency approvals are current, before being required to resubmit a new application for site plan approval.

J. Notification of decision on final site plan. Within 60 days of the submission of the final site plan, the Planning and Zoning Commission shall render a decision.

(1) Upon approval, ~~the Chairperson of the Planning and zoning commission~~ Zoning Commission shall endorse its approval on a copy of the final site plan and shall forward it to the Code Enforcement Officer who shall then issue a building permit if the project conforms to all other applicable requirements.

(2) Upon disapproval, the Planning and Zoning Commission shall so inform the Code Enforcement Officer who shall deny a building permit. The Planning and Zoning Commission shall also notify the applicant in writing of its decision and its reason for disapproval. A copy of the appropriate minutes may suffice for this notice and shall be filed in Town Hall.

(3) Specifications for improvements shown on the site plan shall be those set forth in this chapter and in other ordinances, rules and regulations, or in construction specifications of the Town of Milton.

§ 220-36. Appeal.

A. The applicant, any Town of Milton property owner(s) or resident(s), or any property owner(s) individually noticed under this Article VI may appeal the decision of the Planning and Zoning Commission made under this Article VI. The appeal as detailed below shall be made to the Mayor and Town Council, with a copy sent to the Town Manager or designee, and shall be filed within 60 days from the Planning and Zoning Commission's decision. The fee to file an appeal shall be established in the currently effective Town of Milton Fee Schedule. In addition, unless the appellant is the prevailing party in the appeal, the appellant shall be responsible for reimbursing the Town for expenses incurred by the Town related to the appeal for engineering fees, attorney fees, transcription fees, and any other professional fees incurred by the Town as a result of said appeal; however, the reimbursement responsibility shall not exceed the amount of the escrow established in the currently effective Town of Milton Fee Schedule. An appellant may file with the appeal a request to proceed in forma pauperis based on financial circumstances on a form prescribed by the Town; if the Mayor and Town Council grant such request to proceed in filing in forma pauperis, the filing fee will be waived for the appellant, who shall also be relieved of any responsibility for reimbursing the Town for its expenses.

(1) All appeals hereunder must be taken up within a reasonable time and conducted as provided in the rules adopted by the Mayor and Town Council.

(2) The appeal shall be in writing and shall specify the grounds for the appeal, which must comport with the rules adopted by the Mayor and Town Council. The appellant should review applicable sections of said rules. The appeal shall identify the elements of the Planning and Zoning Commission's process or decision and material in the record relating to the specified grounds for the appeal.

(3) The Project Coordinator shall forthwith transmit to the Mayor and Town Council the documents constituting the record upon which the appeal is filed.

(4) The appeal shall stay all proceedings in furtherance of the action appealed from, unless the Mayor and Town Council certify that, by reason of the facts stated in the appeal, a stay would, in the opinion of the Mayor and Town Council, cause imminent peril to life or property. In such case, proceedings shall not be stayed.

(5) The Town Manager or designee shall fix a reasonable time for hearing the appeal, give notice to the appellant, appellee, and applicant. At the hearing, each party may appear in person, by agent or attorney, or any combination thereof.

(6) The Mayor and Town Council shall review the record of the matter before the Planning and Zoning Commission, shall consider the arguments presented on appeal, and shall make a determination as to whether the decision was a result of an orderly and logical review of the evidence and involved a proper interpretation and application of Article VI of Chapter 220. The appellant(s) shall bear the burden of persuasion. The Mayor and Town Council, in conformity with the provisions of the rules, shall take action on the appeal.

B. The applicant, any Town of Milton property owner(s) or resident(s), or any property owner(s) individually noticed under this Article VI may appeal the decision of the Project Coordinator of the Town of Milton made under this Article VI. The appeal as detailed below shall be made to the Planning and Zoning Commission, with a copy sent to the Town Manager or designee, and shall be filed within 60 days from the Project Coordinator's decision. The fee to file an appeal shall be established in the currently effective Town of Milton Fee Schedule. In addition, unless the appellant is the prevailing party in the appeal, the appellant shall be responsible for reimbursing the Town for expenses incurred by the Town related to the appeal for engineering fees, attorney fees, transcription fees, and any other professional fees incurred by the Town as a result of said appeal; however, the reimbursement responsibility shall not exceed the amount of the escrow established in the currently effective Town of Milton Fee Schedule. An appellant may file with the appeal a request to proceed in forma pauperis based on financial circumstances on a form prescribed by the Town; if the Planning and Zoning Commission grants such request to proceed in filing in forma pauperis, the filing fee will be waived for the appellant, who shall also be relieved of any responsibility for reimbursing the Town for its expenses.

- (1) All appeals hereunder must be taken up within a reasonable time and conducted as provided in the rules adopted by the Planning and Zoning Commission.
- (2) The appeal shall be in writing and shall specify the grounds for the appeal, which must comport with the rules adopted by the Planning and Zoning Commission. The appellant should review applicable sections of said rules. The appeal shall identify the elements of the Project Coordinator's process or decision and material in the record relating to the specified grounds for the appeal.
- (3) The Code Enforcement Officer shall forthwith transmit to the Planning and Zoning Commission the documents constituting the record upon which the appeal is filed.
- (4) The appeal shall stay all proceedings in furtherance of the action appealed from, unless the Planning and Zoning Commission certifies that by reason of the facts stated in the appeal statement a stay would, in the opinion of the Planning and Zoning Commission, cause imminent peril to life or property. In such case, proceedings shall not be stayed.
- (5) The Town Manager or designee shall fix a reasonable time for hearing the appeal, give notice to the appellant, appellee, and applicant. At the hearing, each party may appear in person, by agent or attorney, or any combination thereof.
- (6) The Planning and Zoning Commission shall review the record of the matter before the Project Coordinator, shall consider the arguments presented on appeal, and shall make a determination as to whether the decision was a result of an orderly and logical review of the evidence and involved a proper interpretation and application of Article VI of Chapter 220. The appellant(s) shall bear the burden of persuasion. The Planning and Zoning Commission, in conformity with the provisions of the rules, shall take action on the appeal.

§ 220-37. Fees for required special use permits, site plan review or administrative review.

The Town Council shall require the payment of fees to the Town of Milton by applicants whose proposals require special use permits or site plan review as described by this article. Fees for special permits, site plan review or administrative review in accordance with this article shall be established by resolution of the Mayor and Town Council and published in the currently effective Town of Milton Fee Schedule. The applicant will be responsible for engineering fees, legal fees and other fees for professional services required by the Town of Milton, provided that such fees were incurred only after the applicant's prior approval.

§ 220-38. Administrative reviews.

A. Intent. Administrative review is for projects with minor impact, ~~which~~ that require less information than a Planning and Zoning Commission site plan review and can be approved in a shorter time.

B. Authorization. In administrative review, the Project Coordinator for the Town of Milton is the approving authority for either or both of the following items:

- (1) Change of use, as defined in § 220-6.
- (2) Exterior alterations or additions to existing structures ~~which~~ that would not increase the square footage of the existing structures by more than 500 square feet.

C. Process and notification of decision.

(1) No application for administrative approval shall be accepted by the Town until:

- (a) An application in compliance with § 220-38D, Requirements, is submitted for review to the Project Coordinator;
- (b) Any required administrative fees have been paid; and
- (c) A completed application is submitted as prescribed by the Town, including supportive materials and identification of the site.

(2) An application requiring administrative review shall be submitted to the Project Coordinator. The Project Coordinator shall determine if such application complies with ~~town~~ Town ordinances, meets the intent of this chapter, and is consistent with all Town requirements. If so, the Project Coordinator shall affix ~~his/her~~ their signature on the application certifying approval. If the Project Coordinator finds that the application does not meet the intent of this chapter and/or is inconsistent with Town requirements, including the Town ordinances, then ~~he/she~~ the Project Coordinator shall deny approval.

and transmit that decision in writing to the applicant. Terms governing the appeal of such decision are set forth in § 220-36.

(3) The Project Coordinator shall not take any action to approve or deny an application requiring administrative review until the following has occurred:

(a) The application has been reviewed and determined that it is complete as required in § 220-38D, Requirements.

(b) Approvals of the application from all applicable outside agencies have been received.

(c) The Project Coordinator has sought advice and/or a review from the Town ~~Engineer, Town Planner or Town Attorney~~ consultants, if needed, the cost of which may be charged to the applicant with his/her prior approval.

D. Requirements. An applicant for administrative review shall submit a completed application form provided by the Town and provide any supplemental material required by the Project Coordinator.

E. Review categories. An application for administrative review shall comply with all existing laws, regulations and ordinances governing approval and provide sufficiently accurate data. Depending on the information submitted by the applicant in his/her application, the following categories will be reviewed by the Project Coordinator:

(1) Signage.

(2) Parking.

(3) Landscaping.

(4) Color schemes.

(5) Elevations/exterior.

(6) Lighting.

(7) Utilities.

(8) Interior floor plan.

(9) Others as determined necessary for review.

§ 220-39. (Reserved)

Article VII. Development Guidelines

§ 220-40. General.

The Planning and Zoning Commission, in reviewing a site plan, shall take into consideration the prospective character of the development and require that improvements be designed to be consistent with reasonable protection of the public health, safety, or welfare. The Code Enforcement Officer shall ensure compliance with this article and any other applicable ordinance, articles or sections.

§ 220-41. Streets, roads, and sidewalks.

Street systems shall be designed with due regard to the ~~needs~~ need for convenient traffic access and circulation; traffic control and safety; access for firefighting, snow removal, and street maintenance equipment; patrolling by the Police Department; and stormwater drainage and sewage disposal. Streets shall be designed to accommodate the prospective traffic, and so arranged as to separate through traffic from neighborhood traffic insofar as it is practicable. The regulations contained in this chapter are supplemented and are specifically subject to regulations contained in other ordinances of the Town of Milton; see for example Chapters 183 and 188 of Town of Milton Code.

§ 220-42. Off-street parking requirements.

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~~ dwellings, parking may be permitted in the front yard setback area on approved driveways. Under all circumstances except for single-family ~~homes~~ dwellings, 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~~ that 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 may, upon the presentation of evidence, vary the number and circumstances of the following parking space requirements, ~~in order~~ so 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 adequately light parking areas for safe vehicular and pedestrian movements at night. In addition, the lighting shall be designed to shield adjacent properties from glare.

(8) If the uses, structures or parcels ~~for which~~ where 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 may authorize the joint use of parking facilities upon a finding that the parking spaces required for a specified use ~~which~~ that is primarily a daytime activity may be used to satisfy the parking requirements for a specified use ~~which~~ that 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 in any district, except on the driveway of such 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 structures, as follows:

Table of Required Off-Street Parking Spaces, By Permitted Use

Permitted Use	Number of Spaces Required
Dwelling, Single-family detached dwelling unit	2 spaces per unit
2-family dwelling, Dwelling, Single-family Semi-detached	2-5 2 spaces per unit
Townhouses or Dwelling, Multiple-Family multifamily dwelling units	2-5 2 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, office buildings, banks, financial offices	1 space for each 300 gross square feet

Table of Required Off-Street Parking Spaces, By Permitted Use

Permitted Use	Number of Spaces Required
Retail establishments, veterinary hospitals, banks, and related commercial establishments of a personal service nature	1 space per 200 square feet used for sales plus 1 per 2 employees on largest shift
Restaurants	1 space per 100 square feet used for patrons plus 1 per 2 employees on largest shift
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 <u>or clinic</u>	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 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~~, and MURC 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 extend to the side and/or rear lot lines.

(2) Commercial Districts (C-1), Light Industrial Districts (LI-1), Limited Light Industrial Districts (LLI-1), Mixed-Use Residential and Commercial (MURC), 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 it.

(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 requirements may be varied in whole or in part upon findings by the Board of Adjustment pursuant to Article XI of this chapter.

F. Construction of parking areas. All off-street parking areas shall be constructed with concrete (regular, stamped, or pervious), hot-mix bituminous pavement (regular or pervious), pavers (brick, concrete, asphalt-block, natural stone such as cobblestone or slate, rubber from recycled tires),

surface treatment (tar and chip), 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) They shall be provided with curbing or wheel stops to keep parking vehicles within proper boundaries.
- (3) They shall be designed, graded and surfaced for proper drainage.

G. Landscaping. At least 10% of the area of a lot ~~usable~~ used for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material within landscape islands. 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.

§ 220-43. Off-street loading and unloading requirements.

A. In all districts, wherever a lot or structure ~~which that~~ is to be occupied by manufacturing, commercial, business or other similar uses requires the receipt and distribution by vehicles of materials or merchandise, there shall be provided and maintained, on said lot, off-street loading berths.

B. Loading berths shall be located to the rear of structures in such a way as not to unreasonably interfere with the movement of people and vehicles on public rights-of-way. The Planning and Zoning Commission may allow use of public rights-of-way to satisfy loading berth requirements.

