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Article 1. General Provisions

Section 1-1. Title

This ordinance shall be known and may be cited as “The Town of Frankford Zoning and Subdivision Ordinance” Authority.

This Zoning Ordinance has been made in accordance with the grant of power in Title 22, Section 301 of the *Delaware Code*.

Section 1-2. Purposes

The Frankford Town Council deems it necessary to enact a zoning ordinance to preserve the unique characteristics of the Town of Frankford as a family-oriented community situated next to a rapidly expanding resort area. The zoning ordinance will help:

- A. To guide the future growth and development of the Town of Frankford in accordance with the comprehensive plan.
- B. To promote the health, safety, and general welfare of the people.
- C. To lessen congestion in the streets.
- D. To secure safety from fire, flooding, panic and other dangers.
- E. To provide adequate light and air.
- F. To prevent the overcrowding of land, to avoid undue concentration of population.
- G. To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks and other public requirements.
- H. To conserve the value of land and buildings.
- I. To encourage the most appropriate uses of land.

Section 1-3. Applicability

This Ordinance applies to all land within the incorporated boundaries of the Town of Frankford.

Section 1-4. Components

- A. This Ordinance consists of the regulations written herein and an official map depicting zoning districts in the Town of Frankford.
- B. The tables contained herein are part of this Ordinance.
- C. The drawings and graphics herein are part of this Ordinance unless otherwise indicated.

Section 1-5. Compliance Required

- A. No tract, parcel, lot, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, unless done in conformance with the provisions of this Ordinance. This provision also applies to land offered for sale or lease.
- B. No building or land shall be used unless it is done in conformance with the provisions of this Ordinance.
- C. No building or part of a building shall be demolished, demolished by neglect, erected, reconstructed, converted, enlarged, moved, or structurally altered unless it is done in conformance with the provisions of this Ordinance.
- D. Yards and Open Space
 1. No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted.

2. A yard or other open space associated with a building on one lot shall not be considered as a required yard or open space for a building on any other lot.
 3. All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.
 4. All yards shall be maintained in good condition and, when required, landscaped.
- E. Height of Buildings and Structures
1. General. No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
 2. Sloping Lot. On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.
- F. Permitted Uses
1. For the purposes of this ordinance, permitted uses are listed for the various districts. Unless this is clear from the context of the list of other regulations of this chapter, uses not specifically listed as prohibited.

Section 1-6. Ordinance Provisions are Minimum Requirements

The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, convenience, order, comfort, prosperity, or general welfare.

Section 1-7. References to the *Delaware Code*

References to any part of the *Delaware Code* apply to the *Code* as existing when this Ordinance is adopted, or as amended subsequently.

Section 1-8. Interpretation of Language

- A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense.
- C. The word “shall” is mandatory. The word “may” is permissive.
- D. The meaning of the word “used” shall include “designed” or “intended or arranged to be used.”
- E. The meaning of the word “erected” shall include “constructed,” “reconstructed,” “altered,” “placed,” or “moved.”
- F. The meaning of the terms “land use” and “use of land” shall include “building use” and “use of building.”
- G. The meaning of the word “adjacent” shall include “abutting” and “adjoining.”

Section 1-9. Pre-existing Permits and Lots

- A. Building Permits
 1. Construction may be commenced and/or completed in accordance with any validly issued and unexpired building permit issued prior to the effective date of this ordinance.
 2. Construction begins when excavation and the piers or footings of at least one or more buildings covered by the permit have been completed.
- B. Lots
 1. Any lot, which was legally recorded prior to the effective date of this Ordinance, shall be considered a legal lot even if it does not meet the minimum lot size or area requirements embodied in this ordinance.

2. This provision applies to all zones.

Section 1-10. Conflict with Other Regulations

Where this Ordinance imposes a standard that differs from a standard imposed by other statutes, resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter standard shall govern.

Section 1-11. Prior Agreements

It is not intended that this Ordinance invalidate or annul any easements, covenants, or other private written agreements between parties.

Section 1-12. Severability

Should a court decide that any section or provision of this ordinance is unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part other than the part judged unconstitutional or invalid.

Section 1-13. Review Fees

The Town Council shall adopt by ordinance a fee schedule for all actions covered by this ordinance.

- A. The fee structure may be designed to allow the Town to recover the cost of consultant services directly associated with the review of each application.
- B. The Municipality must be in receipt of full payment of all application and review fees at time of application. Applications received without full payment of fees are considered incomplete, and will not be scheduled for any reviews or hearings as permitted and defined by this ordinance.
- C. No building or construction permits will be issued to any applicant with outstanding fees, bills, taxes, or fines due to the Town. Any outstanding fees, bills, taxes or fines must be paid in full prior to the issuance of any permit.
- D. If an application is deemed unnecessary, the application and review fees will be returned to the applicant.

Article 2. Definitions

This section provides definitions for terms in the Frankford Zoning Code that are technical in nature or that otherwise may not reflect a common usage of the term. If a term is not defined in this section, then the Town shall determine the correct definition. Items in italics refer to *Articles*, *Sections*, or *Tables* in the code.

SECTION 2-1. Definitions and Word Usage

Acres. A measurement of land area equivalent to approximately 43,560 square feet.

Administrator. Person authorized to administer and enforce this Ordinance. See *Section 3-3*.

Alteration, Structural. Any change in either the supporting member of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Applicant. Any individual submitting a plan for development under the provisions of this ordinance.

Average Daily Traffic (ADT). The total volume of traffic during a given time period in whole days greater than one day and less than one year, divided by the number of days in that time period.

Bar. A commercial enterprise whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars include taverns, night clubs, private clubs, bottle clubs, and similar facilities serving alcoholic beverages.

Basement. A space partly underground and having at least half of its height underground.

Bed & Breakfast. A lodging place with no more than four guest rooms, or suites of rooms, available for temporary occupancy, whose owner resides at the facility, and where meals are available only to guests at the facility.

Bed & Breakfast Inn. A small owner operated business, providing overnight lodging to guests. Usually the owner lives on premises. Breakfast is typically the only meal served and only to overnight guests. The inn may host events such as weddings, small business meetings, etc, where additional meals and refreshments may be served. Room numbers range from four to 15. Reservations may be made directly with the property.

Bicycle Lane. A dedicated lane for cycling within a moderate-speed vehicular street, demarcated by stripes.

Bicycle Trail. A bicycle way running independently of a vehicular street.

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Boarding House. A single-family detached owner-occupied dwelling where the owner provides rooms and meals for not more than six lodgers, but shall not include homes for mental retardation, group homes, alcoholic, rehabilitants or any other persons whose fees are paid by persons other than them self.

Buildable Area. The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

Building. Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process equipment, goods, or materials of any kind.

Building, Accessory. A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use.

Building, Main or Principal. A structure in which the principal use of a lot is located.

Building Height. The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building permit authority. The Sussex County Division of Inspections and Enforcement, or Town of Town Appointed Agency based on the current situation.

Caliper Dimension. The outside diameter measurement of the trunk of a tree measured at a vertical distance of three feet above grade.

Certified Comprehensive Plan. A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92 of the *Delaware Code*.

Concept Plan. An informal sketch or drawing of a site or subdivision plan of sufficient accuracy to be used for discussion only, and utilizing Table 4.3, *Deadlines & Duration of Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan* and Table 4.4, *Information Required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan* as a guide for the information to be included.

Conditions of Approval. Conditions, placed on the final approval of an applicant's plan, that are both consistent with the Guidelines for Development Review and do not allow for the denial of a plan that is consistent with the objectives of the Guidelines for Development Review and appropriate uses and intensities of use set forth in this Ordinance.

Commission. The Town of Frankford Planning Commission. See *Section 3-1*.

Community Center. A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

Consolidation. Removal of lot lines between parcels. See also *Subdivision*.

Convenience Store. Any retail establishment offering for sale prepackaged food products, household items, newspapers, and prepared foods usually for off-site consumption.

Convenience Store, Fuel Station. An accessory and conditional use to a Convenience Store as accessory structure offering for sale fuels for vehicles.

Day Care Center. An establishment providing for the care, supervision, and protection of persons away from their homes.

Day Care, Child.

Child Day Care Center. A place that provides care, protection, supervision and guidance for 13 or more children, including preschool children who are related to the operator. Service is provided on a regular basis for periods of less than 24 hours per day, unattended by a parent or guardian, for compensation, and is licensed by the State of Delaware Department of Services for Children, Youth and Their Families. A business license from the Town is also required.

Family Child Care Home. A private home in which child care is provided for one to nine children at any one time who are not relatives of the caregiver. A business license from the Town is required.

Large Family Child Care Home. A place that provides care, education, protection, supervision and guidance for 10 to 12 children, including preschool children who are related to the owner and/or caregivers, not including care provided exclusively for relatives. Service is provided on a regular basis, for part of the 24 hour day, unattended by a parent or guardian and for compensation. A business license from the Town is also required.

Development.

- (a) The division of a parcel of land into two or more parcels,

- (b) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any new or existing structure,
- (c) Any mining excavation, landfill, or land disturbance,
- (d) Any use or extension of the use of land.

Development Plan. A plan for the development of one or more lots, parcels, tracts, or properties on which is shown the existing and proposed conditions, including, but not limited to, topography, vegetation, drainage, floodplains, wetlands, waterways, landscaping and open spaces, walkways, exits and entrances, circulation, utility services, lot lines, easements, structures and buildings, signs, lighting, parking, screening, surrounding development, and any other information that may be reasonably required so that the Municipality can make an informed decision; often called site plan.

Dimensional and Density Standards. Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which a building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements; also called bulk regulations.

Distribution Center. An establishment that distributes and stores goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

Drive-In Use. An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dwelling. A building, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

Dwelling, Attached. A single-family dwelling unit that is attached to or shares a common vertical wall with one or more single-family dwelling units.

Dwelling, Manufactured Home. A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at a building site and bearing a label certifying that it was built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976.

Dwelling, Mixed Use. Multiple functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency.

Dwelling, Mobile Home. A transportable dwelling unit fabricated in an off-site manufacturing facility, designed to be a permanent residence, and built prior to June 15, 1976 on which date the Federal Home Construction and Safety Standards became effective.

Dwelling, Modular. A dwelling unit fabricated in an off-site manufacturing facility in accordance with the County Building Code. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.

Dwelling, Multi-Family. A building containing two or more dwelling units, including units that are located one over the other. Also known as apartments or condominiums.

Dwelling, Multi-Family Converted. A structure converted from a single-family dwelling unit into a multi-family dwelling unit.

Dwelling, Single-Family Detached. A building containing one dwelling unit that is not attached to any other dwelling unit by any means and is surrounded by open space or yards.

Dwelling, Duplex. One of two dwelling units, located on adjoining lots, attached to the other by an unpierced wall extending from ground to roof.

Dwelling, Townhouse. A single-family dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, common, fire-resistant walls.

Dwelling Unit. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within for the exclusive use of a single family maintaining a household.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Educational Institution. Any school, educational institution or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, middle school, elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or any other program of trade, technical or artistic instruction.

Family. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Filling Station. Building, land, or premises used for the retail dispensing or sales of vehicular fuels; servicing and repair of motor vehicles; may include, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Floodplain. Refers to the area impacted by the 100 year flood as depicted on the most recent Flood Insurance Rate Maps (FIRMs) developed by the Federal Emergency Management Agency (FEMA) or a more accurate topographic survey of a parcel or group of parcels which specifically identify the area impacted by the 100 year flood using the FEMA determined flood elevation.

Floor Area, Gross. The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than seven feet.

Floor Area, Net. The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Free Standing Sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.

Frontage. That side of a lot abutting on a street; the front lot line.

Garage. A deck, building, structure, or part thereof, used for the parking and storage of vehicles.

Greenhouse, Commercial. A structure in which plants, vegetables, flowers, and similar materials are grown for sale.

Greenway. An open space corridor in largely natural conditions which may include trails for bicycles and pedestrians.

Hospital. A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than 24 hours in any week of four or more non-related individuals suffering from illness, disease, injury, or deformity; or a place devoted primarily to providing for not less than 24 hours in any week of obstetrical or other medical or nursing care for two or more non-related individuals requiring a license issued under *DE Code*, Title 16, Chapter 10, Sec. 1003; but does not include sanatoriums, rest homes, nursing homes or boarding homes.

Infill. New development on vacant land adjacent to and between existing developments.

Kennel, commercial. A commercial establishment in which 5 or more dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

Kennel, private. The keeping, breeding, raising, showering, or training of four or more dogs over six months of age for personal enjoyment of the owner or occupants of the property, and for which commercial gain is not the primary objective.

Liner Building. A building specifically designed to mask a parking lot or a parking garage from a frontage.

Local Road. All roadways under DelDOT jurisdiction that are generally referred to by county maintenance route numbers. These roads are not subdivision streets and are not roadways classified under the federal highway system.

Lot. A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes and bounds description, to be separately owned, used, developed, or built upon. See also *Yard*.

Lot, Corner. A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, Depth. The average distance measured from the front lot line to the rear lot line.

Lot, Double Frontage. A lot, other than a corner lot, that has frontage on two streets.

Lot, Interior. A lot other than a corner lot.

Lot, Legal. A lot which was created and legally recorded prior to the adoption of this ordinance, or any lot subdivided and legally recorded in full compliance with these regulations subsequent to the adoption of this ordinance.

Lot Line. A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

Lot Line, Front. The lot line separating a lot from a street right-of-way. If the property line is the center of the right-of-way the setback should be from setback

Lot Line, Rear. The line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot of Record. A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the County Recorder of Deeds.

Lot, Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, i.e., the buildable width of a lot.

Major Recreational Equipment. Includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, recreational vehicles (RVs), motorized dwellings, tent trailers, personal watercraft, snow mobiles, and similar equipment as well as cases or boxes used for transporting major recreational equipment regardless of whether the equipment is inside of the boxes.

Major Subdivision Plan. A plan for the division of any parcel or parcels of land into more than five parcels or any division of any parcel or parcels of land that requires the construction or extension of public utilities or streets.

Manufacturing. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

- (a) Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or semi-finished as a raw material for further processing.
- (b) The processing of farm products grown on a farm is not manufacturing, but rather, an accessory use to farming operations.

Medical Clinic. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

Minor Subdivision Plan. A plan for the division of any parcel or parcels of land into no more than five parcels, none of which require the construction or extension of public utilities or streets, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Site Plan Review*.

Municipality. The Town of Frankford, Delaware.

Nonconformities. Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance. See *Article 5*.

Nursing & Similar Care Facilities. A facility that offers any of the following types of care or services and including, but not limited to, facilities regulated by the State Department of Health and Social Services:

Assisted Living Facility. Residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication and may provide other services such as recreational activities, financial services, and transportation.

Extended Care Facility. A long-term facility or distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

Intermediate Care Facility. A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

Long-Term Care Facility. An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its member by marriage, blood, or adoption.

Other. Including family care homes, group homes, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes, and rest residential facilities.

Off-Street Parking Space. A permanently-reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communications equipment.

On-Street Parking Space. A temporary parking space for one motor vehicle that is located within the street right-of way.

Open Space, Active. Land set aside as a part of a development project that is intended and designed to be used for active recreational activities. Active open space must be free of wetlands or other site

constraints that would restrict the use and enjoyment of the open space by the community. Active open space is often improved with playground equipment, playing fields, walkways and the like.

Open Space, Passive. Land set aside as part of a development project that is intended to be left in its natural state, and enjoyed for its aesthetic and ecological values. Any public use of the passive open space should be consistent with the preservation of ecological functions of the open space.

Parking Structure. A building containing two or more stories of parking.

Permanent Sign. A sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.

Path. A pedestrian way traversing open space or rural area, with landscape consistent with the preservation of ecological functions of the open space, ideally connecting directly with the sidewalk network.

Place of Worship. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Preliminary Plan. A plan of subdivision or land development, including all required data in Table 4.3, *Deadlines and Duration of Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan*, and Table 4.4, *Information required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plans*, as a basis for consideration by the P&Z Commission and Town Council prior to preparation of Major Subdivision and Major Site Plans.

Premises. A lot, parcel, tract, or plot of land together with the buildings and structures on them.

Public Building. A building, owned or leased, occupied, and used by an agency or political subdivision of the federal, state, county, or municipal government.

Public Notice. The publication in a newspaper of general circulation in the Town of Frankford at least 15 calendar days prior to any hearing advising the public of the date, time, and place of the public hearing.

Public Utility Service. The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; and the provision of mass transit to the public.

Public Utility Service Facility. Any use or structure associated with the provision of utility services.

Public Utility Service Lines. The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility service. This includes equipment that is incidental and necessary to the lines and that is located on the lines.

Public Water and Sewer System. Any system, other than an individual septic tank, tile field, or individual well, that is operated by the Municipality, a governmental agency, a public utility, or a private individual or corporation approved by the Municipality and licensed by the appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water.

Record Plat. A map depicting the layout of a major subdivision, containing information as set forth in Table 4.3, *Deadlines & Duration of Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan*, and submitted for final approval.

Recorder of Deeds. The Recorder of Deeds for Sussex County, Delaware.

Recreation Facility. A place designed and equipped for the conduct of sports and leisure-time activities.

Recreation Facility, Commercial. A recreation facility operated as a business and open to the public for a fee.

Recreation Facility, Personal. A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

Recreation Facility, Private. A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

Recreation Facility, Public. A recreation facility open to the general public.

Restaurant. A restaurant includes the following:

- (a) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building.
- (b) Establishments where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

Retail food establishment. Establishments selling food or beverages for consumption off premises either immediately or with further preparation. Such establishments may include, but not be limited to, grocery store, bakery, candy store, butcher, delicatessen, convenience store, and similar establishments.

Retail Sales. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of such uses include:

- (a) Usually a business place engaged in activity to attract the general public to buy.
- (b) Buys and receives as well as sells merchandise.
- (c) May process or manufacture some of its products—a jeweler or a bakery—but processing is secondary to principal use.
- (d) Generally sells to customers for personal or household use.

Resubdivision. Any change in a map of an approved or recorded subdivision plat that affects any street layout on an area reserved for public use or any lot line or that affects any map, plan, or plat recorded prior to the adoption of any regulations controlling subdivision; includes the consolidation of parcels.

Riparian Buffer Area (RBA). A natural area reserved along a lake, river, stream, waterway, or wetland area to preserve the bank, reduce sedimentation, filter nutrients out of stormwater, provide wildlife habitat, preserve existing natural corridors, and protect cultural and archeological resources. Riparian Buffer Areas should consist primarily of native, non-invasive natural vegetation.

Self-Storage Facility. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on an individual basis for varying amounts of time.

Services. Establishments primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

Services, Business. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

Services, Personal. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Services, Retail. Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums, and galleries.

Services, Social. Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities, and physical disabilities.

Setback Line. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed. See also *Yard*.

Sidewalk. The paved path dedicated exclusively to pedestrian activity.

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan*.

Site Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan*, or Table 4.4, *Information required for Concept Plan, Preliminary Plan, Major Subdivision, and Major Site Plan*. A major site plan is any construction of a new structure larger than 50,000 SF.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if its ceiling is over five feet above the level from which the height of the building is measured or if it is used for business purposes other than storage.

Story, Half. A partial story under a gable, hip, or gambrel floor, the wallplates of which on at least two opposite sides are not more than two feet above the floor of each story.

Street. Any vehicular way that: (1) is an existing State, County or Municipal roadway; (2) is shown upon an approved plat; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the Office of the Recorder of Deeds prior to the appointment of the Planning Commission and the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved.

Street, Access. A street designed to low volumes of traffic and provides primary access to individual residential properties in residential neighborhood areas. A local residential street shall be used for streets serving access to less than 50 dwelling units (500 ADT or less).

Street, Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Street, Arterial (Route 113). Principal traffic artery that carry relatively high traffic volumes from regional areas and conveys traffic from lower-order streets. This road serves access to over 600 dwelling units (over 6001 ADT).

Street, Centerline of. The center line of any street shown on any official Municipal, County, or State records.

Street, Collector. A street designed to carry heavy volumes of traffic between access and sub-collector and higher order streets. Carries large traffic volumes at high speed. Function is to promote

free traffic flow, therefore, parking and direct access is discouraged. This road serves access to over 300 dwelling units (over 3001 ADT).

Street, Cul-de-Sac. A street with a single common ingress and egress with a turnaround at the end.

Street, Dead-End. A street with a single common ingress and egress.

Street Line. The line between a lot, tract, or parcel of land and an adjacent street.

Street, Private. A street that has not been accepted by the Municipality or the State.

Street, Service. A street running parallel to a principal arterial that serves abutting properties, but restricts access to the freeway or expressway.

Street, Sub-Collector. A street designed to carry moderate volumes of traffic from Access Streets or Collector or from Access Street to Access Street. A sub-collector street shall be used for streets serving access to 50-300 dwelling units (501 to 3000 ADT).

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Subdivider. Any individual, firm, partnership association, corporation, estate, trust, or any other group or combination acting as a unit that subdivides or proposes to subdivide land as defined in this Ordinance. This also includes agents of subdividers.

Subdivision. Subdivision includes the following:

- (a) The division of any tract or parcel of land into two or more plots, parcels, units, lots, condominiums, tracts, sites, or interests for the purpose of offer, sale, lease, development, whether immediate or future; either on an installment plan or upon any other plans, terms, or conditions; or for any other purpose;
- (b) The division or partition of land or involving the opening, widening, or extension of any streets or access easements and the extension of any electrical, sewer, water, or any other utility line;
- (c) The assemblage or consolidation, of tracts, parcels, lots or sites, resubdivision, and condominium creation or conversion.

Traditional Neighborhood. A compact, mixed use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

Use. The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Use, Accessory. A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Use, Principal. The primary or predominant use of any lot or parcel.

Variance. A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship or an exceptional practical difficulty. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise **prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district.**

Wall Sign. Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

Warehouse. A building used primarily for the storage of goods and materials.

Wholesale Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard. An open space that lies between the principal building or buildings and the nearest lot line. See also *Lot*.

Yard, Front. A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line.

Yard, Rear. A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

Yard, Side. A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Zoning District. A specifically delineated area in the Municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Zoning Map. The official map or maps that are part of the zoning ordinance and delineate the boundaries of individual zones and districts.

Article 3. Administrative Structure

Section 3-1. Planning and Zoning Commission

A. Created; Name

A Planning and Zoning Commission is hereby created. This Commission shall be known as the Town of Frankford Planning and Zoning Commission.

B. Organization

1. Members. The Planning and Zoning Commission shall consist of not less than five voting members and no more than nine voting members.

2. Term of Office

a. The Planning and Zoning Commission shall consist of five members who shall be appointed by the President of the Town Council and confirmed by a majority of the Town Council for a term each three years, except that a member appointed to fill a vacancy occurring for any reason other than expiration of term, shall be appointed for the unexpired term. Each member shall reside or be a property owner of real property in the Town of Frankford. Two members shall be appointed for three years, two members for two years and the remaining member for one year. The members shall serve with no compensation. The purpose of the Planning and Zoning Commission is, upon referral to it by Town Council, to review proposed amendments and other site plans and make recommendations in accordance with the terms of this Ordinance to Town Council pursuant to the terms of this Ordinance.

3. Appointments

a. The President shall appoint and the Town of Frankford Council shall confirm members of the Planning and Zoning Commission by majority vote.

4. Chairperson and Secretary. Members shall elect a chairperson and a secretary from among themselves.

5. Vacancies

a. A vacancy occurring prior to the expiration of a term shall be filled in the same manner as a member appointed to a full term.

b. The person appointed to complete an unexpired term shall have the same qualifications as members appointed to full terms.

6. Removal. The Town of Frankford Council may remove a member for cause after a hearing and by majority vote.

C. Powers and Duties

1. The powers and duties of the Commission shall be as set forth in Title 22, Chapter 7 of the *Delaware Code*, as amended from time to time.

2. Review land use proposals and make recommendations to the Town of Frankford.

Section 3-2. Board of Adjustment

A. Created; Name

A Board of Adjustment is hereby created. This Board shall be known as the Town of Frankford Board of Adjustment

B. Members

The Board shall consist of three members with terms of office and qualifications as set forth in Title 22, Section 326 of the *Delaware Code*, which shall have the powers therein defined and conferred.

C. Powers and Duties

1. The Board's powers and duties shall be those set forth in Title 22, Section 326 of the *Delaware Code*.

2. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an Administer in the administration of this ordinance.
3. Special exceptions exist in order to provide for adjustments in the relative location of uses and buildings, to promote the usefulness of these regulations and to supply the necessary elasticity to the efficient operation of these regulations. Special use exceptions, limited as to locations and terms described in this ordinance, as special yard and height exceptions as are permitted by the terms of this ordinance may be permitted if the Board of Adjustment finds that, as a matter of fact, such exceptions will not substantially affect adversely the uses of the adjacent and neighboring property. The Board of Adjustment may add such additional conditions and safeguards as are appropriate under the general intent of this ordinance or to deny special exceptions when the particular use or structure cannot be accommodated to a particular site without violating the intent of this code.
4. Hear and decide special exceptions to the terms of this ordinance upon which the Board is required to pass pursuant to the terms of this Ordinance.
5. Authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinance, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, or regulation shall be observed and substantial justice done, provided such relief may 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 any zoning ordinance, code, regulation or map.
6. In exercising the powers conferred by this Section, the Board of Adjustment may, in compliance with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement decision or determination as ought to be made, and to that end shall have all the effect of the official from the appeal is taken.

D. Meetings & Hearings

The Board shall conduct meetings and hearings in accordance with Title 22, Section 323 of the *Delaware Code*.

E. Fees

A filing fee shall accompany each appeal or application to the Board of Adjustment in such amount as may be determined by Town Council.

Section 3-3. Administrator

A. Qualifications

An Administrator possessing the following qualifications shall be appointed by the Town of Frankford to administer the ordinance:

1. Sufficient training and work experience in municipal government.
2. Familiarity with the administration and interpretation of zoning and subdivision ordinances.

B. Powers and Duties

1. The Administrator is responsible for the interpretation of and securing compliance with the provisions of this Ordinance.
2. The Administrator shall be responsible for facilitating or outsourcing professional technical review of land development activities regulated by this ordinance, and shall provide commentary and recommendations to the Planning and Zoning Commission and Town Council prior to their consideration of all applications.
3. The Administrator shall perform other activities that the Town Council deems appropriate.

Section 3-4. Town Council

- A. Administrative Responsibilities
 - 1. Appointment of an Administrator for this Ordinance.
 - 2. Establishing fees and charges.
 - 3. Reviewing and approving all land development activities regulated by this ordinance after considering recommendations of the Planning and Zoning commission.
- B. Legislative Responsibilities
 - 1. Adoption of, amendments to, updates of, revisions to, and implementation of a comprehensive plan in accordance with Title 22, Section 702 of the *Delaware Code*.
 - 2. Taking action on changes to the text and map of this Ordinance in accordance with Title 22, Sections 301-310 and 702 of the *Delaware Code*.