C. Landscaping shall be as required in § 220-54.

§ 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. 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.

§ 220-45. Driveway standards.

A. Portions of driveways ~~which that~~ lie within public rights-of-way shall be constructed in conformance with the most recent specifications set forth by the Town and the Delaware ~~State~~ Department of Transportation.

B. All work and materials within public rights-of-way shall be furnished as required to meet specifications set forth by the Town and the Delaware ~~State~~ Department of Transportation.

C. No more than two driveways to a single commercial establishment entering on one street shall be permitted, except as permitted by the Delaware ~~State~~ Department of Transportation or the Planning and Zoning Commission.

(4) D. Any curb cuts will require approval by the Town, accompanied by a fee as established in the currently effective Town of Milton Fee Schedule, as well as any state permits required.

(2) E. For a single-family residence driveway and parking area, a suitable all-weather dust-free surface shall be provided and shall be designed, graded and surfaced for proper drainage.

F. Residential driveways must also comply with Article VI of Chapter 183.

§ 220-46. Fences and walls.

Fences and walls are permitted as follows:

A. Where a driveway meets a street, no fence, wall, hedge, or other planting shall be installed and maintained that exceeds 3 1/2 feet in height above grade or street pavement, whichever is greater, to within eight feet from the public right-of-way.

B. Clear vision area.

(1) At street intersections, nothing shall be built, placed, planted, or allowed to grow higher than 3 1/2 feet within the sight triangle measured along the right of way line above the curb level of the intersecting streets for a distance of 25 feet from the intersection and formed by connecting the respective 25 foot distances.

(2) The clear vision area in this Subsection B shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding 3 1/2 feet from the top of the curb line or street pavement, unless such plantings shall have all branches or foliage removed to a height of 8 feet above the finished grade.

(3) A demonstrative exhibit is hereby adopted by reference.

C. Fences, walls, hedges or screen plantings may be required, as specified elsewhere in this chapter for multifamily, commercial or industrial uses, as is necessary to protect the residential quality of adjacent property.

D. Fence and wall regulations.

(1) In all districts except the Limited Light Industrial District, Light Industrial District and Marine Resources Districts District, a maximum height of 3 1/2 feet above street pavement shall be allowed for fences and/or walls located in a front yard at a street intersection. Fences and walls shall be constructed of materials that shall not hinder clear vision in conformance with Subsection B of this section. Fences in side and rear yards shall not exceed eight feet in height above grade. The front yard is the distance from the front of the property to the required building line.

(2) In the Limited Light Industrial District, Light Industrial District and Marine Resource District, there shall be no restrictions, except that any fence or wall shall not exceed eight feet in height and that fences and walls located in a front yard at a street intersection shall be constructed of materials that shall not hinder clear vision in conformance with Subsection B of this section

(3) Fences with only one finished or decorative side, such as a wooden privacy fence.

(a) The finished or decorative side of a fence shall face toward the neighboring property; provided, however, that, if the neighboring property has a fence installed along the same lot line, upon a review by the Project Coordinator, the finished or decorative side may face inward.

(b) Replacement of a fence that has the only finished or decorative side facing inward shall require a review by the Project Coordinator, and if a neighboring fence along the same lot line does not exist, the finished or decorative side shall face the neighboring property.

§ 220-47. Design.

Every effort should be made to preserve unique physical features such as historic landmarks, stream banks, forested areas, natural lookouts, desirable views of hills as well as other major natural features and other unique natural features of the Town environment. Storm drainage, erosion and sediment control shall conform ~~with~~ to specifications set forth by the Town Engineer or other appropriate agencies.

§ 220-48. Open space, parks and playgrounds.

The Planning and Zoning Commission may, as a condition of site plan approval, require that specific areas be designated for recreational purposes. Such designation shall depend upon the magnitude and character of the project and accessibility to existing public recreational areas. All lands proposed for park or recreation purposes shall meet the following minimum standards.

A. Such lands shall be held in corporate ownership and maintained by an established organization.

B. Such lands shall have locational and physical characteristics ~~which~~ that render them readily usable for appropriate recreation purposes, and their locations shall be selected with a view to minimizing hazards and vehicular traffic conflict for children walking between such facilities and their homes in the neighborhood.

C. Any such area shall be located at a suitable place on the edge of the development so that additional land may be added at such time as the adjacent land is developed.

D. A detailed development plan shall be submitted with the final site plan for each neighborhood park or playground.

E. The development plan shall show how the entire area is to be graded, drained, and landscaped to make it a useful and attractive feature of the neighborhood.

§ 220-49. Utilities.

A. Provision for water supply and sanitary sewer shall conform to specifications set forth by the Town.

B. Utility easements. An easement shall be provided for all utility lines wherever those utility lines do not fall within a dedicated right-of-way. All utility easements shall be plotted on the site plan submitted to the Planning and Zoning Commission. Utility easements shall have a minimum width of 20 feet. All utility lines ~~which~~ that are primarily intended to provide service to the lots within a subdivision shall be installed underground at a depth and at such locations as will minimize risk of interruption of services.

(1) Additional easements. The Planning and Zoning Commission shall have the right to require additional easements when the purposes of the easements are found to be in the public interest.

(2) The regulations contained in this chapter are supplemented by and are subject to regulations contained in other ordinances of the Town of Milton; for example. See Chapters 170 and 215 of the Town Code of the Town of Milton.

§ 220-50. Light Industrial District regulations.

Design standards.

A. General standards. The following general standards are hereby adopted for the control of any industrial use:

(1) Smoke shall not be emitted when the shade of such smoke is darker than No. 2 on the Ringlemann's Scale for Grading the Density of Smoke published by the United States Bureau of Mines.

(2) ~~Noise~~ In addition to compliance with Chapter 148, noise levels shall not exceed 85 dba measured at the boundaries of the lot occupied by such use causing the same.

(3) Discharge of effluent into any sanitary sewer system shall not occur except in accordance with the provisions of the Code of the Town of Milton including Chapter 170.

(4) No outside storage or stacking of any hazardous materials shall be permitted.

(5) Any inside storage of hazardous material shall be in accordance with the standards of the Delaware Department of Natural Resources and Environmental Control.

B. Specific standards. The following specific standards are hereby adopted and must be complied with for any use in any Light Industrial District before the same be permitted, established, maintained or conducted:

(1) Storage facilities. Materials, supplies, or semifinished products shall be screened wherever possible in conformance with §§ 220-46 and 220-54.

(2) Wherever possible, provisions for handling of all freight shall either be on those sides of any building ~~which~~ that do not face on any street or proposed streets or be suitably screened therefrom.

(3) Buffers and landscaping:

(a) Landscaping. All areas of the site not occupied by buildings, parking, driveways or walkways, or storage shall be landscaped with lawn, trees, shrubs, or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain, as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises, and shall be provided in conformance with § 220-54.

(b) Buffers. Those lot lines adjacent to residential districts shall include a landscape buffer planted with a mixture of deciduous and coniferous trees and shrubs that will visually buffer the adjacent properties.

- (4) Off-street parking and loading. Off-street parking and loading shall conform to §§ 220-42 and 220-43.
- (5) Signs. Signs shall conform to the requirements of Article VIII, Signage.
- (6) Utilities. All water and sewer facilities shall be designed and installed according to Town standards as per § 220-49.

§ 220-51. Home occupations.

Home occupation uses shall conform to the following standards which shall be minimum requirements:

- A. No more than 25% of the total floor area of a dwelling unit or 500 square feet, whichever is less, shall be used for such use.
- B. The use shall be carried on wholly within the enclosed walls of the dwelling unit or an accessory building.
- C. No stock, merchandise, equipment or displays of any kind shall be visible from outside the dwelling unit or accessory building.
- D. No external structural alterations ~~which~~ that are not customary to a residential building shall be allowed.
- E. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the character of the neighborhood.
- F. No article is sold or offered for sale except such as may be produced by members of the family residing on the premises. Any form of business, the primary function of which is the wholesale or retail sale of goods or articles at the premises, shall be deemed a commercial use and shall not be permitted as a home occupation.
- G. Professional offices of a physician, dentist, lawyer, engineer, architect, surveyor or other like profession shall be subject to the following special conditions:
- (1) The professional use is clearly incidental to the residential use of the dwelling and does not change its basic residential character.
 - (2) The occupation is practiced at home.
 - (3) There shall be no display of products visible from outside of the dwelling.
 - (4) There shall be no external alterations inconsistent with the residential character of the dwelling.
 - (5) There shall be no storage of materials or products outside of the dwelling unless completely housed.
- H. No manufacturing, repairing or other mechanical work shall be performed outside of the dwelling. Such activity conducted inside the dwelling shall be conducted so that no noise, odor, glare, vibration, electromechanical interference or dust and smoke are perceptible beyond the property line.

§ 220-52. Antennas, towers and satellite dishes.

- A. No antenna, tower, microwave dish or satellite dish used for any other purpose than that of personal use of the structure will be permitted by right in any district. Any such personal use antenna, tower, microwave dish or satellite dish shall only be located in rear yards or, if not visible from the street level along the entirety of the front lot line, in side yards. However, this restriction shall not apply to any property ~~for which~~ where the owner, tenant or user provides evidence to the Town Code Enforcement Officer that the restriction unreasonably delays or prevents the use, unreasonably increases the cost of installation, maintenance or use, or precludes receiving or transmitting an acceptable quality signal. Each property owner, tenant, and user shall make all reasonable efforts to limit or eliminate the visual impact on the adjoining properties, such as screening by landscaping.
- B. Any apparatus used for the receipt or transmittal of UHF, VHF, HF or any other radio, video or microwave signal for commercial purposes will be considered a public utility system and will be reviewed on a case-by-case basis and approved by the Planning and Zoning Commission on an as-needed basis where it would be a benefit to the community of the Town and comply with §220-52.1.
- C. If there is any question as to the use, type, frequency or any other signal, a site plan review will be required by the Planning and Zoning Commission.
- D. Any historic site or any property in the HP-OD shall comply with § 220-21 G (7).
- E. If applicable to the site or property, any apparatus shall comply with the floodplain management regulations of Chapter 125.

§ 220-52.1. Wireless communication towers.

§ 220-52.1 Wireless communications towers.

- A. Applicability. This section applies to all wireless communications towers as defined in this section.
- B. Purposes. The purposes of this section are to:
 - (1) Accommodate the need for wireless communications towers while regulating their location and number in the Town and to ensure compliance with all Town, State and Federal regulations, including FCC and FAA regulations.
 - (2) Ensure the structural integrity of the tower through compliance with applicable State, Federal and industry standards and regulations.
 - (3) Promote the health, safety, and welfare of the residents of the Town.
- C. Definitions. The following definitions shall apply to the regulations and standards in this section.

ANTENNA SUPPORT STRUCTURE

Any pole, telescope mast, tower, tripod, lattice construction steel structure or any other structure that supports an antenna or has an antenna attached to it.

ANTENNA SUPPORT STRUCTURE HEIGHT

The vertical distance measured from the base of an antenna support structure at grade to the highest point of the structure, including any antenna affixed thereto. If the antenna support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna support structure height.

COLLOCATION

The act of siting wireless communications equipment on an existing support structure without the need to construct a new support structure and without a substantial increase in the size of an existing wireless communications tower.

EXISTING SUPPORT STRUCTURE

A previously erected structure designed to support a wireless communications tower including, but not limited to, monopoles, towers, and other freestanding, self-supporting structures.

WIRELESS COMMUNICATIONS EQUIPMENT BUILDING

A building or cabinet where electronic receiving, relay or transmitting equipment for a wireless communications tower is housed.

WIRELESS COMMUNICATIONS TOWER

The antenna, antenna support structure, wireless communications equipment building, parking and/or other structures, building, cabinets, and equipment involved in receiving or transmitting wireless communications or radio signals for commercial purposes.

- D. Where allowed. New wireless communications towers may be constructed as follows, provided that they meet the criteria set forth in this chapter and other applicable criteria for special permitted uses as a public utility system.
 - (1) On any lot owned by or in the possession and control of the Town.
 - (2) On any state, county, or municipal lot for its own internal communication needs.
 - (3) On any private property.
- E. Application requirements. Applicants seeking a special permitted use to construct, erect, relocate or alter a wireless communications tower shall comply with § 220-34, and provide the following:
 - (1) Specifications for proposed tower, antenna and other structures, including description of design characteristics and material.
 - (2) Site plan to scale showing property boundaries, tower location, height, guy wires and anchors, existing structures, elevation drawings depicting typical design of proposed structures, parking, access roads, fences, landscape plan, stormwater management plan, existing land uses on adjacent properties, and distance to all structures on adjacent properties.
 - (3) A report from a licensed structural engineer showing the tower capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with all the applicable Town, State, and Federal construction standards.
 - (4) A line-of-sight analysis showing the potential visual and aesthetic impacts as well as any attract/detract lighting impacts on the adjacent residential districts.