Article 4. Administrative Procedures

Section 4-1. General Provisions

A. Definitions

Building permit authority. The Sussex County Department of Building Code or designated representative of the Town based on the current situation.

Certified Comprehensive Plan. A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92, *Delaware Code*.

Concept Plan. An informal sketch or drawing of a site or subdivision plan of sufficient accuracy to be used for discussion only, and utilizing Table 4.3, *Deadlines & Duration of Major Subdivision Plan Approvals* and Table 4.4, *Information Required for a Concept Plan, Preliminary Plan, Major Subdivision or Major Site Plan* as a guide for the information to be included.

Conditions of approval. Conditions, placed on the final approval of an applicant's plan, that are both consistent with the Guidelines for Development Review and do not allow for the denial of a plan that is consistent with the objectives of the Guidelines for Development Review and appropriate uses and intensities of use set forth in this Ordinance.

Record Plat. A map depicting the layout of a major subdivision, containing information as set forth in Table 4.3, *Deadlines & Duration of Major Subdivision Plan Approvals*, and Table 4.4, *Information Required for a Concept Plan, Preliminary Plan, Major Subdivision or Major Site Plan* and submitted for final approval.

Major Subdivision Plan. A plan for the division of any parcel or parcels of land into more than five parcels or any division of any parcel or parcels of land that requires the construction or extension of public utilities or streets.

Minor Subdivision Plan. A plan for the division of any parcel or parcels of land into no more than five parcels, none of which require the construction or extension of public utilities or streets, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan*.

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan*.

Preliminary Plan. A plan of subdivision or land development, including all required data in Table 4.3, *Deadlines and Duration of Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan Review*, and Table 4.4, *Information required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plans*, as a basis for consideration by the P&Z Commission and Town Council prior to preparation of Major Subdivision and Major Site Plans.

Site Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling, containing information as set forth in Table 4.1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan Review* or Table 4.4, *Information Required for a Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan*. A major site plan is any construction of a new structure larger than 50,000 SF.

B. General Procedures

1. Duties of the Administrator

- a. The Administrator shall establish procedures regarding the number of plan copies necessary for submission and the format of that submission.
- b. The Administrator shall refer the Plans to the Town Council and Planning and Zoning Commission in accordance with the schedule set forth in Table 4-2, *Deadlines & Duration for Single-Family Development, Minor Subdivision, and Minor Site Plan*, and Table 4-4, *Deadlines & Duration of Concept Plan, Preliminary Plan, Major Subdivision Plan and Major Site Plans*.

2. Issuance of Building Permits

As a prerequisite for the issuance of building permits and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Certificate of Zoning Compliance to the building permit authority.

3. Final Recordation of Plats

As a prerequisite for the final recordation of subdivision plats and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Record Plat signed by the President, or designee, to the Recorder of Deeds.

4. Consistency with Comprehensive Plan

If the Town Council finds any development project to be inconsistent with the policies set forth in the Municipality's most recently Certified Comprehensive Plan, then the Town Council shall provide the applicant with documentation that details the substantive reasons why the project is not in compliance with the Comprehensive Plan and informs the applicant that the project shall not be approved until such time as it is brought into compliance with the Municipality's Comprehensive Plan.

C. Guidelines for Development Review

Parameters guiding the review and approval of an applicant's development plan by the Planning and Zoning Commission Town Council. These guidelines generally include the development plan's potential impact on the public health, safety and welfare, and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and, more specifically, the plan's impact on the following objectives:

1. Maximum safety and convenience of vehicular and pedestrian traffic;
2. Provision of adequate access to all sites for fire and police protection;
3. Provision of adequate off-street parking;
4. Site layouts minimizing adverse effect upon adjacent properties;
5. Landscaping of the site in a manner in keeping with the generally prevailing character of the neighborhood;
6. An adequate drainage system and layout.

Section 4-2. Single-Family Development Plan Approval

A. Purpose

To ensure that Single-Family Detached Dwellings and accessory buildings to Single-Family Detached Dwellings comply with the provisions of this Ordinance prior to the issuance of building permits.

B. When Required

1. Prior to the issuance of a building permit for a Single-Family Detached Dwelling on legal lot.
2. Prior to the issuance of a building permit for an accessory building on legal lots with existing Single Family Detached Dwellings.

C. Required Information

See Table 4-1, *Information required for Single-Family Development, Minor Subdivision, and Minor Site Plan.*

D. Application Review Process

1. The Single-Family Development Plan shall be presented and submitted by the applicant to the Administrator.
2. The Administrator shall review the Single-Family Development Plan for compliance with the regulations of this Ordinance. If a conditional use review is found necessary, then the Administrator shall review the conditional use concurrently during the Single-Family Development Review.
 - a. If the Single-Family Development Plan is determined to be in compliance with the regulations of this ordinance then the Administrator shall approve the issuance of a Certificate of Zoning Compliance to the applicant. A copy of this certificate shall be forwarded to the Town Council and the Planning and Zoning Commission for their information and records.
 - b. The applicant shall be responsible for presenting the Certificate of Zoning Compliance to the building permit authority in order to obtain a building permit.
 - c. If the Single-Family Development Plan is determined to be out of compliance with the regulations of this ordinance then the Administrator shall issue a letter to the applicant detailing those elements of the Single-Family Development Plan not in compliance with the regulations of this ordinance and issue a copy of said letter to the Town Council and Planning and Zoning Commission.

E. Duration, Revocation, & Extensions

See Table 4-2, *Deadlines & Duration of Single Family Development, Minor Subdivision, and Minor Site Plan.*

Section 4-3. Concept Plan

A. Purpose

1. To provide the opportunity for applicants and the Planning and Zoning Commission to review conceptual drawings in advance of a formal subdivision or site plan application.
2. To encourage creativity on the part of the applicants and the Planning and Zoning Commission by reviewing plans early in the design process, before considerable expense on engineered drawings have been incurred by the applicants.

B. When Required

1. The concept plan stage is required for major subdivisions and major site plans.
2. The concept plan stage is optional but encouraged for all other types of plan review.
3. The Concept Plan submission is the first official step of the subdivision process for major subdivisions and major site plans.
4. Concept plan review is to occur prior to the formal submission of all other types of plan review.
5. The applicant may re-submit revised plans for concept plan review as many times as desired in the spirit of working collaboratively with the Planning and Zoning commission on design changes and creative concepts for development.

C. Required Information

See Table 4-4, *Information required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan.*

D. Application Review Process

1. The Concept Plan shall be presented and submitted by the applicant to the Administrator.
2. The Administrator shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified comprehensive plan.

3. If the Administrator finds the proposed plan to be consistent with the policies set forth in the Municipality's most recently Certified Comprehensive Plan, then the Administrator shall place the Concept Plan on the Planning and Zoning Commissions next regularly scheduled meeting.
4. The Planning and Zoning Commission may take the following actions:
 - a. The Commission may make suggestions to the developer that will improve the project and/or bring the project more into compliance with the standards, goals, and intent of this ordinance. These suggestions shall be transmitted to the applicant in writing after the meeting.
 - b. The Commission may, by simple majority vote, endorse the concept plan and forward the plan. If a concept plan is endorsed by the Commission, the formal site plan, minor or major subdivision plan must be developed in close conformity with the concept plan. An endorsed concept plan may not be construed to absolve any applicant or particular land development project from otherwise complying with any and all provisions of this ordinance. The next step will be to submit a formal application.
 - c. **Optional Concept Plan Submission.** The Commission may choose not to make a recommendation or an endorsement of a concept Plan. In this case, the applicant does not have standing to present the concept plan to the Town Council. The next step will be to submit a formal application.
 - d. **Mandatory Concept Plan Submission.** The Commission upon receipt of testimony from the Applicant, the Public and Town Administrator may choose not to recommend or endorse the concept plan. In this case, the Commission shall submit to the Applicant in writing the reasons for not endorsing the plan, so the applicant can make the necessary changes to gain favorable recommendation/endorsement of the concept plan. If the concept plan has not been recommended or endorsed by the Planning and Zoning Commission after two additional reviews, the Applicant, may either continue to work with the Commission or present the concept plan to the Town Council. In either case, the Commission shall, as part of the Town Council Public Hearing, provide a finding of facts for recommendation or denial of the concept plan in addition to testimony from the Applicant, Public and Town Administrator. The Town Council may either approve or deny the concept plan. If the concept plan is approved by the Town Council the preliminary plan must be developed in close conformity with the concept plan. An approved concept plan may not be construed to absolve any applicant or particular land development project from otherwise complying with any and all provisions of this Ordinance.
 - e. The Commission may choose to forward the concept plan to the administrator for review and informal comment. The Administrator's comments are to be considered by the Planning and Zoning Commission when the concept plan is reviewed.
- E. **Duration, Revocation, & Extensions**
See Table 4-3, *Deadlines & Duration of Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan.*

Section 4-4. Preliminary Plan Approval

- A. **Purposes**
 1. To guide the growth and development of the Municipality in accordance with the comprehensive plan.
 2. To establish design standards and procedures for reviewing site plans.
 3. To encourage an orderly layout of land uses.

4. To ensure that public facilities are available and of sufficient capacity to serve proposed developments.
5. To minimize and manage the impact of development on air, water, and other natural resources.
- B. When Required
Prior to the submittal of major site plans or major subdivision plans.
- C. Required Information
See Table 4-4, *Information Required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan* for information on Major Subdivisions.
- D. Application Review Process
 1. The Preliminary Plan shall be presented and submitted by the applicant to the Planning and Zoning Commission.
 2. The Planning and Zoning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified plan.
 3. State Planning and Zoning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code*.
 4. Referrals to other agencies.
 - a. The Planning and Zoning Commission may request review and comments on a plan from the Municipal Engineer, pertinent State Departments such as Natural Resources and Environmental Control, Education, Transportation, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
 - b. Before taking action on a plan, the Planning and Zoning Commission shall allow sufficient time for departments and agencies to respond.
 5. The Planning and Zoning Commission shall forward the Preliminary Plan to the Administrator.
 6. The Administrator shall review the plan and issue comments of a professional and technical nature to the Town Council that, at a minimum, address the plan's compliance with all regulations of this Ordinance and the relevant Guidelines for Development Review.
 7. The Planning and Zoning Commission shall review the plan and the administrator comments in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional review is necessary it will be held concurrent with the review of the plan. The Planning and Zoning Commission shall develop recommendations for the Town Council.
 8. The Town Council shall review the plan, the Administrator's comments, and Planning and Zoning Commission recommendations in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional use review is necessary it will be held concurrent with review of the plan. The Town Council may approve any plan that meets the provisions of this ordinance and the Guidelines for Development Review. The Town Council may withhold, postpone, or deny approval of any plan which is not in compliance with the provisions of this ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.
 9. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for site plans, or the signature of the President or designee on a Major Subdivision Plan.
 10. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.
 11. Action
The Town Council may by a simple majority vote approve the Preliminary Plan.

- a. If a Preliminary Plan is approved, then the Town Council shall direct the Administrator to issue the applicant an approval letter.
 - b. If a Preliminary Plan is approved then the Town Council shall direct the applicant to the process for Final Major Site Plan or Major Subdivision Plat Approval as described in Section 4-6. The approval of a Preliminary Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.
 - c. If a Preliminary Plan is not approved, the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
- E. Duration, Revocation, and Extensions
See Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, and Minor Site Plan.*

Section 4-5. Minor Subdivision and Minor Site Plan Approval

- A. Purposes
1. To guide the growth and development of the Municipality in accordance with the comprehensive plan.
 2. To establish design standards and procedures for reviewing site plans.
 3. To encourage an orderly layout of land uses.
 4. To ensure that public facilities are available and of sufficient capacity to serve proposed developments.
 5. To minimize and manage the impact of development on air, water, and other natural resources.
- B. When Required
1. Prior to the issuance of building permits for site plans.
 2. Prior to the recordation of minor or major subdivision plats.
- C. Required Information
See Table 4-1, *Information Required for Single-Family Development, Minor Subdivision, and Minor Site Plan.*
- D. Application Review Process
1. The Minor Subdivision Plan or Site Plan shall be presented and submitted by the applicant to the Administrator.
 2. The Administrator shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified plan.
 3. State Planning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code*.
 4. Referrals to other agencies.
 - a. The Planning and Zoning Commission may request review and comments on a plan from the Municipal Engineer, pertinent State Departments such as Natural Resources and Environmental Control, Education, Transportation, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
 - b. Before taking action on a plan, the Administrator shall allow sufficient time for departments and agencies to respond.
 5. The Administrator shall review the plan and issue comments of a professional and technical nature to the Planning and Zoning Commission that, at a minimum, address the plan's compliance with all regulations of this Ordinance and the relevant Guidelines for Development Review.