- (5) A written agreement to remove the tower and/or antenna within 60 days after cessation of use.
- (6) Proof of liability insurance procured for the Town to respond to claims up to \$1,000,000 in the aggregate that may arise from operation of the tower during its life, at no cost to the Town of Milton, in a form approved by the Town Solicitor.
- (7) Documentary evidence that all other authorized wireless communication service providers and owners of structures of a suitable height and location within a one-mile radius of the proposed area have been contacted by the applicant with a request for collocation and that request was denied.
- (8) Any additional information required by the Town for determination that all applicable zoning regulations are met.

F. Standards.

(1) Location.

- (a) The proposed tower, antenna and/or accessory structure shall be placed to allow the wireless communication tower to function in accordance with minimum standards imposed by the applicable communications regulations and the applicant's technical design requirements.
- (b) The locations proposed within the lot shall consider minimizing the visual impact on the surrounding area.
- (c) The applicant must show that the proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and the applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of applicant.

(2) Height.

- (a) The applicant shall demonstrate that the tower and the antenna must be at the height proposed to satisfy their function in the applicant's regional plan or grid system. The applicant shall also demonstrate that the antenna height and antenna support structure height requested are not in excess of the minimum required to function satisfactorily.
- (b) An antenna that is attached to a tower, telephone, electric, or utility pole, existing wireless communications tower, cellular communications or personal communications tower, water tower or other similar tall structure, together with any antenna support structure, shall not exceed the height of the existing structure by more than 10 feet.
- (c) An antenna that is not mounted on an existing antenna tower shall not have an antenna height in excess of the height restrictions in the zoning district where it is located.

(3) Setbacks.

- (a) The minimum distance between the base of any antenna support structure and any property line or right-of-way line shall be the larger of the following: the minimum yard setback in the underlying zoning district; or the collapse height of the proposed tower, as projected by a licensed structural engineer, plus 10 feet.
- (b) The minimum distance between the base of any guy wire anchors and any property line or right-of-way shall equal 40% of the proposed antenna tower height.
- (4) Fencing. A security fence shall be required around the antenna support structure and other equipment, unless the antenna(s) is mounted on an existing structure. The security fence shall be a minimum of six feet in height, with a maximum of 12 feet, as determined by the Planning and Zoning Commission, and maintained in accordance with the Town property maintenance codes.

- (5) Fully automated/required parking. The wireless communications tower shall be fully automated and not require any maintenance workers to be present on a full-time basis. Adequate parking shall be required for all maintenance workers, with a minimum of two spaces provided. All parking spaces shall be constructed to conform to applicable stormwater management regulations.

- (6) Signs. No signs or other structures shall be mounted on the wireless communications tower, except as may be required by the Town, State of Delaware, FCC, FAA or other governmental agencies.

- (7) Lighting. No tower may be artificially lighted except when required by the Town, FAA or other governmental authority. When lighting is required by the FAA or other governmental authority, it shall be oriented inward so as not to project onto surrounding properties.

- (8) Design for collocation; notice to other providers. The applicant shall provide documentary evidence that all other authorized wireless communication service providers for the proposed area have been contacted by the applicant with an offer of collocation on the applicant's

- proposed antenna support structure.
- (9) Landscaping. The following landscaping shall be required to screen much of a newly constructed wireless communication tower:
 - (a) The disturbance of the existing topography shall be minimized unless such disturbance would result in less visual impact on the surrounding area.
 - (b) Existing vegetation on and around the land site shall be preserved to the greatest extent possible.
 - (c) An evergreen screen shall be required to surround the exterior of the security fence around the tower base and any accessory structure. The screen can either be a hedge (planted three feet on center maximum) or a row of evergreen trees (planted 10 feet on center maximum). The evergreen screen shall be a minimum of six feet at planting, and shall grow to a minimum of 15 feet at maturity.
 - (d) Where the tower abuts residentially developed land, a residential zoning district, public land, or streets, the land site perimeter shall be landscaped with at least one row of deciduous trees, not less than three inches in caliper, spaced not more than 30 feet apart, on center, and within 25 feet of the land site boundary, as well as at least one row of evergreen trees or shrubs, at least 14 feet high when planted and spaced not more than 15 feet apart and within 40 feet of the land site boundary.
 - (10) Abandoned or unused portions of towers. Upon application for a tower, the owner or agent of the tower must supply the Town with a letter stating that if the tower is vacated for any reason, the owner or agent will remove the tower, all apparatus associated with it, the top three feet of the footing and restore the site to its original condition within 60 days of vacation of the tower. The owner or agent shall provide a bond in the amount of 125% of the cost for removal as determined by the Town Engineer.
 - (11) Safety and maintenance. The applicant shall demonstrate that the proposed tower and any accessory structure are safe and are in accordance with the applicable regulations, and comply with the following minimum standards.
 - (a) All towers shall be fitted with anticlimbing devices.
 - (b) The owner of the wireless communication tower shall conduct radiation tests upon inauguration of service and on an annual basis thereafter to assure compliance with the current ANSI on "American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency and Electromagnetic."
 - (c) Any tower and accessory structures not properly maintained shall be required to be removed at the expense of the persons having control or receiving benefits within 60 days after receiving notice of violation from the Town.

§ 220-53. Gasoline stations, service and repair garages and automobile sales areas.

Where permitted, a gasoline station, service and repair garage, automobile sales area or any business dispensing retail fuel shall conform to the following standards ~~which~~ that will be regarded as minimum requirements:

A. Minimum lot dimensions shall be:

- (1) Minimum design standards for driveways, curb cuts and other design features relative to access to public roads shall be those of the Delaware State Department of Transportation.
- (2) Minimum lot size shall be 15,000 square feet.
- (3) Minimum lot depth shall be 100 feet.
- (4) Minimum lot width shall be 120 feet.
- (5) Maximum lot coverage shall be 40%.
- (6) Minimum setback line from all street lines shall be 50 feet.
- (7) Minimum distance between any buildings and any lot zoned for residential use shall be 50 feet.
- (8) Minimum distance between any access driveway or curb cut and any lot zoned for residential use shall be 50 feet.
- (9) Minimum distance between gasoline pumps or pump islands, compressed air equipment, tire racks and similar equipment and facilities and any street right-of-way shall be 25 feet.

B. All automobile parts, including tires, are to be stored within a building. Tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind an eight-foot high fence, wall or natural screen in conformance with § 220-54 and at no point be visible over the screening.

C. All repair work is to be performed within a building. Automobiles waiting to be serviced on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjustor inspection may be stored for a period not to exceed 30 days and must be stored in the rear of the premises and screened to the greatest extent possible either inside a building or behind an eight-foot high fence, wall or natural screening in conformance with § 220-46.

D. A site plan must be submitted to the Planning and Zoning Commission.

E. Hydraulic hoists, service pits and all lubrication, greasing, repair and washing equipment must be entirely enclosed within buildings.

F. A ~~compact dense evergreen~~ coniferous landscape screen or a fence either solid or with narrow openings not more than one inch for each 10 inches of length and not less than six feet in height shall be placed along all property lines separating the establishment from any lot in an adjoining residential district.

G. Except for permitted curb cuts, a solid vertical curb in accordance with the Town standards and DelDOT standards if required must be provided along all street lines.

H. Exterior lighting must be located, designed and shielded so that it will ~~not~~ cause neither glare hazardous to passing motorists ~~and annoying nor nuisance~~ to adjacent properties.

I. Junked or stripped vehicles in an inoperative condition are prohibited on the premises.

J. All waste petroleum products must be stored in tanks meeting the approval of the National Fire Protection Association and State Fire Marshal.

K. A minimum of two off-street employee parking spaces and one off-street parking space for each service bay must be provided.

L. No vehicles shall be parked or equipment placed, goods displayed or sign or light erected within the street right-of-way.

M. The entire service area of all access driveways and parking places must be paved with a suitable all-weather dust-free surface and be graded to direct all water away from adjoining lots.

N. The minimum distance between any gasoline station and any school, day nursery, hospital, nursing home, library or similar use must be 200 feet, measured along the same street line in the same block from the nearest property line of the gasoline station.

O. Where the storage and sale of liquefied petroleum gases is carried on as an accessory use to a gasoline station, the required service station site plan must clearly show the number, locations and capacities of liquefied petroleum gas storage tanks. No tank shall be installed and no truck carrying tanks shall be parked closer than 25 feet from the street line or any property line.

P. Where the rental of utility trailers and/or small trucks is carried on as an accessory use to a gasoline station, the required site plan must clearly show the location and dimensions of the parking area for these vehicles. No more than 15% of the total lot area may be devoted to parking for rental utility trailers and trucks, and no trailer or truck may be parked closer to any street line than the setback distance required for gasoline pump islands. Parking areas for rental utility trailers and trucks must be clearly marked on the ground and must be located to avoid interference with normal customer traffic flow onto, within and from the service station lot and with traffic visibility at road intersection.

Q. Parking:

(1) No vehicle shall be parked, stored or left standing within 15 feet of the street line and/or fuel pump islands.

(2) Parking requirements shall be in conformance with § 220-42. Such parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the Planning and Zoning Commission to accommodate tractor-trailer delivery.

(3) Where parking areas abut a residential use, they shall be screened by a buffer area no less than 10 feet in depth composed of densely planted plant material, solid fencing, or a combination of both which, in the opinion of the Planning and Zoning Commission, will be adequate to prevent the transmission of headlight glare across the zone boundary line. Such buffer screen shall have a minimum height of six feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery or fences

becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs or fences.

R. All storage and display areas shall be provided with a hard, dust-free surface and shall be adequately drained.

S. A maximum of two driveways and curb cuts shall be permitted per lot frontage. These shall be no less than 20 feet and no wider than 30 feet, and located a minimum of 30 feet from any street intersection. A minimum distance of 30 feet shall be maintained between such driveways or curb cuts.

§ 220-54. Buffer and landscaping requirements.

A. Intent. The objective of this section is to ensure consideration of the physical and visual elements of land use development in the Town of Milton ~~which~~ that require, or may be improved, by buffering, setbacks and landscaping ~~in order to~~ enhance the appearance, screen or effectively separate different land uses and minimize impacts on adjoining uses such as dirt, litter, noise, glare and incompatible buildings or uses (such as outdoor storage, loading and parking areas). The Planning and Zoning Commission may require that a professional licensed landscape architect prepare plans under this section.

B. Buffer and landscaping techniques. The particular type of buffer and landscaping treatment shall be as determined by the Planning and Zoning Commission to meet the intent of this section. The following types of treatment may be considered:

(1) Landscaping and other screening, including tree planting, use of berms, and planting of shrubs designed to separate, obscure or soften an incompatible view or use.

(2) Visual setting, including ground cover and plant materials designed to stabilize the landform and provide an appropriate foreground or setting.

(3) Physical separation, including setbacks from public streets or adjacent uses in combination with plant materials or features designed to separate land use types or activities.

C. Planting standards.

(1) Trees, shrubs and hedges.

(a) Trees. All trees shall be plant species having an average crown spread of greater than 15 feet and having trunks ~~which~~ that can be maintained in a clean condition, free of branches from grade to five feet above grade. Trees having an average mature spread of less than 15 feet may be substituted by grouping the same so as to create the equivalent of a fifteen-foot crown. Tree species shall be a minimum of seven feet of overall height immediately after planting. Tree plantings along public rights-of-way shall be of native species.

(b) Shrubs and hedges. Shrubs shall be a minimum of two feet in height when measured immediately after planting. Hedges, when measured, shall be planted and maintained so as to form a continuous visual screen within two years after time of planting.

(2) All disturbed soil areas on the site shall be replaced with sod or reseeded with standard installation methods in accordance with the Delaware Erosion and Sediment Control Handbook.

(3) No landscape feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.

(4) All landscaping shall be adequately and regularly maintained and replaced as necessary.

D. Stormwater management ponds. Stormwater management ponds shall be landscaped by the property owner/homeowners' association. The use of the stormwater management areas for other than parkland or additional open space shall be prohibited. The landscaping of the stormwater areas shall be approved by the Planning and Zoning Commission and Soil Conservation District.

§ 220-55. Fast-food restaurants.

Where permitted, fast-food restaurants meeting the definition of this chapter shall conform to the following standards ~~which~~ that shall be regarded as minimum requirements.

A. Minimum lot size shall be 15,000 square feet.

B. At least one lot frontage shall be a minimum of 100 feet.

C. Access.

(1) A maximum of two driveways and curb cuts shall be permitted on each street frontage.

(2) All ~~drives~~ driveways shall be no less than 20 and no wider than 30 feet in width.