6. The Administrator shall forward the Minor Subdivision Plan or Site Plan to the Planning and Zoning Commission.
7. The Planning and Zoning Commission shall review the plan and the Administrator's comments in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional review is necessary it will be held concurrent with the review of the plan.
8. The Administrator shall review the Planning and Zoning Commission recommendations in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. The Administrator may approve any plan that meets the provisions of this ordinance and the Guidelines for Development Review. The Administrator may withhold, postpone, or deny approval of any plan which is not in compliance with the provisions of this ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.
9. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for site plans, or the signature of the President or designee on a Minor Subdivision Plan.
10. Action
 - a. If a Minor Site Plan is approved, then the Administrator will issue the applicant an approval letter. It shall then be the responsibility of the applicant to finalize the plan (including any conditions of approval stipulated by the Planning and Zoning Commission). The applicant shall also obtain all necessary permits and approvals from outside agencies, including but not limited to permits and approvals from the Sussex Conservation District, the Delaware Department of Transportation, and the State Fire Marshal.
 - b. The applicant shall submit the final site plan and all required permits and approvals from outside agencies to the Administrator. Upon finding that the plans, permits, and approvals are complete, the Administrator shall issue a Certificate of Zoning Compliance to the applicant. The applicant shall be responsible for presenting the Certificate of Zoning Compliance to the building permit authority in order to obtain a building permit.
 - c. If a Minor Subdivision Plan is approved then the Administrator shall direct the applicant to the process for Plat Approval as described in Section 4-5. The approval of a Minor Subdivision Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.
 - d. If a Minor Subdivision or Minor Site Plan is not approved, the Administrator shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
11. Minor Subdivisions must follow the plat process as outlined in Section 4-7.
- E. Duration, Revocation, and Extensions
See Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, and Minor Site Plan.*

Section 4-6. Major Subdivision, and Major Site Plan Approval

- A. Purposes
 1. To guide the growth and development of the Municipality in accordance with the comprehensive plan.
 2. To establish design standards and procedures for reviewing site plans.
 3. To encourage an orderly layout of land uses.

4. To ensure that public facilities are available and of sufficient capacity to serve proposed developments.
5. To minimize and manage the impact of development on air, water, and other natural resources.
- B. When Required
 1. Prior to the issuance of building permits for site plans.
 2. Prior to the recordation of major subdivision plats.
- C. Required Information

See Table 4-4, *Information Required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan Review* for information on Major Subdivisions.
- D. Application Review Process
 1. The Major Subdivision Plan or Major Site Plan shall be presented and submitted by the applicant to the Planning and Zoning Commission.
 2. The Planning and Zoning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified plan.
 3. State Planning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code*.
 4. Referrals to other agencies.
 - a. The Planning and Zoning Commission may request review and comments on a plan from the Municipal Engineer, pertinent State Departments such as Natural Resources and Environmental Control, Education, Transportation, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
 - b. Before taking action on a plan, the Planning and Zoning Commission shall allow sufficient time for departments and agencies to respond.
 5. The Planning and Zoning Commission shall forward the Major Subdivision Plan or Major Site Plan to the Administrator.
 6. The Administrator shall review the plan and issue comments of a professional and technical nature to the Town Council that, at a minimum, address the plan's compliance with all regulations of this Ordinance and the relevant Guidelines for Development Review.
 7. The Planning and Zoning Commission shall review the plan and the Administrator's comments in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional review is necessary it will be held concurrent with the review of the plan. The Planning and Zoning Commission shall develop recommendations for the Town Council.
 8. The Town Council shall review the plan, the Administrator's comments, and Planning and Zoning Commission recommendations in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional use review is necessary it will be held concurrent with review of the plan. The Town Council may approve any plan that meets the provisions of this ordinance and the Guidelines for Development Review. The Town Council may withhold, postpone, or deny approval of any plan which is not in compliance with the provisions of this ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.
 9. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for site plans, or the signature of the President or designee on a Major Subdivision Plan.
 10. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.
 11. Action

The Town Council may by a simple majority vote approve the Major Subdivision or Site Plan.

- a. If a Site Plan or Subdivision Plan is approved, then the Town Council shall direct the Administrator to issue the applicant an approval letter. It shall then be the responsibility of the applicant to finalize the plan (including any conditions of approval stipulated by the Planning and Zoning Commission and/or the Town Council). The applicant shall also obtain all necessary permits and approvals from outside agencies, including but not limited to permits and approvals from the Sussex Conservation District, the Delaware Department of Transportation, and the State Fire Marshal.
- b. The applicant shall submit the final site plan and all required permits and approvals from outside agencies to the Administrator. Upon finding that the plans, permits, and approvals are complete, the Administrator shall issue a Certificate of Zoning Compliance to the applicant. The applicant shall be responsible for presenting the Certificate of Zoning Compliance to the building permit authority in order to obtain a building permit.
- c. If a Major Subdivision Plan is approved then the Town Council shall direct the applicant to the process for Plat Approval as described in Section 4-5. The approval of a Major Subdivision Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.
- d. If a Major Subdivision or Site Plan is not approved, the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.

12. Major Subdivisions must follow the plat process as outlined in Section 4-7.

- E. Duration, Revocation, and Extensions. See Table 4-3, *Deadlines & Duration of Concept Plan, Preliminary Plan, Single-Family Development, Major Subdivision and Major Site Plan.*

Section 4-7. Record Plat

A. Requirements

1. The applicant shall prepare a Record Plat in accordance with Table 4-4 *Information Required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan* and submit the Record Plat to the Administrator.
2. As a prerequisite to obtaining the President's or designee's signature on a Record Plat, the applicant is responsible for complying with Conditions of Approval imposed on the applicant's Plan and for receiving Letters of No Objection and/or required permits and approvals from applicable agencies, including, but not limited to, the Delaware State Fire Marshal, Delaware Department of Transportation, and the Sussex Conservation District.
3. The Administrator shall review the Record Plat for compliance with the regulations of this Ordinance.
 - a. If the Record Plat is determined to be in compliance with the regulations of this Ordinance and the applicant has obtained all required outside agency letters, permits and approvals as indicated in Section 4-5, A, 2 above, then the Administrator shall issue a letter to the President addressing this compliance and the President or designee shall sign the Record Plat.
 - b. If the Record Plat is determined to be out of compliance with the regulations of this Ordinance or if all required letters, permits and approvals have not been received or are not complete, then the Administrator shall issue a letter to the applicant detailing those elements of the Record Plat not in compliance with the regulations of this Ordinance.
4. Applicant shall be responsible for recording the Record Plat at the recorder of deeds. All deed restrictions, covenants, incorporation documents for homeowners associations and other

legal documents related to the subdivision and/or required by the Town Solicitor shall be recorded with the Record Plat. No building permits shall be issued until the Plat is lawfully recorded.

5. Duration, Revocation, and Extensions

See Table 4-3, *Deadlines & Duration of Concept Plan, Preliminary Plan, Single-Family Development, Major Subdivision and Major Site Plan.*

Section 4-8. Conditional Uses

A. Definition & Purpose

1. Definition. A use that is appropriate in a zoning district at a particular location only when certain criteria are met.
2. Purpose. To provide an additional level of review for these uses in order to determine their appropriateness at their proposed locations.

B. Required Findings

The Planning and Zoning Commission shall review and make recommendations to the Town Council who shall determine whether each conditional use:

1. Is in harmony with the purposes and intent of the comprehensive plan;
2. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures;
3. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties;
4. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;
5. Will have no detrimental effect on vehicular or pedestrian traffic;
6. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area;
7. Will not, in conjunction with existing, proposed, and potential development, overburden existing public services and facilities;
8. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Ordinance.

C. Action

1. The Town Council shall properly notice the conditional use hearing as a public hearing.
2. If the required findings of the conditional use are satisfied, then the Town Council may, by a simple majority, vote to approve the conditional use in question with or without reasonable conditions that address the required findings of a conditional use and/or address the health, safety, and general welfare of the community.
3. If the conditional use in question is not approved, then the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
4. The conditional use approval shall be tied substantially to the plan presented to the Town Council. Any change in use or alteration of the plan shall require a new conditional use hearing.

Section 4-9. Administrative Reviews and Variances

A. Variances

1. Definition

Relief from the strict application of the provisions of this Ordinance when, owing to special conditions or exceptional situations, a literal interpretation of this Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property.

2. The Board of Adjustment is responsible for considering requests for variances.
3. Required Findings

- The Board may authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinances, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or 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 any zoning ordinance, code, regulation or map.
4. Additional Standards
 - a. Use Variances Not Authorized. These provisions governing variances shall not be construed to permit the Board of Adjustment, under the guise of a variance, to authorize a use of land not otherwise permitted in this Ordinance.
 - b. Non-Conforming Situations Not Grounds for Variance. Non-conforming uses, lots, structures, or signs shall not be considered grounds for granting variances.
 - B. Administrative Review
 1. Purpose

To provide a mechanism for appeals where an error is alleged in any interpretation, order, requirement, decision, or determination made by the Administrator or designee in the administration of this Ordinance.
 2. Procedure

In order for the Board of Adjustment to conduct an administrative review:

 - a. The Administrator must issue a written interpretation, requirement, decision, or determination. The Administrator's written product must include information about the applicant's/property owner's situation, request, inquiry, etc. and references to pertinent sections of this Ordinance to support the interpretation, requirement, decision, or determination.
 - b. The Administrator must make every effort to present the written product to the applicant including, but not limited to, return receipt mailing.
 - c. The applicant must, by return receipt mailing or similar verifiable method, file a written request to the Town Council for Administrative Review within 30 days after receiving written notice of the Administrator's action.
 3. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board of Adjustment that a stay would cause imminent peril to life or property. In such a case, proceedings shall be stayed only by a restraining order granted by the Board of Adjustment or a court having jurisdiction.
 - C. Application and Review Process
 1. Application Filing
 - a. Applications for administrative review and variances shall be submitted to the Administrator. The Administrator may provide forms to facilitate application processing.
 - b. Applications shall be made in writing and shall provide the following information:
 - i. Information about the owner and applicant;
 - ii. Statement of the type of relief, permission, or review requested;
 - iii. Information about the property for which the application or review is being made;
 - iv. Information to support the application:
 - 1) (a) References to pertinent provisions of this Ordinance from which relief is being applied; or

- 2) (b) Identification of the provisions of this Ordinance, with which the application must comply, and statements as to how the application complies with those provisions.
 - v. Plans or drawings that support or clarify the relief or permission requested;
 - vi. Other information requested by the Board of Adjustment.
2. Burden of Proof on Applicant

An applicant for an administrative review or a variance shall have the burden of presenting the information needed by the Board of Adjustment to make a determination.
3. Board of Adjustment Hearing
 - a. Scheduling. The Board of Adjustment shall schedule a public hearing on each application to occur as soon as practicable following the receipt of the application by the Administrator.
 - b. Public Notice
 - i. Contents. The public notice shall specify the time, place, and nature of the hearing.
 - ii. How Given. At least 15 days prior to the public hearing, the following notices must be in place:
 - (a) Newspaper Publication. Legal notice in a newspaper of general circulation at least 15 days prior to a public hearing;
 - (b) Property Posting. For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location;
 - (c) Municipal Hall. Notice shall be posted at a public place in town.
 - c. Public Hearing
 - i. The hearing shall take place no less than 15 days following publication of the legal notice.
 - ii. The Board of Adjustment's hearing shall be conducted and applications shall be acted on as specified on Article 3 of this Ordinance.
 - iii. The Board of Adjustment may attach conditions to approvals of applications.
4. Relationship to Development Plan Review
 - a. Approval of an application by the Board of Adjustment does not supersede or obviate the need for compliance with any other Development Plan Review standards or requirements.
 - b. The Board of Adjustment may condition approvals on satisfactory compliance with applicable Development Review standards.
5. Appeals
 - a. Appeals to Superior Court. Appeals of the Board of Adjustment's decisions shall be made to the Superior Court as provided in Title 22, Sections 328-332 of the *DE Code*.

Table 4-1. Information Required for Single-Family Development, Minor Subdivision and Minor Site Plan

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Minor Site Plan	See also
PLAT INFORMATION				
Name and address of owner and applicant	R	R	R	
Subdivision name		R		Art 9, Sec 2B
Signature and seal of a registered Delaware land surveyor or professional engineer		R	R	
Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat		R	R	
Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	R	R	R	
A vicinity map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, etc. within 500 feet; date of current survey		R	R	
Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R	Art 8
North arrow and scale	R	R	R	
Signature blocks for President and/or pertinent Municipal official, pertinent County officials, Municipal Engineer		R	R	
Certification blocks for surveyor, engineer, architect including: surveyor's or engineer's seal, signature, and certification statement that the final plat, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown and that the plat complies with all requirements of this Ordinance and other applicable laws and regulations		R	R	
Locations and descriptions of all permanent survey monuments		R		Art 9, Sec 2C
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of rules border lines or other size acceptable to the Town		R	R	
Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of way and centerline curves on streets		R	R	
Acreage of tract to nearest tenth of an acre	R	R	R	
Date of original and all revisions		R	R	
Size and location of existing or proposed structures with all setbacks dimensioned	R	R	R	Art 8
Proposed lot lines and areas of lots in square feet		R		Art 9, Sec 3

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Minor Site Plan	See also
Locations and dimensions of existing and proposed streets		R	R	
Copy and/or delineation of any existing deed restrictions or covenants	R	R	R	
Copies of and a summary of deed restrictions for the subdivision or site plan, including agreements for the operation and maintenance by the property owners or agency in the subdivision of common areas, open space, recreation facilities, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council		R	R	
Owners' certification, acknowledging ownership of the property and agreeing to the subdivision and/or development thereof as shown on the plat and signed by the owner(s)	R	R	R	
Existing or proposed easement or land reserved for or dedicated to public use or to the residents of the proposed development		R	R	
Development or staging plans		R		
List of required regulatory approvals or permits. Conditional approval may be granted subject to other regulatory approvals	R	R	R	
Variances requested	R	R	R	Art 4, Sec 9
Conditional Uses required	R	R	R	Art 4, Sec 8
Payment of application fees	R	R	R	
SETTING/ ENVIRONMENTAL INFORMATION				
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map		R	R	
Land used primarily for agricultural purposes, lands in Agricultural Preservation Districts, and lands whose development rights have been sold to preserve them for farming (PDRs)		R		
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site		R	R	
Water Resource Protection Areas		R	R	
Habitat for Rare and Endangered Species		R	R	
Location of all wetlands and supporting documentation	R	R	R	
Location of the 100-year floodplain based on current Flood Insurance Rate Map	R	R	R	
Existing rights-of-way and/or easements on and within 200 feet of tract		R		
Topographical features of the site from the USC&GS map		R	R	
Existing and proposed contour intervals based on USC&GS data at one-foot intervals; contours must extend at least 200 feet beyond subject property		R		