(3) ~~Drives~~ All driveways shall be located a minimum of 30 feet from any street intersection and shall maintain a minimum of 30 feet between such driveways or curb cuts.

(4) Driveways shall create minimal conflict with pedestrian access to the building from the parking lots and sidewalk abutting the property.

D. Parking.

(1) The number of parking spaces shall be as specified in § 220-42.

(2) Parking lots shall be designed to provide pedestrian safety.

E. Loading and unloading.

(1) Adequate space shall be provided for loading and unloading as specified in § 220-43.

(2) Off-street loading and unloading spaces shall be designed to provide pedestrian safety.

F. Landscape requirements. A landscaped area contiguous to the public right-of-way and extending a depth of 10 feet shall be provided. Landscaping, including coniferous trees, shall also be used to screen or buffer parking, dumpsters, freezers and other accessory uses as per § 220-54.

§ 220-56. ~~Drive-in~~ Drive-through use regulations.

Where permitted either as accessory to other permitted uses or as principal use, these facilities as defined in this chapter shall conform to the following standards which shall be regarded as minimum requirements.

A. All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes.

B. To the extent possible, lanes shall not cross any principal pedestrian access to the building or site.

C. Stacking or queuing requirements.

(1) Fast-food restaurants:

(a) Minimum of 140 feet between start of lane to service window.

(b) Minimum 80 feet from start of lane to order station.

(c) Minimum 60 feet from order station to service window.

(2) Banks and other businesses: minimum of 100 feet from start of lane to service window.

(3) Multiple drive-through lanes: The Planning and Zoning Commission may allow reductions for businesses with multiple drive-through lanes based on review of proposed traffic circulation and usage.

(4) All uses shall maintain a minimum distance of 60 feet from the service window to the public right-of-way or interior parking aisles.

§ 220-57. Commercial parking lots and structures.

All commercial parking lots and structures, as permitted in § 4.10, Use Regulation Table, shall conform to the following standards ~~which~~ that shall be regarded as minimum requirements:

A. Any parking garage facade fronting on a primary street shall achieve architectural unity/compatibility with the surrounding structures that it is intended to serve.

B. A minimum of 8% of the lot area shall be devoted to landscaping, including tree planting, ~~which~~ and shall be provided in conformance with § 220-54.

C. Adjacent sidewalks shall be rebuilt as necessary and shall be designed to promote pedestrian safety.

D. Ingress and egress shall be designed to promote the orderly flow of traffic to and from Town streets. Directional signs shall be used as necessary to ensure this flow.

E. All commercial parking lots shall include lighting that provides a safe environment for multimodal transportation, pedestrian and vehicular movements. In no case shall lighting negatively impact adjacent properties.

§ 220-58. Swimming pool regulations.

No swimming pool whether of the aboveground or in-ground type, shall be located, installed, constructed or maintained on any lot, except in conformity with the following requirements:

A. Where swimming pools are permitted as an accessory use, the following regulations must be complied with:

(1) Fences. In-ground swimming pools shall be completely enclosed by a fence of not less than four feet in height. Said fence shall have a gate with a lockable latch to control access to the pool area.

Aboveground pools less than 46 inches in height shall be similarly fenced. Aboveground pools which are 46 inches or more above the ground shall not require a fence. All accesses to aboveground pools shall be provided with a lockable gate or removable steps. A walk space of at least three feet in width shall be provided between the pool walls and the protective fence.

(2) Setbacks and coverage. Outdoor swimming pools shall be located in rear or side yards and shall maintain a minimum of 10 feet of distance from the property lines.

(3) Drainage. No permit shall be issued for such pool unless the applicant can show that the proposed drainage of such pool is adequate, makes maximum use of public highways, streets and area drainage facilities, and will not interfere with the property of others.

(4) Lighting. No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create ~~an annoyance~~ a nuisance to surrounding properties.

(5) Overhead wiring. No swimming pool will be placed under any overhead wiring or within an area surrounding the swimming pool ~~which~~ that extends 10 feet horizontally from an edge of the pool, diving structures, observation stands, towers or platforms.

B. Permits.

(1) A building permit shall be required for all swimming pools including those ~~which are~~ to be installed above ground and those to be installed partially or entirely below ground level.

(2) Applications for swimming pool permits shall comply with these regulations and with all other applicable requirements of the Code of the Town of Milton. Where the regulations are inconsistent, the more restrictive requirements shall govern.

§ 220-59. Protection of lands contiguous to certain bodies of water.

Other than jetties, bulkheads, embankments, flood gates, piers, or fills, all construction shall begin no closer than 50 feet from both high tidal and freshwater ponds, lakes, and rivers. In any case, compliance with state and federal regulations is required.

§ 220-60. Temporary structures.

A. For purposes of this section, "temporary structure" means a structure for use while relocation, construction or a short-term event is in progress and is not to be retained as part of the permanent improvements to the property once the relocation, construction or event is complete.

B. Except as otherwise permitted under the Town Code, it shall be unlawful for any person to construct, place, or permit to be constructed or placed on or adjacent to his or her property, any temporary structure upon any property or street within the Town; provided, however, that a temporary structure may be constructed or placed upon property within the Town pursuant to the terms and conditions in this section and as set forth for accessory structures and uses in this chapter; provided, however, that the person shall make application on the form provided by the Town, as required herein, and shall pay any applicable fee to the Town prior to construction or placement of such temporary structure as required in this section. The application shall include information and a dimensioned drawing or site plan showing the property, the location on the property for the temporary structure, any easements on the property, the size of the structure, and the reasons therefor.

C. For a temporary structure to be used in connection with construction, demolition, maintenance or repair on the premises, or the relocation onto the premises the following additional requirements apply:

(1) Temporary structures are limited to the following: dumpster; storage unit for property owner's noncommercial use; and portable toilet.

(2) The Town Manager or designee may, as a condition of approval and for good cause shown, modify and limit the size, number, and location of such temporary structures to minimize any adverse impact on nearby property, traffic, or safety.

(3) The approval shall automatically terminate at the earlier of six months or when the construction, demolition, maintenance, or repair activity is substantially complete, at which time all temporary structures shall be promptly removed. The Town Manager or designee may extend the six-month period upon a showing of good cause, but in no event shall such use exceed the duration of the Town

building permit. Any extension may be conditioned upon such terms or restrictions as the Town Manager or designee deems necessary to protect the public health, safety or welfare.

(4) All required zoning certificates and applicable building permits must be obtained from both the Town and Sussex County prior to any placement or construction of any temporary structure.

(5) The application and fee must be filed at least three working days prior to the placement of such temporary structures.

D. For a temporary structure to be used in connection with a private social gathering or private social event, any other gathering or event, festival or exhibition, such use may not exceed a maximum of three working days, and the following additional requirements apply:

(1) For a private social gathering or private social event, the application and fee must be filed at least three working days prior to the placement of any such temporary structure.

(2) For any other gathering or event, festival or exhibition, an application and any applicable fee shall be submitted at least 14 days before the placement of any such temporary structure.

(3) The Town Manager or designee may modify or limit the size, scale, scope, and location of such temporary structures, ~~in order~~ to minimize any adverse impact on nearby property, traffic or safety. The Town Manager or designee may extend the permitted period upon a showing of good cause, but in no event shall such use exceed 14 days. Any extension may be conditioned upon such terms or restrictions as the Town Manager or designee deems necessary to protect the public health, safety or welfare.

(4) The temporary structure shall be promptly removed when the private social gathering, private social event, any other gathering or event, festival or exhibition is completed and, in any event, no later than three working days.

Article VIII. Signage

§ 220-61. Intent.

The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of designated areas, and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment. Any sign which is greater in size than 32 square feet and which is to be placed along a state-maintained road must receive approval from DelDOT prior to installation.

§ 220-62. Sign definitions.

Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this Code, have the meanings shown herein:

ABANDONED SIGN

A sign structure that has ceased to be used for the display of sign copy, or as otherwise defined by state law.

ANIMATED SIGN

A sign employing actual motion or the illusion of motion, including digital signage. Animated signs, ~~which that~~ are differentiated from changeable signs as defined and regulated by this chapter, include the following types:

A. Electrically activated. ~~Animated animated~~ signs producing the illusion of movement by means of electronic, electrical or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

(1) Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle ~~in which where~~ the period of illumination is either the same as or less than the period

of nonillumination. For the purposes of this chapter, flashing will not be defined as occurring if the cyclical period between on/off phases of illumination exceeds four seconds.

(2) Patterned illusionary movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

B. Environmentally activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

C. Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

ARCHITECTURAL PROJECTION

Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "awning" and "canopy, attached and freestanding."

AWNING

An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

AWNING SIGN

A sign displayed on or attached flat against the surface or surfaces of an awning. See also "wall or fascia sign."

BANNER

A flexible substrate ~~on which~~ where copy or graphics may be displayed.

BANNER SIGN

A sign utilizing a banner as its display surface.

BILLBOARD

See "off-premises sign" and "outdoor advertising sign."

BUILDING ELEVATION

The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

CANOPY (ATTACHED)

A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also "marquee."

CANOPY (FREESTANDING)

A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffit of a freestanding canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN

A sign affixed to the visible surface(s) of an attached or freestanding canopy. For reference, see § 220-63.

CHANGEABLE SIGN

A sign with the capability of content change by means of manual or remote input, including signs which are:

A. Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices, or it may be from an external light source designed to reflect off the changeable component display. See also "electronic message sign or center."

B. Manually activated. Changeable sign whose message copy or content can be changed manually.

COMBINATION SIGN

A sign that is supported partly by a pole and partly by a building structure.

COPY

Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN

A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, ~~which that~~ is controlled by a single owner or landlord and approved in accordance the requirements of this chapter.

DIGITAL SIGN

See "**ANIMATED SIGN.**"

DIRECTIONAL SIGN

Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DOUBLE-FACED SIGN

A sign with two faces, back to back.

ELECTRIC SIGN

Any sign activated or illuminated by means of electrical energy.

ELECTRONIC MESSAGE SIGN OR CENTER

An electrically activated changeable sign whose variable message capability can be electronically programmed.

EXTERIOR SIGN

Any sign placed outside a building.

FASCIA SIGN

See "wall or fascia sign."

FLAG

A usually rectangular piece of fabric of distinctive design that is used as a symbol (as of a nation), as a signaling device (open) or as a decoration. National flags and flags of political subdivisions shall not be considered flags for the purpose of this article.

FLASHING SIGN

See "animated sign, electrically activated."

FREESTANDING SIGN

A sign principally supported by a structure affixed to the ground and not supported by a building, tree or utility pole, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference, see § 220-63.

FRONTAGE (BUILDING)

The length of an exterior building wall or structure of a single premises orientated to the public way or other properties that it faces.

FRONTAGE (PROPERTY)

The length of the property line(s) of any single premises along either a public way or other properties on which it borders.

GROUND SIGN

See "freestanding sign."

ILLUMINATED SIGN

A sign characterized by the use of artificial light, either projecting through its surface~~(s)~~ [internally illuminated] or reflecting off its surface~~(s)~~ [externally illuminated].

INSTITUTIONAL SIGN

A sign identifying an institutional use.

INTERIOR SIGN

Any sign placed within a building, but not including "window signs" as defined by this chapter. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

MANSARD

An inclined decorative roof-like projection that is attached to an exterior building facade.

MARQUEE

See "canopy (attached)."

MARQUEE SIGN

See "canopy sign."

MENU BOARD

A freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window and which has no more than 20% of the total area for such a sign utilized for business identification.

MULTIPLE-FACED SIGN

A sign containing three or more faces.

OBSCENE SIGN

A sign that displays material within the definition of obscene in Title 11, Section 1364, of the Delaware Code, as amended.

OFF-PREMISES SIGN

See "outdoor advertising sign."

ON-PREMISES SIGN

A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of the property ~~on which~~ where it is displayed.

OUTDOOR ADVERTISING SIGN

A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of the property ~~on which~~ where it is displayed.

PARAPET

The extension of a building facade above the line of the structural roof.

POLE SIGN

See "freestanding sign."

PORTABLE SIGN

Any sign not permanently attached to the ground or to a building or building surface.

PROJECTING SIGN

A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see § 220-63.

REAL ESTATE SIGN

A temporary sign advertising the sale, lease or rental of the property or premises ~~upon which~~ where it is located.

REVOLVING SIGN

A sign that revolves 360° about an axis. See also "animated sign, mechanically activated."

ROOFLINE

The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

ROOF SIGN

A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and ~~which~~ is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference, and a comparison of differences between roof and fascia signs, see § 220-63.

SIGN

Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

SIGN AREA

The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, ~~which~~ that comprise the sign face. The area of any double-sided or V-shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50% of the sum of the area of all faces of the sign.

SIGN COPY

Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE

The surface upon, against or through which the sign copy is displayed or illustrated not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border. See § 220-63.