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Single-Family Development Plan	Minor Subdivision	Minor Site Plan	See also
Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant features		R	R	
Existing drainage system of site and of any larger tract or basin of which it is a part		R		Art 12, Sec 2
Drainage Area Map				Art 12, Sec 2
Drainage calculations		R		Art 12, Sec 2
IMPROVEMENTS AND CONSTRUCTION INFORMATION				
Water supply and distribution plan	G	G	G	Art 11, Sec 3
Sewage collection and treatment plan	G	G	G	Art 11, Sec 4
Soil erosion and sediment control plan		G	G	Art 12, Sec 4
Permanent stormwater management plan		R	R	Art 12, Sec 3
Detailed landscape plan		R	R	Art 12, Sec 6
Site identification signs, traffic control signs, and directional signs		R	R	Art 13
Vehicular and pedestrian circulation patterns			G	Art 10
Parking and loading plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		R	R	Art 14
Spot and finished elevations at all property corners; corners of all structures or dwellings, existing or proposed first floor elevations		R	R	
Lots numbered in consecutive numerical order		R		
Other information required by the Municipality, the County, or other departments and agencies involved in approval of plan	R	R	R	

Table 4-2. Deadlines & Duration of Single-Family Development, Minor Subdivision and Minor Site Plan

Item	Single-Family Development Plan	Minor Subdivision	Minor Site Plan
Deadline for submitting plan to Planning and Zoning Commission before next Planning and Zoning Commission meeting		15 days	15 days
Deadline for acting on plan following Town Council meeting		60 days	60 days
Duration of plan approvals beginning at approval or recordation date	1 Year	3 Years	3 Year
Number and duration of extensions permitted, provided that the applicant can demonstrate that delays were beyond his/her control	1 extension of 6 months	1 extension of 6 months	1 extension of 6 months

Table 4-3. Deadlines & Duration of Concept Plan, Preliminary Plan, Major Subdivision Plan and Major Site Plan

Item	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record ¹ Plat
Deadline for submitting plan to Planning and Zoning Commission before next Planning and Zoning Commission meeting	15 days	15 days	15 days	15 days	N/A
Deadline for acting on plan following Town Council meeting	30 days	60 days ²	60 days ²	60 days ²	N/A
Duration of plan approvals beginning at approval or recordation date	1 year	3 Years	3 Years	3 Years	5 Years
Number and duration of extensions permitted, provided that the applicant can demonstrate that delays were beyond his/her control	None	1 extension of 6 months	extension of 6 months	extension of 6 months	None

¹ The Record Plat is submitted directly to the Administrator for approval and does not require approval by the Town Council.

² 90 days if a conditional use hearing is required.

Table 4-4. Information Required for Concept Plan, Preliminary Plan, Major Subdivision and Major Site Plan

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
PLAT INFORMATION						
Name and address of owner and applicant	R	R	R	R	R	
Subdivision name, as approved by Sussex County 911 Addressing	G	R	R		R	Art 9, Sec 2B
Signature and seal of a registered Delaware land surveyor or professional engineer			R	R	R	
Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat		R	R	R	R	
Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	R	R	R	R	R	
A vicinity map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, etc. within 500 feet; date of current survey	G	R	R	R	R	
Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	G	R	R	R	R	Art 8
North arrow and scale (1"=100')	R	R	R	R	R	
Scale (1"=50')			R	R		
Signature blocks for President and/or pertinent Municipal official, pertinent County officials, Municipal engineer			R	R	R	

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
Certification blocks for surveyor, engineer, architect including: surveyor's or engineer's seal, signature, and certification statement that the final plat, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown and that the plat complies with all requirements of this Ordinance and other applicable laws and regulations			R	R	R	
Locations and descriptions of all permanent survey monuments					R	Art 9, Sec 2C
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of rules border lines or other size acceptable to County	R	R	R	R	R	
Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of way and centerline curves on streets					R	
Acreage of tract to nearest tenth of an acre	G	R	R	R	R	
Date of original and all revisions	R	R	R	R		
Size and location of existing or proposed residential structures with all setbacks dimensioned		G	R	R		Art 8
Size and location of existing or proposed commercial structures with all setbacks dimensioned	G	G	R	R		Art 8
Proposed lot lines and areas of lots in square feet	G	R	R	R	R	Art 9, Sec 3
Locations and dimensions of existing and proposed streets	G	R	R	R	R	
Copy and/or delineation of any existing deed restrictions or covenants		G	R	R	R	

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
Copies of and a summary of deed restrictions for the new subdivision, including agreements for the operation and maintenance by property owners or agency in the subdivision of common areas, open space, recreation facilities, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council			R	R	R	
Owners' certification, acknowledging ownership of the property and agreeing to the subdivision thereof as shown on the plat and signed by the owner(s)	R		R	R	R	
Owners' statement dedicating streets and other public ways for public use (private streets are prohibited in Town of Frankford)					R	Art 10
Existing or proposed easement or land reserved for or dedicated to public use or to the residents of the proposed development		G	R	R	R	
Development or staging plans		G	R	R	R	
List of required regulatory approvals or permits. Conditional approval may be granted subject to other regulatory approvals		G	R	R	R	
Variances requested	G	R	R	R	R	Art 4, Sec 9
Conditional Uses required	G	R	R	R	R	Art 4, Sec 8
Payment of application fees	R		R	R	R	
SETTING/ENVIRONMENTAL INFORMATION						
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map	G	R	R	R		

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
Land used primarily for agricultural purposes, lands in Agricultural Preservation Districts, and lands whose development rights have been sold to preserve them for farming (PDRs)	G	R	R	R	R	
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site	G	R	R	R	R	
Location of all wetlands and supporting documentation	G	R	R	R	R	
Location of the 100-year floodplain based on current Flood Insurance Rate Map	G	R	R	R	R	
Water Resource Protection Areas	G	R	R	R	R	Art 12, Sec 1
Habitat for Rare and Endangered Species			R	R		
Existing rights-of-way and/or easements on and within 200 feet of tract		R	R	R		
Topographical features of the site from the USC&GS map	G	R	R	R		
Existing and proposed contour intervals based on topographic survey, USGS data, or other statewide approved data source. Contours at one-foot intervals on site and extending 50'; contours must extend at least 200 feet beyond subject property but may use best available published data from 50' – 200'		G	R	R		
Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant features	G	R	R	R		
Existing drainage system of site and of any larger tract or basin of which it is a part	G	G	R	R		Art 12, Sec 2
IMPROVEMENTS AND CONSTRUCTION INFORMATION						
Water supply and distribution plan		G	R	R		Art 11, Sec 3

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
Sewage collection and treatment plan		G	R	R		Art 11, Sec 4
Soil erosion and sediment control plan			R	R		Art 12, Sec 4
Grading plan		G	R	R		Art 12, Sec 4
Permanent stormwater management plan		G	G	G		Art 12, Sec 3
Solid waste management plan						
Additional utility infrastructure plans, including gas, telephone, electric, cable TV			R	R	R	Art 11, Sec 7
Site identification signs, traffic control signs, and directional signs		G	R	R		Art 13
Vehicular and pedestrian circulation patterns	G	R	R	R	R	Art 10
Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations			R	R		
Construction details, such as cross sections and profiles, as required by applicable laws, regulations, and policies		G	R	R		Arts 10-12
Proposed street names, as approved by Sussex County 911 Addressing		R	R	R	R	Art 10, Sec 1A
New blocks lettered consecutively, lots numbered in consecutive numerical order		R	R		R	
Other information required by the Municipality, the County, or other departments and agencies involved in approval of plan	G	G	R	R	R	
Detailed landscaping plan	G	G	R	R		Art 12

Information Required for Development Plan Review Blank = No requirement G = General information R = Complete data or information required	Concept Plan	Preliminary Plan	Major Subdivision	Major Site Plan	Record Plat	See also
Residential Buildings: Identification of the architectural style(s) of the development and the accompanying site design style(s). The design style of the development shall be conveyed with drawings of typical proposed building elevations, including dimensions of building height and width, and facade treatment. The Applicant may submit and the Town Council may approve multiple typical elevations for various housing styles		G ^[1]	R ^[1]	R ^[1]		Art 15
Non-Residential Buildings: Conceptual elevations of all proposed non-residential buildings. Typical elevations of signs and screening including location, material and height. Locations of loading and service areas		G ^[1]	R ^[1]	R ^[1]		Art 13 Art 15

1. Applies to major land developments in the R-2, R-3 and R-5 zoning districts.

Figure 4-1. Single-Family Development Plan Approval

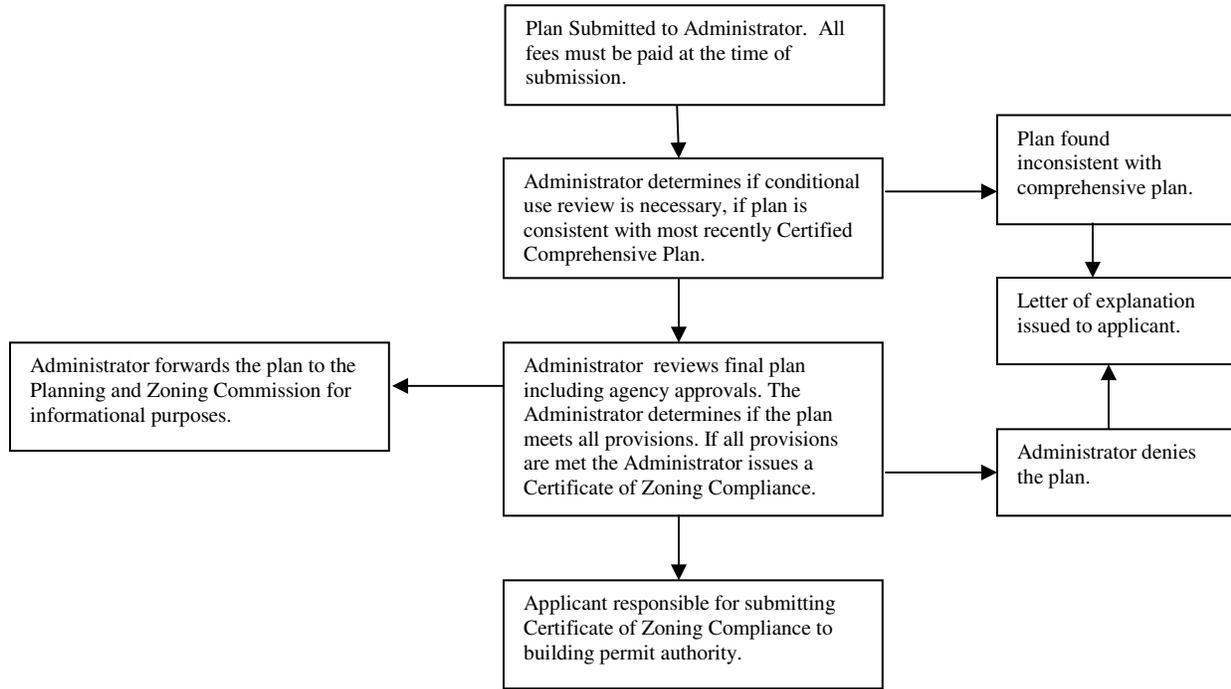


Figure 4-2. Minor Subdivision Approval

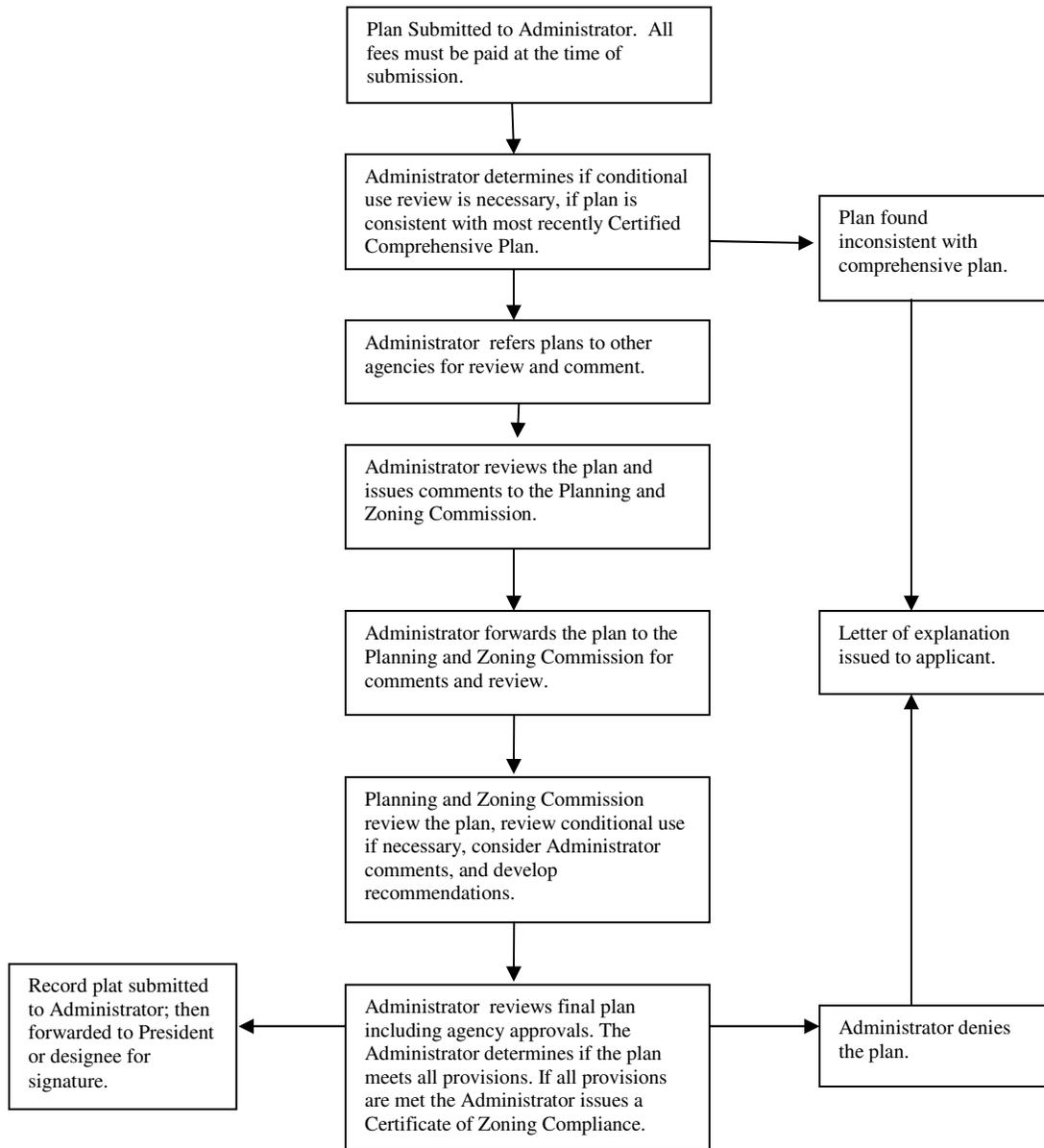
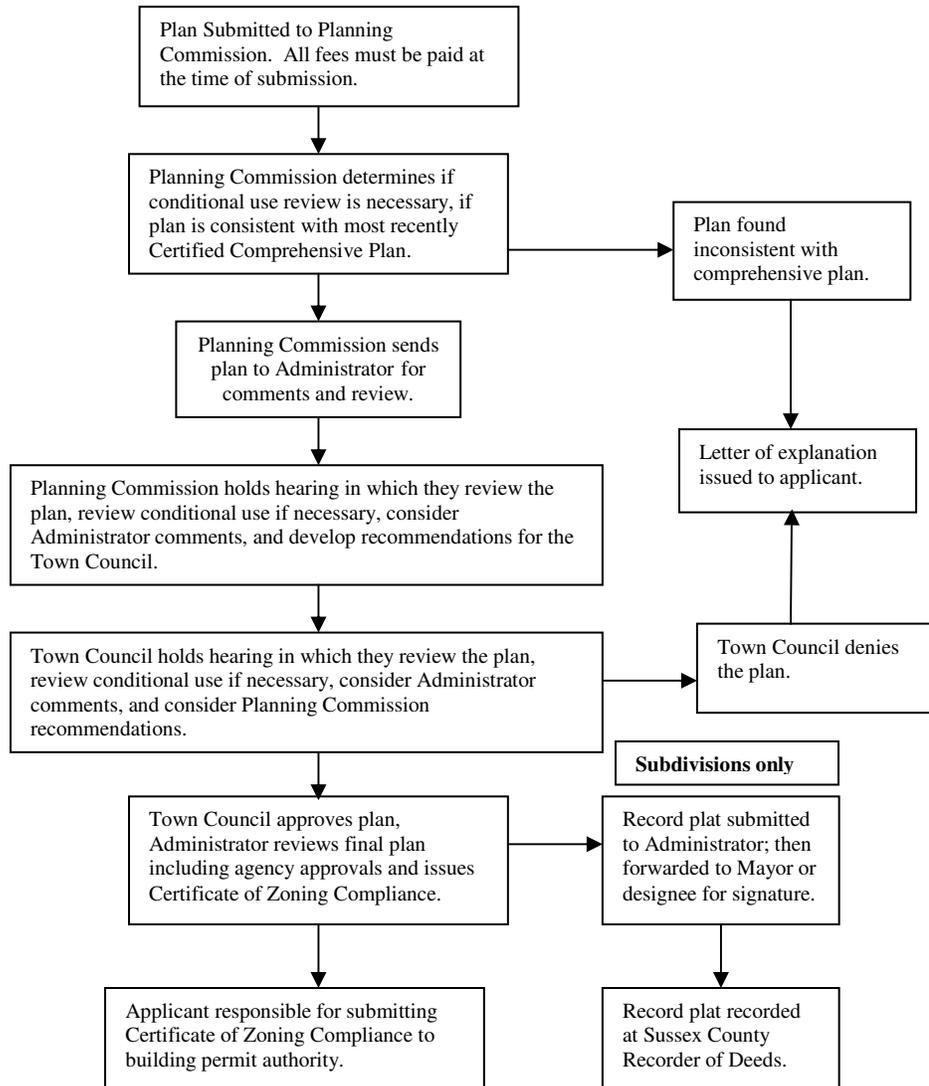


Figure 4-3. Preliminary Plan, Major Subdivision, and Site Plan Approval



Article 5. Non-Conforming Situations

Section 5-1. Definition & Intent

A. Definition

Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance.

B. Intent

Nonconforming situations may continue until they are removed, but their survival is not encouraged.

Section 5-2. Nonconforming Lots

A. Definition

A lot, whose area and/or width were lawful before this Ordinance was adopted, revised or amended, but does not meet the current lot area and/or lot width standards of this Ordinance.

B. Nonconforming Legal Lots

1. Definition. A nonconforming legal lot is a nonconforming lot of record, whose owner or ownership entity does not own or control adjacent property.
2. Applicability. Zoning districts where single-family dwellings are permitted.
3. Regulation. A nonconforming legal lot may be developed without a variance, with a single-family home, including customary accessory structures, as long as it complies with the dimensional and density standards of this Ordinance, other than lot area and/or lot width.

C. Other Situations

1. Where a property owner owns land adjacent to a single nonconforming lot, the adjacent land must be added to the nonconforming lot and re-platted so that the resulting lot conforms to the standards of this Ordinance.
2. Where a property owner owns land adjacent to a group of nonconforming lots, the lots must be re-platted to conform to the standards of this Ordinance.
3. Adjacent nonconforming lots of record owned by the same owner or ownership entity may not be sold to different purchasers in order to subvert the intent of this Ordinance.

Section 5-3. Nonconforming Structures

A. Definition

A structure, whose dimensional and density characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the dimensional and density standards of this Ordinance.

B. Continued Existence

A nonconforming structure may be continued under the following conditions:

1. Normal repair and maintenance is permitted.
2. A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity.
3. Nonconforming structures may not be used as grounds for the addition of other structures or uses that do not conform to the standards of the zoning district.
4. If a nonconforming structure is moved, it must be located in a manner that conforms to the requirements of the zone in its new location.

C. Termination of Legal Nonconforming Status

1. When a nonconforming structure, or a nonconforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated unless reconstruction of the structure commences within six months time of said destruction and completed within one year from the date of such

destruction; and provided that the floor area of the new structure does not exceed the area of the non-conforming use that was destroyed or partially destroyed. Any extension required may be requested from the Board.

2. Any subsequent use of such land shall conform to provisions of this Ordinance.
3. Manufactured homes removed for any reason after the effective date of this ordinance may only be replaced by homes meeting the current HUD codes and all other requirements of this ordinance.

Section 5-4. Nonconforming Uses

A. Definition

A use or activity, that was lawful before this Ordinance was adopted, revised, or amended, which is not permitted under the Use Regulations of this Ordinance.

B. Continued Existence

Although nonconforming uses are incompatible with permitted uses in their respective districts, a nonconforming use may continue under the following conditions:

1. The use or portions of the structures accommodating the use may not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the date when this Ordinance is adopted or amended.
2. The use may not be relocated or partially relocated from its location on the date when this Ordinance is adopted or amended unless it is placed in a zoning district that allows such use.

C. Termination of Legal Nonconforming Status

1. When a nonconforming use of land ceases for any reason for a period of more than six months, or if the structure housing the non-conforming use is altered or expanded in any way its legal, nonconforming status is terminated.
2. Any subsequent use of such land shall conform to provisions of this Ordinance.

Section 5-5. Nonconforming Signs

A. Definition

A sign, whose characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the current standards of this Ordinance.

B. Continued Existence

A nonconforming sign may be continued under the following conditions:

1. Normal repair and maintenance is permitted.
2. A nonconforming sign may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity.
3. Nonconforming signs may not be used as grounds for permission to construct additional signs that do not conform to the standards of this Ordinance.

C. Termination of Legal Nonconforming Status

1. When a nonconforming sign is damaged or destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated.
2. Any subsequent sign shall conform to provisions of this Ordinance.
3. When the establishment to which a nonconforming sign is attached to ceases to operate for a period of more than six months, its legal, nonconforming status is terminated.

Article 6. Zoning Districts & Map

Section 6-1. Definition & Intent

A. For the purposes of this Chapter, the Town is hereby divided into Zoning Districts. The zones are to be designated as follows:

Comp Plan Land Uses	Zoning District	Purpose	Typical Kinds of Uses in Zone
Residential Agriculture Institutional	R Residential	To accommodate existing residential lots in Town. To maintain the community's small town character. To preserve the community character and allow continued agricultural uses.	Single-Family Homes
Residential Agriculture Institutional	MR Medium Density Residential	To provide multi-family housing opportunities in appropriate locations throughout the Town. To provide alternatives to single-family detached homes. To preserve the community character.	Single-Family Homes Multi-Family Apartment Buildings Townhouses
Residential	RPC Residential Planned Community	To provide sufficient space for new residential development and customary accessory uses. To preserve the community character.	Single-Family Homes Multi-Family Apartment Buildings Townhouses
Commercial Agriculture Institutional	C General Commercial	To accommodate commercial business and service uses in appropriate locations throughout the Town. To provide employment and to meet the needs of the residents in the Town and surrounding areas.	Retail Stores; Offices; Wholesale and Service Establishments
Commercial Agriculture Institutional	NB Neighborhood Business	To provide for the optimum regulation of local commercial activities so that these may be encouraged to develop in beneficial relation to one another and to the immediate residential areas from which they must draw their support: <ul style="list-style-type: none"> • Is compact. • Is designed for the human and pedestrian scale. • Provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another in the neighborhood. • Provides a mix of housing styles, types and sizes to accommodate households of all ages, sizes and incomes. • Incorporates interconnected streets with sidewalks and bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provide for the connections of those streets to existing and future developments. • Incorporates significant environmental features into the design. Significant environmental features include the specific environmental features set forth in this Code. 	Mix of Residential Homes, Retail and Business Sites and Integrated Open Spaces.
Light Industrial	LI Light Industrial	To accommodate light industrial businesses that will provide employment. To allow only for light industrial uses which do not have adverse impacts on adjacent uses, residences, the transportation system, or the natural environment.	Small Repair or Fabrication Operations; Small Manufacturing Facilities

B. The Town of Frankford and the lands over which it has jurisdiction is hereby divided into six zones or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

C. The Official Zoning Map shall be identified by the signature of the President of the Commissioner attested by the Administrator 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 Frankford, Delaware," together with the date of the adoption of this chapter.

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

- E. No changes of any nature shall be made to the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this chapter.

- F. Regardless of the existence of proposed copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map (which shall be located in the Frankford Town Hall) shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town.

Article 7. Use Regulations

Section 7-1. Specific Requirements by Zone

- A. R Residential
 - 1. Permitted Uses. See Table 7-1, *Permitted Uses and Structures*.
 - 2. Accessory Uses. See Section 7-3.
 - 3. General Requirements. RESERVED
- B. MR Residential
 - 1. Permitted Uses. See Table 7-1, *Permitted Uses and Structures*.
 - 2. Accessory Uses. See Section 7-3.
 - 3. General Requirement. No more than six town house units are permitted in any one structure.
 - 4. Conditional Use
 - a. The permitted uses and structures shall be governed by Table 7-1, *Permitted Uses and Structures*, of this ordinance.
 - b. The Conditional Use proceedings shall be conducted as per the requirements of Section 4-6 of this ordinance.
 - c. The bulk and density standards shall be governed by Table 8-1, *Basic Development Standards in Residential Zone*, of this ordinance.
 - 5. Condition Use Option 2, Planned Unit Development
 - a. Purpose: The purpose of this option is to encourage design innovation, superior architectural, design and development standards, compatibility with and enhancement of the surrounding environment, integration with the surrounding neighborhood and to achieve the goals of the Comprehensive Plan.
 - b. Findings: In addition to the required findings detailed in Section 4-6, B, the Planning and Zoning Commission must find and the Town Council must concur that:
 - i. The design of the project represents a significant design innovation which would not be achievable by strictly adhering to the development standards found in this ordinance.
 - ii. The project will be constructed to superior architectural, design, and development standards that are in excess of the standards otherwise found in this ordinance.
 - iii. The project will include open space, recreation areas, and protection and enhancement of the natural environment that meet or exceed the standards otherwise required by this ordinance.
 - iv. The project's design will in no way hinder the provision of emergency access, emergency services, municipal service delivery, school bus access, trash collection, or other necessary public services to be provided in the development.
 - c. The permitted uses and structures shall be governed by Table 7-1, *Permitted Uses and Structures*, of this ordinance.
 - d. The Conditional Use proceedings shall be conducted as per the requirements of Section 4-6 of this ordinance.
 - e. Subdivision plans must detail the bulk and density standards proposed for the conditional use subdivision plan. Once accepted by the Planning and Zoning Commission and the Town Council, these standards must be recorded with the record plat and shall govern land development on the parcel.
 - f. Multi-family structures and manufactured homes are not permitted under this conditional use option.
 - g. Development standards for this conditional use option shall be governed by Table 8-5, *Dimensional & Density Standards for Accessory Buildings and Structures*, of this

ordinance.