A. In the case of panel or cabinet-type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

B. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed.

C. In the case of signs painted on a building or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy.

D. In the case of sign copy enclosed within a painted or illuminated border or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background or within the painted or illuminated border.

SIGN STRUCTURE

Any structure supporting a sign.

TEMPORARY SIGN

Portable signs or any sign not permanently embedded in the ground or not permanently affixed to a building or sign structure that is permanently embedded in the ground are considered temporary signs.

V SIGN

Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an angle between faces of not more than 90° with the distance between the sign faces not exceeding five feet at their closest point.

WALL OR FASCIA SIGN

A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or projections from a building, provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed. For a visual reference and a comparison of differences between wall or fascia signs and roof signs, see § 220-63.

WINDOW SIGN

A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

§ 220-63. General regulations.

A. General sign types. General sign types and the computation of sign area shall be as depicted in Figures 1 through 4.

Figure 1
General Sign Types
General Types
 (Source: 2003 International Zoning Code)

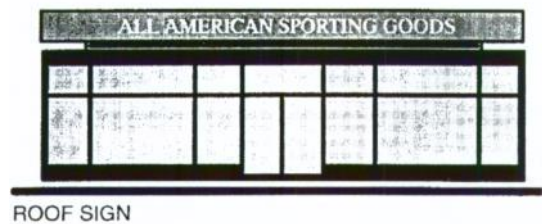
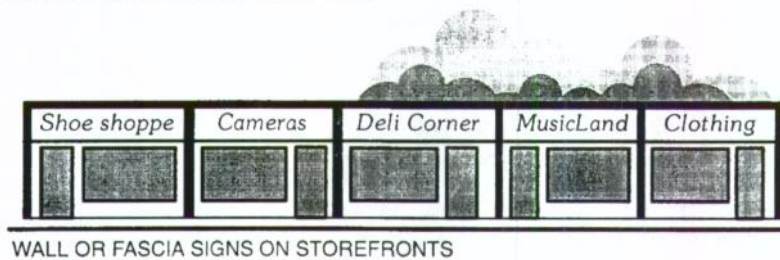
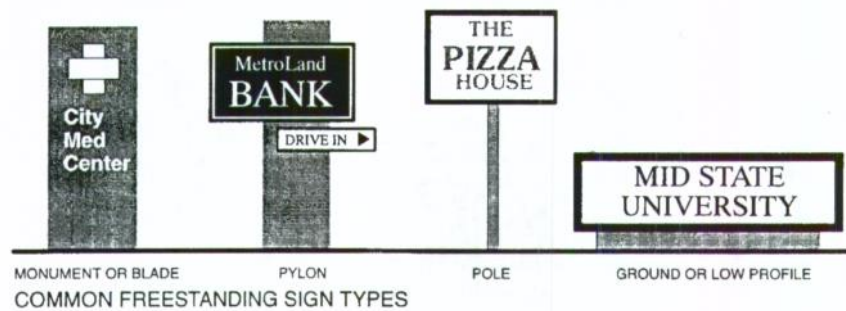


Figure 2
General Sign Types
Roof and Wall and Fascia Signs

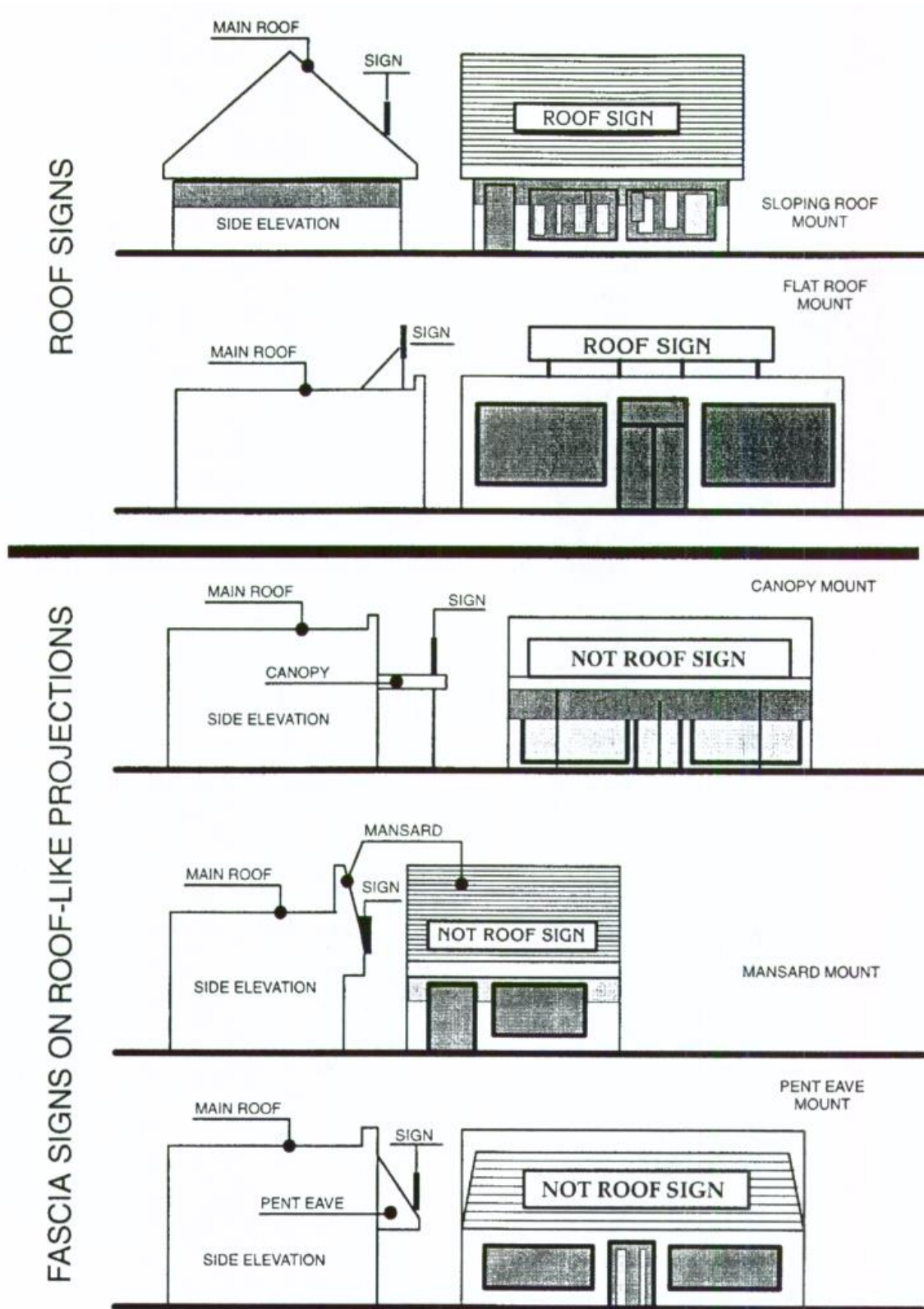


Figure 3
General Sign Types
Sign Area Computation Methodology

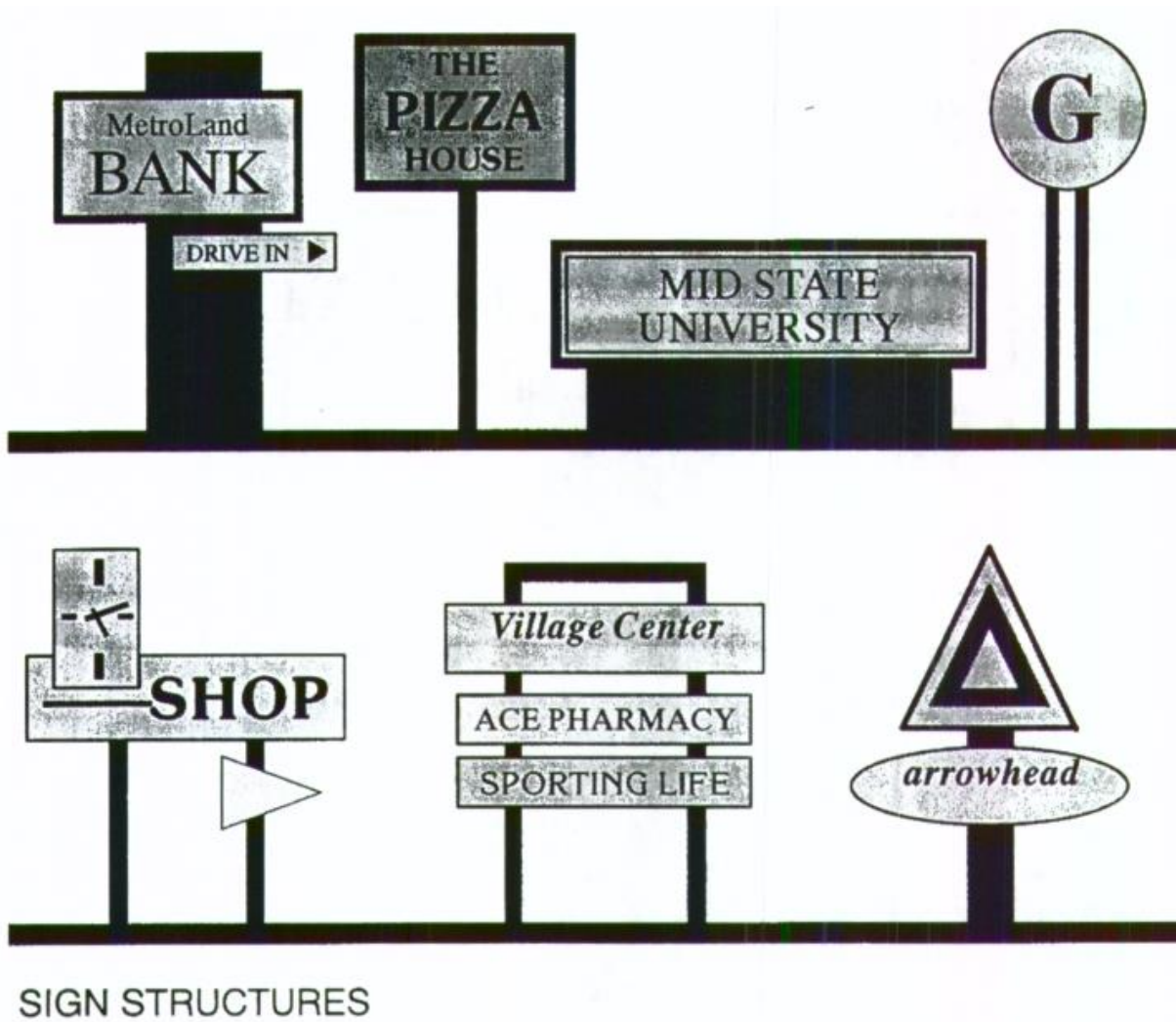


Figure 4
General Sign Types
Computation Methodology



Notes: Sum of shaded areas only represents sign area for Code compliance purposes. Signs consisting of individual letters, elements or logos placed on building walls or structures.

B. Signs restricted.

(1) The construction, erection, alteration, reconstruction, display, ownership, maintenance or operation of any sign within the Town except as provided by this article is hereby prohibited.