C. RPC Residential Planned Community

1. Permitted Uses. See Table 7-1, *Permitted Uses and Structures*.
2. Accessory Uses. See Section 7-3.
3. General Requirement
 - a. Purpose: The purpose is to encourage design innovation, superior architectural, design and development standards, compatibility with and enhancement of the surrounding environment, integration with the surrounding neighborhood and to achieve the goals of the Comprehensive Plan.
 - b. Findings: In addition to the required findings detailed in Section 4-6, B, the Planning and Zoning Commission must find and the Town Council must concur that:
 - i. The design of the project represents a significant design innovation which would not be achievable by strictly adhering to the development standards found in this ordinance.
 - ii. The project will be constructed to superior architectural, design, and development standards that are in excess of the standards otherwise found in this ordinance.
 - iii. The project will include open space, recreation areas, and protection and enhancement of the natural environment that meet or exceed the standards otherwise required by this ordinance.
 - iv. The project's design will in no way hinder the provision of emergency access, emergency services, municipal service delivery, school bus access, trash collection, or other necessary public services to be provided in the development.
 - c. The permitted uses and structures shall be governed by Table 7-1, *Permitted Uses and Structures*, of this ordinance.
 - d. The Conditional Use proceedings shall be conducted as per the requirements of Section 4-6 of this ordinance.
 - e. Subdivision plans must detail the bulk and density standards proposed for the conditional use subdivision plan. Once accepted by the Planning and Zoning Commission and the Town Council, these standards must be recorded with the record plat and shall govern land development on the parcel.
 - f. No more than six town house units are permitted in any one structure.

D. C Commercial

1. Permitted Uses. See Table 7-1, *Permitted Uses and Structures*.
2. Accessory Uses. See Section 7-3.
3. General Requirements. RESERVED

E. LI Light Industrial

1. Permitted Uses. See Table 7-1, *Permitted Uses and Structures*.
2. Accessory Uses. See Section 7-3.
3. General Requirements. RESERVED

F. Neighborhood Business District

1. Permitted Uses. See Section 7-1 and Table 7-1, *Permitted Uses and Structures*.
2. Accessory Uses. See Section 7-3.
3. Conditional Uses. See Table 7-1, *Permitted Uses and Structures*. Proposed conditional uses shall be identified in the application to the Planning and Zoning Commission and shall follow requirements in Section 4-8.
4. General Requirements.
 - a. Eligibility Requirements. No land area shall be zoned NB unless the following conditions are met:

- i. The land shall contain a minimum acreage of five acres. Parcels or tracts less than the minimum acreage may be permitted if they are contiguous to an existing NB zoned area and may be harmoniously integrated into the NB area, consistent with the requirements and purposes of this zone. Parcels less than five acres may be joined with adjacent parcels as part of NB master site planning if the total of all said parcels is five acres.
 - ii. The land area shall have access to an existing or planned collector road, sub-collector, or arterial.
 - iii. The land area shall be served by adequate existing or planned infrastructure.
 - iv. The land area may contain a single or multiple parcels.
 - v. The rezoning application for the land area shall be filed jointly by all owners of the involved land area.
 - vi. No land shall be classified in the NB district unless it is so designated in the Town's Comprehensive Plan recommending mixed-use development.
 - b. A mix of residential dwelling types is required within a NB; however, not less than 20 of the total dwelling units must be single-family detached dwellings.
 - c. The total ground floor area of nonresidential development uses shall not exceed 50% of the total neighborhood business development area.
 - d. Open Space.
 - i. Open space provisions are provided in Section 12-8. In addition, 90% of the lots within the areas devoted to mixed residential uses shall be within a quarter mile and accessible to common open space.
 - ii. The open space should also be consistent with the Town's plans for its park and open space system as set forth in the Comprehensive Plan.
 - e. To approve the zoning of a Neighborhood Business project, the Planning and Zoning Commission must find, and the Town Council must concur, that the project's design satisfies all of the following criteria:
 - i. Is consistent with purpose statement in Section 6-1 herein and meets the said design principles of traditional neighborhoods.
 - ii. Is consistent with the policies set forth in the most recently Certified Comprehensive Plan.
 - iii. Maintains and helps preserve Frankford's small town atmosphere and traditions.
 - iv. Includes a mixture of uses and housing types inspired from and integrated into the existing Town character and densities, as well as other neo-traditional design principles.
 - v. Will not hinder the provision of emergency access, emergency services, municipal service delivery, school bus access, trash collection, or other necessary public services to be provided in the development.
5. Permitted Uses for Neighborhood Business District
 - a. In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A neighborhood Business District should consist of a mix residential area, a mixed-use area, and open space as provided below:
 - b. Mix residential area.
 - i. Residential uses identified in Table 7-1, *Permitted Uses and Structures*.
 - (a) Single-Family Dwelling, including modular homes;
 - (b) Two Family Dwelling;
 - (c) Townhouse Dwelling.
 - ii. Passive Open Space.
 - c. Mixed use area. The term mixed-use area is used to designate the community center or focal point of the development.

- i. Uses identified in Table 7-1, *Permitted Uses and Structures* and described below. The typical streetscape anticipated by this ordinance is depicted below.
 - ii. Commercial uses.
 - (a) Retail Food establishments, 7,500 square feet or less. Such establishments may include, but not be limited to, neighborhood grocery store, bakery, candy store, butcher shop, convenience store, and similar establishments;
 - (b) Retail sales establishments, 7,500 square feet or less. Such establishments may include, but not be limited to, florists or nurseries, hardware stores, stationery stores, book stores, studios and shops of artists and artisans, and similar establishments;
 - (c) Services including business, personal, retail and social, 7,500 square feet or less. Typical uses include day care centers, music, dance or exercise studios, offices, including professional and medical offices, barber, hair salon, dry cleaning;
 - (d) Restaurant, not including drive-through. Specialty restaurants include cafes, coffee shops, bars or pubs and other similar establishment;
 - (e) Pharmacy or similar use, 12,000 square feet or less;
 - (f) Supermarket, 35,000 – 50,000 square feet.
 - (g) Cinema
 - iii. Residential uses.
 - (a) Single Family Attached Dwelling, including two-family, townhouse;
 - (b) Residential units located on upper floors above commercial or office uses.
 - iv. Office or Services.
 - (a) Offices;
 - (b) Service Establishments, including Business, Personal, Retail, or Social, as defined in Article 2.
 - v. Civic or institutional uses.
 - (a) Municipal offices, fire stations, libraries, museums, community meeting facilities, and post offices;
 - (b) Transit shelters;
 - (c) Educational facilities.
 - (d) Performing arts facility and theater, and art studio and artisan studios
 - vi. Emergency Services
 - (a) Police
 - (b) Fire
 - (c) EMS Station
- d. Active Open space uses.
- i. Central square; Neighborhood park; Playground and similar uses.



Elevation sketch of a typical streetscape generally preferred within a mixed-use area. Architectural design, street furniture, and landscaping all contribute to an attractive, human-scaled environment with a distinct visual character.

Section 7-2. Interpretation of Uses

A. General

A use not specifically listed as permitted in a zoning district is prohibited unless determined similar in accordance with Subsection B below.

B. Determination of Similar Uses

1. Determination of Similar Uses

- a. A determination as to whether a use is similar to a use permitted by right shall be considered an expansion of the use regulations of the zone and not as a variance applying to a particular situation. Any use found similar shall be included in the list of uses permitted by right.
- b. Application
 - i. All applications for permits involving uses not specifically listed among the uses permitted by right in any zone shall be submitted to the Administrator.
 - ii. The Administrator shall have the authority to determine that a use is similar to a use permitted by right.
 - iii. The Town Council may on a case-by-case basis refer to the Administrator the authority to determine that a use is similar to a use permitted by right.
- c. Standards Governing the Determination of Similar Use
 - i. That the use closely resembles and contains the same characteristics as the classification to which it is to be added.
 - ii. That the use does not create dangers to health and safety, and does not create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
 - iii. That the use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.
- d. The determination of similar uses shall not be construed to exempt applicants from complying with the regulation of off-street parking and signs set forth in this ordinance.

Section 7-3. Accessory Uses

A. Definition

A use is an accessory use if it meets all of the following criteria:

- 1. Is incidental and subordinate to the principal use;
- 2. Is customary to the principal use;
- 3. Is operated and maintained under the same ownership and on the same lot as the principal use;
- 4. Does not include structures or structural features inconsistent with the principal use; and
- 5. Does not include overnight lodging for anyone other than members of the household in which the accessory use is conducted.

B. Where Permitted

Except as otherwise provided, accessory uses are permitted in all zones.

Section 7-4. Home-Based Businesses

Any business, occupation, or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.

A. Permitted Home-Based Businesses

- 1. Offices for professionals including architects, brokers, counselors, clergy, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction

- contractors, landscape design, surveyors, cleaning services, salespersons and manufactures' representatives, travel agents.
2. Personal services including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering and chauffeuring services.
 3. Instructional services including music, dance, art and craft classes, and tutoring.
 4. Babysitting services defined as the occasional care of children.
 5. Studios for artists, sculptors, musicians, photographers, and authors.
 6. Workrooms for tailors, dressmakers, milliners, and craft persons including weaving, lapidary, jewelry making, cabinetry, and woodworking.
 7. Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines.
 8. Garage and yard sales (limited to four times per year).
 9. Direct sales parties.
- B. Prohibited Home-Based Businesses
1. Commercial kennels, veterinary clinics and hospitals.
 2. Medical clinics, dental clinics, hospitals.
 3. Restaurants, bars, and night clubs.
 4. Funeral homes and undertaking establishments.
- C. Operational Standards
1. Operating Hours
 - a. General Standard. Customer and client visits to the home-based business are limited to the hours from 8:00 A.M. to 8:00 P.M.
 - b. Additional Provisions
 - i. These operational standards recognize that some home-based businesses occasionally rely on client/customer visits that begin before 8 A.M. and last beyond 8:00 P.M. Examples of such home-based businesses include babysitting services, instructional services, "Tupperware parties," and party planning businesses.
 - ii. Businesses such as those listed in the previous subsection shall be considered as operating within the home-based business standards as long as they do not cause undue traffic congestion, and comply with the standards governing equipment used or operated by home-based businesses.
 2. Employees
 - a. On-Premise Employees. A home-based business shall have not more than two non-resident employees on the premises at any one time.
 - b. Off-Premise Employees. The number of non-resident employees working at locations other than at the home-based business is not limited.
 3. Equipment. Equipment used in, and the operation of a home-based business, shall not:
 - a. Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines;
 - b. Generate noise that violates any Municipal ordinance or regulation pertaining to noise;
 - c. Create any electrical, magnetic or other interference off the premises;
 - d. Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties;
 - e. Use and/or store hazardous materials in excess of quantities permitted in residential structures.
 4. Signs. See Article 13

Section 7-5. Swimming Pools

- A. Private residential swimming pools shall adhere to the following standards:

1. All pools shall be located in the rear yard areas. Pools shall occupy no more than 25% of the rear yard area or a maximum of 800 square feet as measured along the surface of the water, whichever is smaller.
2. In case of a corner lot, a permanent private swimming pool shall not be constructed, erected, installed or maintained closer to the side street line than the prevailing setback line on that street.
3. The pool may be lighted by underwater or exterior lights, or both, provided all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or any annoyance to neighboring properties. Underwater lighting shall be in compliance with the applicable National Electrical Code.
4. Accessory swimming pools, open and unclosed, may occupy in a required rear yard, provided that they are not located closer than six feet to the rear lot line. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls. Every swimming pool shall comply with the adopted International Building Code, as amended, pertaining to pool safety.
5. All in ground swimming pools and above ground pools with side walls greater than 36 inches shall be completely surrounded by a fence of six feet in height or meet the requirements of the International Building Code as it relates to swimming pool enclosures, whichever is more stringent.