- (2) Signposts are specifically prohibited from the public right-of-way with the exception of those that are necessary or recommended by the State of Delaware Manual of Uniform Traffic Control Devices.
- (3) Signs overhanging the public right-of-way are specifically prohibited except as provided by this article.
- (4) Obscene signs are prohibited.
- (5) No electric sign or electrically illuminated sign, or any sign board, signpost, portion of any advertising nature or otherwise shall be permitted or allowed to remain on the sidewalk nor on any portion of the Town streets.
- (6) No animated, sign or electronic message sign or center is permitted in any district.
- C. Institutional signs. Institutional signs shall not exceed 32 square feet in size nor shall there be more than one such sign per institution.
- D. Temporary banners within right-of-way. Signs, other than official street or traffic signs, shall not be erected within the right-of-way lines of any street, except that temporary banners may be permitted for festivals or special events with the requirement that special permits for such banners shall be issued by the Code Enforcement Officer for periods no longer than 10 days. Applicants are responsible for ensuring the safety of the public, and the Town of Milton takes no liability for the sign.
- E. General provisions:
- (1) Permits required. A sign permit shall be required before any sign or billboard may be erected, altered, reconstructed or displayed within the Town except as provided by this article.
- (2) Application for permit. Written application shall be made to the Code Enforcement Officer on a form provided by the Code Enforcement Officer and shall be accompanied by complete plans and specifications showing the construction, method of support and materials to be used. Application may be made by the owner of the property ~~upon which~~ where such sign is to be placed. The Code Enforcement Officer may require the plans and specifications be signed by a professional engineer or architect registered in the state.
- (3) Permit fees. Each application shall be accompanied by a fee as established by the Town Council, ~~which that~~ that may be amended or modified from time to time. For signage fees, please consult the currently effective Town of Milton Fee Schedule. The Code Enforcement Officer of the Town of Milton may require proof of the monetary value of the sign.
- (4) Upon the approval of the Code Enforcement Officer of such application and of the place and manner of erecting the sign therein mentioned, and upon writing or stamping thereon the amount of the fee required for the sign applied for, the applicant shall pay to the Code Enforcement Officer the fee prescribed by this section, and thereupon shall issue to the applicant a permit for the applied sign ~~applied for~~.
- (5) Unsafe, unlawful and deteriorating signs. Whenever it shall appear to the Code Enforcement Officer that any sign has been constructed or erected or is being maintained in violation of the terms of this article, or is unsafe or insecure, or is a menace to the public, or has been allowed to deteriorate, the Code Enforcement Officer shall give written or verbal notifications to the property owner and/or tenant. Said sign shall be removed or repaired and placed in a safe condition after receipt of the written or verbal notification. If the foregoing is not complied with, the Code Enforcement Officer shall have the sign in question removed and the bill for the cost of removal sent directly to the property owner. If the bill for the cost of removal is not paid within 60 days, a lien will be placed on the property.
- (6) In the event a sign has been damaged and presents an immediate threat to the public, the Code Enforcement Officer may order the immediate removal of said sign and take appropriate action to protect the public and recover costs. Any time a business goes out of business or moves, the owner or company shall remove all signs and structural supports.
- (7) Sign mounting. All exterior signs shall be securely mounted and anchored.
- (8) Restrictions. Signs shall not in any way obstruct the required door or window area of any building or structure. Signs shall not be attached to or placed upon any portion of a fire escape. Signs shall not be erected that will in any way interfere with the activities of the Fire Department. Signs constructed or erected after the adoption of this chapter shall not be rotating or contain any moving parts.
- (9) Traffic control signs. Signs necessary for traffic control on private property and containing no advertising may be erected, not to exceed an area of 12 square feet per sign.
- (10) Exemptions. The provisions of this article shall not apply to the following signs:
- (a) Traffic signs erected by governmental bodies.

- (b) Railroad warning signs.
- (c) Municipal signs.
- (d) Memorial signs or tablets, names of buildings and date of erection when cut in any masonry surface or when constructed of bronze or other noncombustible materials.
- (e) Occupational signs denoting only the name and profession of an occupant in commercial buildings and the name and nature of the occupancy in public and institutional buildings. Such signs shall not exceed 4 1/2 square feet in area.

(11) Illumination:

(a) Signs may be illuminated at night by backlighting or direct lighting only, provided that the latter is so screened as not to cast any direct light upon any residence or street right-of-way. No sign or lighting device shall be of the flashing, intermittent or reciprocating type.

(b) Illuminated signs must bear the National Underwriters Seal of Approval or must be inspected and approved by the Code Enforcement Officer.

(12) Glass in any wall sign must be safety glass or comparable material.

(13) Attaching to trees, poles or structures. It shall be unlawful for any person to paint, post, place or fix any business or commercial advertisement, paper, handbills or circulars, or cause the same to be done upon any utility poles, structures or trees within the limits of the Town.

(14) No nonconforming sign may be replaced without conforming to the provisions of this article.

F. Temporary signs, subject to the following limitations:

(1) No artificially illuminated signs of any type are allowed.

(2) Size is limited to six square feet per side; however, any property that is advertised for sale in a nonresidential district may have one sign up to 16 square feet.

(3) Signs must be freestanding.

(4) No more than four signs are allowed per lot.

(5) No sign shall be placed closer than 25 feet to an intersection.

(6) No signs shall be placed in a right-of-way.

(7) No permit is required for temporary signs under this subsection.

(8) No sign shall be so close to the sidewalk or public thoroughfare that it interferes with pedestrian or vehicle traffic.

G. Flags.

(1) When installed over a public sidewalk the bottom of the flag shall be no less ~~than~~ than six feet above the established sidewalk.

(2) The flag shall not impede pedestrian traffic along public sidewalks.

(3) The size of the flag shall be no larger than three feet by five feet.

(4) Flags displayed by businesses within the Town Center District shall be limited to the hours ~~which~~ that the business is open or dawn to dusk, whichever is shorter.

§ 220-64. Signs in the R-1, R-2 and R-3 Residential Use Districts.

Signs in R-1, R-2 and R-3 districts shall conform to the following regulations:

A. Identification signs. Identification signs shall be permitted as an accessory use in any residential district as follows:

(1) Customary professional or home occupation identification signs not over 4 1/2 square feet in size, related solely to the profession or home occupation conducted on the premises by a resident thereof.

(2) No more than one such identification sign shall be permitted for each professional or other person so engaged and residing in the premises, but if a dwelling has frontage on more than one street, an additional identification sign shall be permitted for each additional frontage.

(3) Such identification sign may be affixed to the face of the building or may be erected on a post or posts not over four feet high, located in the yard but at least five feet from the property line and not to impede pedestrian traffic.

(4) The sign may not be illuminated.

(5) A permit is required.

B. Bulletin boards.

- (1) Permanent bulletin boards or similar announcement signs are allowed only for churches and other nonprofit institutions. They may not exceed 32 square feet in gross area and shall be located at least five feet from the property line. One such sign shall be permitted for each street frontage.
- (2) Signs may be illuminated at night by backlighting or by direct lighting, provided that the latter is so screened as not to be visible from an adjacent residence.
- (3) A permit is required.

§ 220-65. Signs in the T-C Town Center District and MURC District.

The intent of the sign standards for the T-C Town Center District is to provide guidelines for the overall size and dimensions, design, illumination, and placement of signs ~~which~~ that allows for variety while at the same time maintains the historic character and pedestrian scale of the Town Center District.

A. The following types of signs are permitted in the T-C Town Center District and the MURC District:

- (1) Window signs.
- (2) Wall signs.
- (3) Projecting signs.
- (4) Ground signs.
- (5) Awnings.
- (6) Sandwich board signs.
- (7) Signs permitted in § 220-64.

B. Size limitations. The total display area of all signs, including window, wall, ground and awnings and excluding sandwich board signs, permitted on a single lot shall be 1.5 square feet of display area for each linear foot of building frontage facing the main street or highway.

C. Window signage.

(1) No window sign shall occupy more than 40% of the total area of the window ~~upon which~~ where it is located.

D. Wall signs.

- (1) No wall sign shall extend above the roofline of the building ~~upon which~~ where it is attached.
- (2) No wall sign shall cover, wholly or partially, any wall opening.
- (3) No wall sign shall include moving, flashing, or animated parts.
- (4) No wall signs shall be painted directly on the face of a building.
- (5) Wall signs shall be at least eight feet above the sidewalk.
- (6) Only one wall sign shall be permitted per facade.
- (7) The sign may not be illuminated.

E. Ground signs.

- (1) One ground sign shall be allowed per location.
- (2) Signs shall be no more than eight feet in height.
- (3) Total display area shall not exceed 24 square feet.
- (4) Any lighting of the ground sign shall be directed to the sign itself or intentionally illuminated so as not to impact surrounding properties.
- (5) No ground sign shall be located in the public right-of-way.
- (6) No ground signs shall present a physical or visual obstruction to vehicular or pedestrian traffic.

F. Projecting signs.

- (1) Total area shall not exceed 20 square feet.
- (2) No projecting sign shall extend above the roofline of the building ~~to which~~ where it is attached.
- (3) No projecting sign shall cover, wholly or partially, any wall opening.
- (4) No projecting sign shall include moving, flashing or animated parts.
- (5) Projecting signs shall be at least eight feet above the sidewalk.
- (6) Only one projecting sign shall be permitted per facade.

G. Awnings.

- (1) The outer edge of an awning shall not extend within 12 inches of the inside ~~curbline~~ curb line.
- (2) The lowest edge of the awning shall be attached no lower than eight feet above the sidewalk.
- (3) Awnings shall be constructed of fabric or metal (no plastic awnings).
- (4) The sign may not be illuminated.

H. Sandwich board signs.

- (1) Sandwich board sign display area shall not exceed six square feet per side, or a total of 48 inches in height.
- (2) No sandwich board sign shall be taller than four feet from the level of the sidewalk.
- (3) Sandwich board signs shall be designed so as not to be an obstruction to any public space or walkway.
- (4) No sandwich board sign shall be illuminated.
- (5) Display hours will be from dawn to dusk.

§ 220-66. Signs in the C-1 Commercial and Business Use District.

A. The following types of signs are allowed in the C-1 General Commercial Use District. Each business establishment shall be allowed the following types of signs only, ~~which~~ and shall be installed at the business location only. Further, any area allowed in a ground sign or a pole or pylon type shall be deducted from the total area allowed under Subsection B, Size limitations, of this section.

- (1) Wall sign.
- (2) Projecting.
- (3) Ground sign.
- (4) Monument and pole or pylon sign.
- (5) Roof sign.
- (6) Canopy sign.
- (7) Awning sign.
- (8) Window signs.

B. Size limitations. The total display area of all signs, including wall, projecting, ground, pole, pylon, roof, canopy, awning and window, permitted upon a single lot shall be two square feet of display area for each linear foot of building frontage facing the main street or highway.

C. Wall signs.

- (1) Any sign attached to a building shall not extend more than 50% above the roofline immediately behind the sign, and in no case shall the sign extend above same roofline by more than five feet.
- (2) Wall signs shall not extend more than 12 inches from the face of the building into any street, alley, sidewalk, thoroughfare or other public space.
- (3) Wall signs projecting six inches or more into any public space from the face of a building shall have a clearance of not less than eight feet between the bottom of such sign and the sidewalk level of any public thoroughfare.

D. Projecting signs.

- (1) Total area shall not exceed 30 square feet.
- (2) No projecting sign shall extend above the roofline of the building ~~to which~~ where it is attached.
- (3) No projecting sign shall cover, wholly or partially, any wall opening.
- (4) No projecting sign shall include moving, flashing or animated parts.
- (5) Projecting signs shall be at least eight feet above the sidewalk.
- (6) Only one projecting sign shall be permitted per facade.

E. Ground signs. Two ground signs may be permitted not exceeding 65 square feet in total area and subject to the following regulations:

- (1) Ground signs shall not be more than 10 feet each in height as measured from the ground.
- (2) Any open space between the ground and the bottom of the sign shall not exceed three feet.
- (3) Ground signs may not be located in any area ~~which~~ that shall affect visibility for motor vehicle traffic.

F. Monument pole or pylon signs. One monument pole or pylon sign may be permitted per street frontage but no more than two and not exceeding 72 square feet each in area and subject to the following regulations:

- (1) The height of the monument pole or pylon shall not be more than 28 feet above the ground or curb, whichever is lower.
- (2) An open space of not less than 10 feet for a pole or pylon sign shall be maintained between the ground level and the bottom of such sign.

G. Roof signs.

- (1) No roof sign shall extend above the peak of the roofline of the building ~~upon which~~ where it is attached.
- (2) No roof sign shall cover, wholly or partially any wall opening.
- (3) No roof sign shall include moving, flashing or animated parts.
- (4) Only one projecting sign shall be permitted.
- (5) Total area shall not exceed 48 square feet.

H. Canopy signs and awnings.

- (1) Canopy signs and awning signs shall be no lower ~~that~~ than eight feet above the sidewalk and 12 feet above any area used by motor vehicles.
- (2) No canopy or awning sign shall include moving, flashing, or animated parts.
- (3) The outer edge of an awning shall not extend within 12 inches of the inside ~~curbline~~ curb line.
- (4) Awnings shall be constructed of fabric or metal (no plastic awnings).
- (5) Awning signs shall not be illuminated.

I. Window signs.

- (1) No window sign shall occupy more than 40% of the total area of the window upon which it is located.

§ 220-67. Signs in the M-R Marine Resources Use District.

Within the M-R Marine Resources Use District, all signs shall conform to the requirements of § 220-64 or as approved by the Planning and Zoning Commission, but in no case shall a sign be greater in area than permitted by § 220-66.

§ 220-68. Signs in the LI-1 – Light Industrial Use District and the LLI-1 – Limited Light Industrial Use District.

Within the LI-1 Light Industrial Use District and the LLI-1 Limited Light Industrial Use District, signs shall conform to the C-1 use district regulations.

§ 220-69. Billboards and off-premises advertising signs; variances.

A. Billboards and off-premises advertising signs. Billboards and off-premises advertising signs are not permitted.

~~B. Variances. Notwithstanding any other provision of this article, upon application to the Board of Adjustment, the Board may vary or adopt the strict application of any of the requirements of this article.~~

§ 220-70. Substitution.

The owner of any sign that is otherwise allowed under this article may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial message over any other noncommercial messages. This provision prevails over any more specific provision to the contrary. This provision does not create the right to increase the total amount of signage on a parcel or allow the substitution of an off-premises commercial message in place of an on-premises commercial message.

Article IX. Nonconforming Buildings, Uses and Lots

§ 220-71. Continuation of nonconforming buildings and lots.

Any lawful building, structure or use of premises existing at the effective date of the original Zoning Ordinance of the Town of Milton, as approved by the Milton Town Council applying to such building, structure, or use of premises, may be continued although such building, structure, or use of premises does not conform to the provisions of this chapter; provided, however, that:

A. Nothing herein contained shall be construed to render lawful any use not lawfully conforming to provisions of the Town of Milton Zoning Ordinance.

B. Any extension of a nonconforming use must conform to the provisions of this chapter and not impair the value of the adjoining properties or adversely affect the character of the neighborhood.

C. No nonconforming use shall be enlarged, extended or increased during its life to an extent exceeding 15% of its existing gross floor area or in aggregate value 50% of the replacement cost of the building, whichever is greater, unless said building or structure is changed to conform to the requirements of this chapter.

D. A building or structure containing a nonconforming use may be repaired or strengthened sufficiently to remove a hazard to public safety, as such hazard may be determined by the Code Enforcement Officer, but not so as to perpetuate the nonconforming use or character of the structure. Nothing in this chapter shall prevent the strengthening or restoring to a safe condition any wall, floor or roof which has been declared unsafe by the Code Enforcement Officer.

E. A building used to house a nonconforming use may be restored if damaged or destroyed by fire, flood, earthquake or ~~other~~ act of God. Substantial restoration shall be initiated within six months of the occurrence of the damage. Any building damaged by such occurrence to the extent of more than 50% of its replacement value and not demolished shall be repaired or rebuilt within a six-month period to conform to the building line of the original structure.

F. No nonconforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the Code Enforcement Officer.

§ 220-72. Discontinuance of nonconforming use.

A. Any building or land which is used for or occupied by a nonconforming use and which is changed to or replaced by a conforming use, shall not thereafter be used for or occupied by a nonconforming use.

B. When a nonconforming use has been discontinued for a period of one year, it shall be deemed abandoned, regardless of intent or lack thereof; and shall not thereafter be reestablished, and the future use shall be in conformity with the provisions of this chapter.

§ 220-73. Necessary maintenance and repairs.

A building or structure of nonconforming use may be repaired or restored to a safe condition except as specified in § 220-71E.

§ 220-74. Prior construction.

Any building or structure for which a building permit was issued prior to the effective date of this chapter, or any subsequent amendment thereof applying, may be completed and used in accordance with the plans and specifications for such building and structure.

§ 220-75. Reduction in lot area.

A building permit shall not be issued for any lot that is reduced in area so that it creates nonconforming bulk or a use in violation of any regulations contained in this chapter.

§ 220-76. Existing lots of record.

Except as herein provided, in any residential district where the owner of a lot at the time of original enactment of this chapter or ~~his~~ successor in title thereto does not own sufficient land to enable ~~him~~ the owner to conform to the minimum lot area and or/frontage requirements of this chapter, such lot may be used as a building site for a single-family detached dwelling unit, provided that all requirements for the district ~~in which~~ where said lot is located are maintained, except that pertaining to minimum lot size.

§ 220-77. (Reserved)

§ 220-78. (Reserved)

Article X. General Exceptions

§ 220-79. Public properties.

Nothing in this chapter shall restrict construction or use in the exercise of a local governmental function of public buildings, lands or property.

§ 220-80. Public utilities.

Nothing in this chapter shall restrict the construction or use of underground or overhead distribution facilities of utilities ~~which~~ that serve the public operating under the laws of the State of Delaware. Other facilities may be constructed subject to a site plan approval.

§ 220-81. (Reserved)

Article XI. Board of Adjustment; ~~Conditional Uses~~

§ 220-82. Establishment and duties.

A. Pursuant to the Laws of the State of Delaware, the Town of Milton has established a Board of Adjustment. The Board of Adjustment shall consist of five members who shall be residents of the Town and who shall have knowledge of the problems of urban or suburban or rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the Mayor and Town Council nor employees of the Town. The Mayor of the Town shall appoint such members of the Board of Adjustment, and all such appointments shall be confirmed by a majority vote of the elected members of the Town Council.

B. All appointments shall be for a period of three years, ~~provided that the terms of the original members shall be established in such a manner that the term of at least one member shall expire each year, and the successor shall be appointed for a term of three years.~~ The Board of Adjustment so selected shall elect from among its own number a Chairperson and a secretary.

C. Any member of the Board of Adjustment may be removed from office by the Mayor and Town Council for cause after a hearing by a majority vote of all the elected members of the Council of the Town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

§ 220-83. Power and duties.

The Board of Adjustment shall have all the powers and duties prescribed by this chapter, ~~which~~ that are more particularly specified as follows:

A. Appeals. It shall be the responsibility of the Board of Adjustment to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, determination, or interpretation made by the Code Enforcement Officer or other Town administrative official in the enforcement of this chapter. The Board of Adjustment may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, determination, or interpretation appealed and may resolve the appeal in accordance with this chapter or approved regulations. The fee to file an appeal shall be established in the currently effective Town of Milton Fee Schedule. In addition, unless the appellant is the prevailing party in the appeal, the appellant shall be responsible for reimbursing the Town for expenses incurred by the Town related to the appeal for engineering fees, attorney fees, transcription fees, and any other professional fees incurred by the Town as a result of said appeal; the reimbursement responsibility shall not exceed the amount of the escrow established in the currently effective Town of Milton Fee Schedule. An appellant may file with the appeal a request to proceed in forma pauperis based on financial circumstances on a form prescribed by the Town of Milton; if the

Board of Adjustment grants the request, the filing fee will be waived for the appellant, who shall also be relieved of any responsibility for reimbursing the Town for its expenses.

B. Variances.

(1) The Board of Adjustment may authorize, in specific cases, such variance from any provision of this chapter or zoning regulation that will not be contrary to the public interest where, owing to special conditions or exceptional situations, a literal interpretation of this chapter or any zoning regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of this chapter or zoning regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter, zoning regulation, or map.

(2) Notwithstanding § 220-83B(1), the Project Coordinator of the Town may administratively grant a dimensional variance for existing conditions that do not exceed one foot of the required dimension restrictions without the application being considered by the Board of Adjustment, subject to the standards, procedures, and conditions set forth in this chapter.

§ 220-84. Procedure.

A. All appeals and applications for variances made to the Board of Adjustment shall be in writing, on forms prescribed by said Board and accompanied by a fee as established in the currently effective Town of Milton Fee Schedule. Each appeal or variance shall have a separate completed application form and attachments. Only one fee is required for all appeals or variance applications submitted at the same date and time for the same property.

B. Every appeal or application shall refer to the specific provision of the chapter involved and shall exactly set forth the interpretation that is claimed, or the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.

C. The Board of Adjustment shall hold a public hearing on appeals and variances within 60 days after receipt and give due notice of such public hearing by advertising in newspaper with local circulation at least 10 days prior to the date scheduled for the public hearing.

D. Notices.

(1) The applicant shall mail notices of such public hearings to the owners or occupants of all lands within a radius of 200 feet from all boundary lines of the property for which the appeal hearing is being requested. The Town will provide the applicant with the required information to be included in the notification letter. Such notices shall be mailed certified and postmarked at least 10 days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five days prior to the public hearing.

(2) In addition to any public notice required by this article, the Town Manager shall cause to be posted at one or more prominent and easily visible places on the property that is the subject of the appeal or variance application, on 18 inch by 24 inch placard, a public notice setting forth the date and time at which the Board of Adjustment has scheduled a the public hearing on the appeal or variance application; the name of the applicant; a description and size of the property involved; and a statement, in plain language, of the matter involved. One such notice sign shall be posted for each street where said property fronts. It shall be the responsibility of the applicant to maintain the notice signs in good condition during the posting period. Said notice signage shall be posted at least 10 days prior to the meeting the date of the public hearing.

E. Copies of the appeal or application document shall be delivered to the members of the Board of Adjustment. The Board of Adjustment shall meet within 60 days of the date of filing the appeal or application to conduct the required hearing and review the matter.

F. The Board of Adjustment shall decide on appeals and on other matters referred to it within 60 days after final public hearing.

G. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of said Board in the particular case.

H. The Board of Adjustment shall have no power to vary or modify the application of the provisions and requirements of the Delaware State Fire Prevention Regulations or Building Code adopted by Sussex County.

I. Appeals from Board of Adjustment findings shall be in accordance with 22 Del. C. § 328.

§ 220-85. Meetings; voting; procedures and ~~bylaws~~ rules.

A. Meetings open to the public. All meetings of the Board of Adjustment shall be open to the public.

B. Minutes of meetings. Such Board shall keep minutes of each of its meetings ~~which~~ that it shall at its next meeting certify as accurate and ~~which~~ that describe the factors considered by the Board in reaching its decision and ~~which~~ that show the vote of each member on every application to the Board.

C. Each member present at any meeting of the Board shall have a vote on every question brought before the Board for its consideration. If a member is absent or abstains from voting the minutes shall indicate such fact.

~~C.~~ D. Quorum and majority vote. A majority vote of the Board shall constitute a quorum and a majority vote on any matter upon which said Board is required to pass under the provisions of this chapter. A split vote shall constitute a denial of the application.

~~D.~~ E. Additional procedures and rules. The Board of Adjustment shall have the power to make, adopt, and promulgate such additional written rules of procedure, ~~bylaws~~, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter.

Article XII Conditional Uses

§ 220-86. Purpose and intent of conditional uses.

The purpose of conditional use approval is to provide for certain uses ~~which~~ that cannot be well adjusted to their environment in particular locations or are not permitted in the current zoning district but would not have an adverse effect on the surrounding area and properties. These uses are generally of public or semipublic character and are essential and desirable for the general convenience and welfare of the Town. Because of their unusual characteristics, or the special characteristics of the area ~~in which~~ where they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this chapter, the Comprehensive Plan and their effect on nearby properties.

§ 220-87. Authorization to grant or deny conditional uses.

A. Conditional use of a property may be permitted, permitted with conditions or not permitted by the Town Council.

B. In permitting a conditional use or the modification of a conditional use, the Town Council may impose those standards and requirements expressly specified by this chapter and any additional conditions ~~which~~ that it or the Planning and Zoning Commission considers necessary and reasonable to protect the best interests of the surrounding property, the neighborhood, or the Town as a whole.

C. On application and after public notice and hearing, the Town Council may authorize the issuance, by the Code Enforcement Officer, of a permit for a conditional use.

§ 220-88. Conditional uses.

The following uses shall be approved by the Mayor and Town Council as conditional uses in any district from which they are prohibited, except as otherwise provided, in accordance with the procedures and standards of this chapter, provided that the location is appropriate and that the public health, safety, morals and general welfare will not be adversely affected, that adequate off-street parking facilities will be provided, that they do not contribute to the traffic problem on congested roads and that necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values, and further provided that the additional standards of this chapter are complied with. Unless otherwise specified in this chapter or specified as a condition of approval, the height limits, yard spaces, lot area and sign requirements shall be the same as for other uses in the district ~~in which~~ where the conditional use is located.

A. Any use that is not permitted in the zoning district ~~for which~~ where it is intended, for example, businesses, commercial stores or light industrial uses.

§ 220-89. Procedures for conditional uses.

A. A property owner(s) or his agent(s) may initiate a request for a conditional use or modification of a conditional use by filing an application which includes a legal description of the property and provide as required a proposed current site plan showing the size and location of the lot, the location of all buildings and proposed facilities, including ~~access-drives~~ driveways, parking areas and all streets within 250 feet of the lot, plans and elevations necessary to show the proposed development, other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties and a filing fee. For applicable conditional use filing fees, please consult the currently effective Town of Milton Fee Schedule.

B. Before a conditional use is permitted the proposed conditional use shall be subject to public notice and a public hearing held by the Planning and Zoning Commission. The Planning and Zoning Commission shall fix the time and place of the public hearing and cause notice to be given as follows:

(1) By publishing notices of the proposed conditional use and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than 10 days prior to the date of public hearing.

(2) By giving written notice of hearing to any required municipal, county, state or federal agency in a manner prescribed by law.

(3) The applicant shall notify all owners, within 200 feet of the boundaries of the property ~~which~~ that is the subject matter of the petition, of the time and date for the public hearing on the proposed change or amendment or proposed land use by sending such property owners a copy of the notice that is published in a paper of general circulation. Such notices shall be sent certified mail return receipt requested to property owners a minimum of 10 days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five days prior to the public hearing.

(4) In addition to any public notice required by this article, the Town Manager shall cause to be posted at one or more prominent and easily visible places on the property the subject of the conditional use application, on 18 inch by 24 inch placard, a public notice setting forth the date and time at which the Planning and Zoning Commission has scheduled a the public hearing on the conditional use application; the name of the applicant; a description and size of the property involved; and a statement, in plain language, of the matter involved. One such notice sign shall be posted for each street where said property fronts. It shall be the responsibility of the applicant to maintain the notice signs in good condition during the posting period. Said notice signage shall be posted at least 15 days prior to the meeting the date of the public hearing.

C. The Planning and Zoning Commission will review the application and required material for the conditional use to ensure that all the requirements set forth in ~~the~~ this chapter are met and any additional requirements that will be imposed by the Planning and Zoning Commission are applied to the site plan prior to it being forwarded with the Planning and Zoning Commission's recommendation to the Town Council for its review and decision. If the Planning and Zoning Commission recommends disapproval of the conditional use, or recommends modification thereof, the Town Council shall not act contrary to such disapproval or recommendation except by a four-fifths vote.

D. Town Council will review the site plan and requirements established by the Planning and Zoning Commission, establish conditions of their own or deny the application in its entirety.

E. In the case where a conditional use has been approved a building permit shall be issued after the granting of the conditional use by the Town Council, and then only in accordance with the terms and conditions of the conditional use permit.

F. The Town Council, on its own motion, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit.

G. A conditional use approval expires when such use is abandoned for more than six months, regardless of intent.

§ 220-90. (Reserved)

Article ~~XII~~ XIII. Administration

§ 220-91. Enforcement.

A. This chapter shall be enforced by the Code Enforcement Officer, ~~who shall be appointed by the Mayor and Council of the Town of Milton.~~ No building permit shall be issued or reissued except where all the provisions of this chapter have been complied with. The Code Enforcement Officer shall keep the Planning and Zoning Commission advised of all matters pertaining to the enforcement of this chapter other than routine duties and shall submit a monthly report to the Mayor and Council enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

B. Where sufficient cause exists to believe that the terms of this chapter have been violated and where corrective action has not been taken nor an appropriate variance application to the Board of Adjustment filed, within 14 days of the issuance of a written notice of violation mailed by certified mail return receipt requested to the record ~~owner(s)~~ owner of the property where the violation occurs, the Code Enforcement Officer is authorized to issue an appearance ticket, either in person or by certified mail, directing the alleged violator to appear in a designated local criminal court at a designated future time in connection with the alleged and designated offense.

§ 220-92. Building permits.

A. No building or structure shall be erected, added to, or structurally altered until a permit therefor as specified herein has been issued by the Code Enforcement Officer. No building permit shall be issued for any building under the Building Code adopted by Sussex County and the Town of Milton where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this chapter.

B. For zoning purposes, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this chapter.

C. One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with such permit to the applicant, upon payment of the applicable fee as established in the currently effective Town of Milton Fee Schedule.

D. No building permit will be issued for a parcel until all fees due to the Town of Milton have been paid in full. Fees include but are not limited to property taxes, water bill, sewer bill, trash bill, professional fees, etc.

§ 220-93. Certificate of ~~compliance~~ Occupancy.

A. No land shall be occupied or used and no building or other structure erected, altered, extended, enlarged or, if a nonconforming use, restored, occupied, used, or changed in use until a certificate of ~~compliance~~ occupancy has been issued by the Code Enforcement Officer stating that the building, other structure or proposed use thereof complies with the provisions of this chapter. Vacated existing commercial properties may not be used or occupied until a certificate has been issued to ensure that the new use or occupancy is permitted.

B. All certificates of ~~compliance~~ occupancy for new or structurally altered buildings or structures shall be applied for coincident with the application for a building permit therefor. Such certificate of ~~compliance~~ occupancy shall be issued within 30 days after the erection or alteration has been approved as complying with the provisions of this chapter.

C. The Code Enforcement Officer is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order, in writing, the remedying of any condition found to exist therein or thereat in violation of any provision of this chapter. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to comply with such order. No new structure on a parcel that has had a site plan approval may be occupied before a certificate of ~~compliance~~ occupancy has been issued.

§ 220-94. (Reserved)

Article ~~XIII~~ XIV. Remedies

§ 220-95. Complaints of violations.

Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and investigate the report thereon in a timely manner.

§ 220-96. Procedure for abatement of violations.

A. Whenever in the opinion of the Code Enforcement Officer, after proper examination and inspection, there appears to exist a condition ~~which~~ that is a violation of any provision of this chapter, or of any rule or regulation adopted pursuant thereto, the Code Enforcement Officer shall serve a written or verbal notice of violation upon the owner of the property in violation. After notification the condition shall be considered a violation and shall be subject to appropriate penalties and other remedies as provided for herein and under the laws of the State of Delaware.

B. Such notice of violation shall:

- (1) Inform the owner of the nature and details of the condition and the reason why it is a violation; and
- (2) State the date by which the violation must be remedied or removed in order to be in compliance with this chapter.

C. In the event the violation is not remedied within the time allowed, then the person notified of such violation shall be subject to conviction for a violation as defined by the laws of the State of Delaware punishable by a fine of not less than \$100 nor more than \$350 or by sentence of imprisonment for a period of not more than 15 days, or both, for a conviction of a first offense. Each week that the violation continues shall constitute a separate offense. For a conviction of a second offense, ~~in which~~ when both first and second offenses were committed within a period of five years, the person notified of such violation shall be punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and upon a third or subsequent offense, ~~in which~~ when all three offenses were committed within a period of five years, the person notified of such violation shall be punishable by a fine of not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days, or both.

D. In addition to the owner, the general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or an architect, builder, contractor, or anyone who commits or assists in any violation of any of the provisions of this chapter shall be subject to the procedure and penalties imposed by this article.

§ 220-97. Alternative penalty.

A. A violation of any of the provisions of this chapter by ~~an owners~~ any owner of land, ~~and/or a~~ builder or contractor shall constitute an offense ~~which that~~ that may alternatively be punishable by the imposition of a civil penalty in the above amounts, ~~which said penalty that~~ that may be assessed and recoverable against the violator in a small claims proceeding instituted by the Town, pursuant to the laws of the State of Delaware. Each week that the violation continues shall constitute a separate offense.

B. In addition to the foregoing remedies, in the case of any violation or threatened violation of any of the provisions of this chapter, or conditions imposed by the Town Council or Planning and Zoning Commission of the Town of Milton, in addition to other remedies herein provided, the Town Council may institute any appropriate action or proceeding in a court of competent jurisdiction to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Article ~~XIV~~ XV. Amendments

§ 220-98. Procedure.

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 by ordinance the boundaries of the districts or the regulations herein established under this chapter after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Council. A fee may be required from the applicant for a zoning change as established in the currently applicable Town of Milton Fee Schedule.

§ 220-99. Advisory report to Town Council.

Every proposed amendment, unless initiated by the Planning and Zoning Commission, shall be referred by the Town Council to the Planning and Zoning Commission. The Planning and Zoning Commission shall report in writing its recommendations thereon to the Town Council and the Code Enforcement Officer, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning and Zoning Commission fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Council, the Town Council may act without such report. If the Planning and Zoning Commission recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Council shall not act contrary to such disapproval or recommendation except by a simple majority vote.

§ 220-100. Petition by owners of 50% of frontage.

Wherever the owners of 50% of the frontage directly adjacent to a property subject to a proposed amendment shall present a petition duly signed and acknowledged to the Town Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Council to vote upon said petition within 90 days after filing of the same by the petitioners with the Town Clerk.

§ 220-101. Public notice and hearing.

The Town Council of the Town of Milton shall, by resolution, fix the time and place of the public hearing and cause notice to be given as follows:

- A. By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town, not less than 15 days prior to the date of public hearing.
- B. By giving written notice of hearing to any required municipal, county, state or federal agency in a manner prescribed by law.

C. The applicant shall notify all owners, within 200 feet of the boundaries of the property ~~which~~ that is the subject matter of the petition, of the time and date for the public hearing on the proposed change or amendment or proposed land use by sending such property owners a copy of the notice that is published in a paper of general circulation. Such notices shall be sent certified mail return receipt requested to property owners a minimum of 10 days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five days prior to the public hearing.

D. In addition to any public notice required by this article, the Town Manager shall cause to be posted at one or more prominent and easily visible places on the property that is the subject of the change of zoning application, on 18 inch by 24 inch placard, a public notice setting forth the date and time when the Town Council has scheduled a the public hearing on the change of zoning application; the name of the applicant; a description and size of the property involved; and a statement, in plain language, of the matter involved. One such notice sign shall be posted for each street where said property fronts. It shall be the responsibility of the applicant to maintain the notice signage in good condition during the posting period. Said notice signage shall be posted at least 15 days prior to the meeting the date of the public hearing.

§ 220-102. Protest by owners.

If a protest against the proposed amendment is presented to the Town Council, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment, or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Council.

§ 220-103. Decision by Town Council.

The Town Council shall set the public hearing as required and shall render its decision within 60 days of the receipt of the Planning and Zoning Commission's report. If the Town Council deems it advisable, it may require as a condition for approval of the amendment that the amended area be put to use within a reasonable length of time.

§ 220-104. Notification of decision.

The Town Council shall notify the applicant of its decision, and any amendment thereof, in writing within five days after the decision has been rendered.

Article ~~XV~~ XVI. Fees

§ 220-105. Fee schedule.

A schedule of fees for all permits and applications required by this chapter shall be established by resolution of the Mayor and Town Council of the Town of Milton and published in the currently effective Town of Milton Fee Schedule.

Article ~~XVI~~ XVII Repealer

§ 220-106. Prior Zoning Ordinance repealed.

Chapter 30 of the Town of Milton Municipal Code, entitled "Zoning," as originally enacted by ordinance of the Town Council on June 20, ~~1978~~ 1987, together with all subsequent amendments thereto is hereby repealed in its entirety as of the effective date of this chapter. In the event of an inconsistency between this chapter and any other Town ordinance or resolution, the provisions of this chapter shall be controlling. Such repeal or modification shall not affect or impair any act done, offense committed or right accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal or modification takes effect.

ZONING

220 Attachment 1

The Town of Milton, Sussex County, Delaware

Density Control Table

[Amended 12-5-2022 by Ord, No. 2022-008]

District	Maximum Height (feet) (stories)	Density {square feet}	Minimum Lot Area square feet)	Maximum Coverage (percent)	Depth of Front Yard {feet}	Depth of Side Yards feet}	Depth of Rear Yards feet)	Minimum Width {feet}	Minimum Depth (feet}
R-1	30 1/2	1 dwelling unit per 10,000	10,000	70	30 or established building line	10	15	75	100
	2								
R-2	40	1 dwelling unit per 10,000	4,000	60	20 or established building line	8	10	40	60
	3								
R-3	40	1 dwelling unit per 4,000	2,500	50	30	25 end units	25	25	100
	3								
<u>MURC - See §220-15.1 F. for area and bulk regulations.</u>									
C-1	40	N/A	5,000	None	30 building line	10*	10*	None	None
	3								
T-C	40	N/A	2,000	None	0	0	10	20	100
	3								
LI-1	75	N/A	10,000	None	40	0	0*	0	0
	N/A								
<u>LLI-1 - See §220-19.1 D. for area and bulk regulations. *</u>									
M-R	40	N/A	10,000	70	25 or established Building line	10	25	75	100
	N/A								

* See Density Control Table notes on the following page.

MILTON CODE

NOTES:

1. Maximum coverage for principal building and all accessory buildings.
2. Lots extending through and fronting on two streets, other than a corner lot, shall comply with the front yard requirements on both streets.
3. With respect to the one wall in common with one adjacent living unit, no side yard shall be required for any semidetached dwelling or two-family dwelling; provided, however, that any semidetached or two-family dwelling shall have a minimum side yard.
4. When a Commercial or Light Industrial Use District adjoins a residential district, there will be a side yard setback of at least 25 feet.
5. When a Commercial or Light Industrial Use District adjoins a residential district, there shall be a rear yard setback of at least 15 feet.
6. When a Limited Light Industrial Use District adjoins a residential district, there shall be landscape buffer of at least 100 feet.
- ~~6.~~ 7. Density controls in a LPD District are as described in § 220-20 of Chapter 220, Zoning.
- ~~7.~~ 8. Existing lots less than 20,000 square feet zoned R-1 and located in the Town boundaries prior to the adoption of the previous Zoning Ordinance (1987) may file for partitioning of the existing lot to the minimum size of 7,500 square feet. Minimum width and depth for R-1 zoning is required. The combining of lots or moving of any existing structures is not permitted, and the minimum setback from existing structures to property lines is required.
- ~~8.~~ 9. See § 220-59 for requirements for protection of lands contiguous to certain bodies of water.

~~* See special requirements.~~