Table 7-1. Permitted Uses & Structures

Blank =Not permitted P =Permitted use CU =Conditional use, see Sec. ** D =See definition in Art. 2	Zone R	Zone MR	Zone RPC	Zone C	Zone NB	Zone LI
Agriculture-Related Uses						
Farms, customary and conventional farming operations including the raising of vegetables, flowers, and horticultural materials; not to be construed to include commercial poultry and swine production, cattle feeder lots, and fur bearing animal farms	P	P		P ²	P ²	
Farms, housing or raising of livestock for commercial or non-commercial purposes					P ²	
Greenhouse, commercial	D			P	P ²	P
Residential Uses						
Apartment above commercial or office uses				P	P ¹	
Bed & Breakfast	D	CU	CU	CU	CU	
Bed & Breakfast Inn						
Dwelling, Duplex	D		CU	P	P	
Dwelling, Manufactured Home	D					
Dwelling, Multi-family	D		P	P		
Dwelling, Single-Family Detached, including Modular	D	P	P	P	P	
Dwelling, Townhouse	D		P	P	P	
Home-based business	D	CU	CU	CU	CU	
Hotel, motel	D			P	P	

Blank =Not permitted P =Permitted use CU =Conditional use, see Sec. ** D =See definition in Art. 2	Zone R	Zone MR	Zone RPC	Zone C	Zone NB	Zone LI
Sales & Rental of Goods, Merchandise, and Equipment						
Convenience store	D		CU	P	P ¹	P
Convenience store w/ Accessory fuel sales	D			P	CU ¹	
Retail food establishments 7,500 SF or less	D		CU	P	P ¹	
Retail food establishments more than 7,500 SF	D			P	CU ¹	
Retail sales establishments 7,500 SF or less	D		CU	P	P ¹	
Retail sales establishments more than 7,500 SF	D			P	CU ¹	
Pharmacy or related uses, 12,00 SF or less	D			P	P	
Pharmacy or related uses, more than 12,000 SF	D			P	CU ¹	
Supermarket, 35,000 to 50,000 SF	D			P	P ¹	
Supermarket, more than 50,000 SF	D			P	CU ¹	
Restaurant	D		CU	P	P ¹	
Wholesale trade establishment	D			P		P
Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods and Services						
Business service establishments	D			P	P ¹	P
Offices	D			P	P ¹	P
Miscellaneous service establishments	D			P	P ¹	
Personal service establishments	D			P	P ¹	
Retail service establishments 7,500 SF or less	D		CU	P	P ¹	
Retail service establishments more than 7,500 SF	D			P	CU ¹	
Social service establishments	D			P	P ¹	
Small appliances and small motor repair establishments	D			P	CU	P
Manufacturing, Assembling, Processing						
Manufacturing establishments	D					P
Educational, Cultural, Religious, Philanthropic, Social, Fraternal						
Club, private such as golf, swimming, and tennis clubs, lodges, and other annual membership clubs	D		CU	CU	P ¹	
Educational institutions, public and private	D	CU	CU	CU	P ¹	
Places of worship	D	CU	CU	CU	P ¹	
Performing arts facility and theater, and art studios and artisan studios				P	CU	
Institutional, Residence, Care, Confinement & Medical Facilities						
Day care center	D	CU	CU	CU	P	P ¹

Blank =Not permitted P =Permitted use CU =Conditional use, see Sec. ** D =See definition in Art. 2	Zone R	Zone MR	Zone RPC	Zone C	Zone NB	Zone LI
Day care, family (1-9 children)	D	P	P	P	CU ¹	
Day care, large family (7-12 children)	D	CU	CU	CU	P	CU ¹
Hospital	D			P	CU ¹	
Medical clinic	D			P	P ¹	
Nursing and care facilities	D			P	CU ¹	
Surgical center	D			P	P ¹	
Fitness / wellness center				P	P ¹	
Transportation-Related Sales & Service						
Motor vehicle filling stations				P	CU ¹	
Motor vehicle sales, repair, service and storage				P		P
Storage & Parking						
Distribution center	D			P	P ¹	P
Garage, public or commercial parking			CU	P	P ¹	P
Self-storage facility	D			P		P
Warehouse	D			P		P
Public, Semi-Public, Emergency						
Government facilities and services, local	D	CU	CU	CU	P	P
Government facilities and services, non-local	D	CU	CU		P	P
Parks & open space		P	P	P	P	P
Public safety facilities including, ambulance, fire, police, rescue, and national security	D	CU	CU	CU	P	P
Public utility service facilities	D	CU	CU	CU	CU	P
Recreation facility	D	CU	CU	CU	CU	P
Not Grouped Elsewhere						
Cemeteries		CU	CU		CU	CU
Funeral home				P		
Veterinary clinics, animal hospitals, or commercial kennels, provided that no open pens, runs, kennels or cages are located within 100 feet of land that is used or zoned residential				P	CU	
Private kennels		P		P	P	

P¹ Uses permitted by-right in the designated mixed-use area.

CU¹ Uses allowed following conditional use review in the designated mixed-use area.

P²: Only permitted while land is in active farming condition.

Article 8. Dimensional & Density Standards**Section 8-1. Basic Dimensional & Density Standards**

- A. Residential Zones. See Table 8-1, *Basic Development Standards in Residential Zones*.
- B. Non-Residential Zones. See Table 8-2, *Dimensional & Density Standards Residential Zones*.
- C. Residential Planned Communities. See Table 8-3, *Dimensional & Density Standards for Residential Planned Communities*.
- D. Neighborhood Business District. See Table 8-4, *Dimensional & Density Standards for Neighborhood Business District*.
- E. Accessory Buildings & Structures. See Table 8-5, *Dimensional & Density Standards for Accessory Buildings and Structures*.
- F. Projections into Required Yards. See Table 8-6, *Permitted Projections into Required Yards*.

Section 8-2. Supplemental Dimensional & Density Standards

- A. Structures to Have Access
 - 1. Lots on which new structures are built or to which a structure is relocated must be adjacent to, or have access to, a public street.
 - 2. Structures shall be placed on lots in a manner that provides safe and convenient access for utility servicing, fire protection, and required off-street parking.
- B. Fences, Walls, Hedges & Shrubbery
 - 1. Setbacks. Fences, walls, hedges, and shrubbery may be setback 1 foot from the public right-of-way or sidewalks on a residential lot and shall comply with height limitations stated in this subsection.
 - 2. Height limitations for fences and walls.
 - a. Front property line. Fences shall not exceed four feet in height.
 - b. Side property line. Shall be a maximum of four feet in height up to the front façade of the principal structure on the lot; thereafter the maximum height shall be six and a half feet.
 - c. Corner side property line. Shall be six and a half feet and shall meet visibility requirements as set forth in Section 8-2, C.
 - d. Rear Property Line. Shall be a maximum 10 feet.
 - e. All fences shall be maintained and kept in good condition.
 - f. All fences shall be constructed of quality materials approved by the Town at the time of issuance of a building permit.
 - g. Sound barriers and retaining walls along railroads and highways shall be a conditional use.
 - 3. Non-Residential Uses. The Planning and Zoning Commission may allow or require fences, walls, hedges, or shrubbery that are higher than the limitations stated in this subsection. In making such a determination, the Planning and Zoning Commission must find that exceeding the height limitations is necessary due to the type of use, security concerns, or the protection of adjacent properties. The Planning and Zoning Commission may refer these requests to the Administrator at their discretion.
- C. Visibility at Intersections within “Sight Triangle”

At street intersections, nothing shall be built, placed, planted, or allowed to grow higher than three feet within the “sight triangle” measured along the right-of-way line above the curb level of the intersecting streets for a distance of 20 feet from the intersection and formed by connecting the respective 20 foot distances. Obstructions existing at the time this ordinance is adopted may remain.
- D. Height Limit Exemptions

The height limitations of this Ordinance do not apply to appurtenances usually required to be placed above the roof level and not intended for human occupancy. Such appurtenances include, but are not limited to, the following:

- | | |
|-------------------|---|
| Belfries | Public monuments |
| Chimneys | Radio and television antennas for residential use |
| Cupolas | Smoke stacks |
| Flag poles | Spires |
| Ornamental towers | Water towers |

- E. Landscape Screen. See Article 15.
- F. Existing Setback

No proposed structure need have a front yard setback greater than the average setback of the two existing structures with the greatest setbacks within 200 feet on each side of the said proposed structure on the same side of the street.

Figure 8-1. Setbacks, Building Coverage, Building Lines

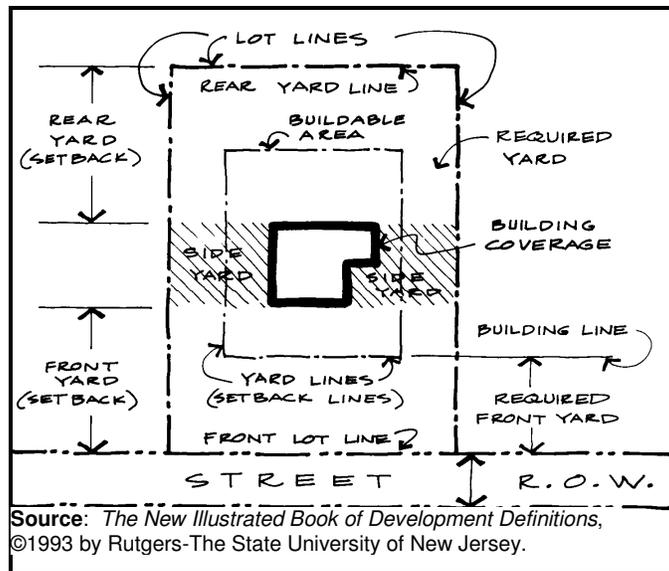


Figure 8-2. Types of Lots

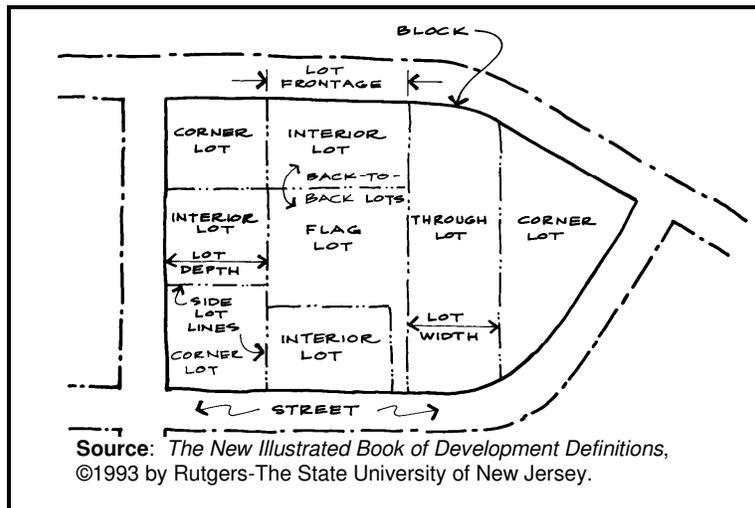


Table 8-1. Basic Development Standards in Residential Zones

	<i>R</i>			<i>MR</i>	
	<i>Single Family</i>	<i>Duplex⁸</i>	<i>Town House⁸</i>	<i>Multi - Family</i>	<i>Multi Family - Converted</i>
Minimum living space (SF)⁹	1,250	1,250 per unit	1,250 per unit	1250 per unit	1250 per unit
Tract Standards					
Tract Area ¹	15,000 SF	15,000 SF	20,000 SF	40,000 SF	5,000 SF
Maximum DUs ² Per Acre	N/A	3.0	3.0	8.0	N/A
Lot Standards					
Lot Area ³ Per DU (SF ⁴)	15,000	7,500 / per Unit; 15,000 / Duplex	2,000	3,000	3,000
Street Frontage (feet)	75	75	Interior 20 End 30	125	30
Lot Width at Front Bldg. Line (feet)	100	50 / Unit; 100 / Duplex	Interior 20 End 30	N/A	50
Setbacks (feet)					
Front Yard	20	15	15	15	15
Side Yard					
One ⁶	8	10	10 ⁸	20	5
Sum of Both	16	N/A	N/A	40	15
Rear Yard	10	30	30	40	30
Maximum Building Height					
Feet ⁷	35	35	35	35	35
Maximum Building Coverage (% of Lot)	60%	50%	50%	60%	60%
Minimum Lot Depth	100	100	100	100	100

1. Tract Area is the minimum acreage or square footage needed to develop land for each dwelling unit type.
2. DU means dwelling unit.
3. Lot Area is the minimum lot size for each dwelling unit type.
4. SF means square feet.
5. There is a required 10 foot clearance between a new structure and an existing structure on an adjacent lot.
6. See building height note Section 6-2, H, 2.
7. Minimum living space refers to the minimum permitted heated living area in a dwelling, excluding garages, storage areas, exterior stairwells and similar features. Minimum living space is a measurement of the actual floor area inside the unit.
8. End unit only.

Table 8-2. Dimensional & Density Standards in Non-Residential Zones

Standard	C	LI
	Commercial	Light Industrial
Minimum Tract Area	10,000 SF	10,000 SF
Street Frontage (feet)		
Lot Width at Front Building Line (feet)	50	50
Lot Depth (feet)	100	100
Setbacks (feet)		
Front	15	15
Side		
One	20	20
Sum of Both	40	40
Rear		
Adjoining Residential Zone	30	50
Adjoining Non Residential Zone	25	25
Maximum Building Height		
Feet	35	45
Maximum Building Coverage (% of Lot)	50%	50%
Green Area (% of Lot)	15%	15%

Table 8-3. Dimensional & Density Standards in Residential Planned Community

	RPC Proposal	Single Family	Duplex	Townhouse
Minimum Living Space, per unit (in square feet)		1,250	1,250	1,250
Tract Area	10 acres Min.			
Maximum DUs Per Acre	4.0			
Lot Area per DU (SF)		6,000	3,000 / Unit 6,000 / Duplex	2,000
Street Frontage (feet)		30 Min.	30 Min.	Interior 20 Min. End 30 Min.
Lot Width at Front Building Line		60 Min.	30 Min./ Unit 60 Min./ Duplex	Interior 20 Min. End 30 Min.
Setbacks				
Front Yard		10' Min; 15' Max	10' Min; 15' Max	10' Min; 15' Max
Rear Yard		30' Min.	30' Min.	30' Min.
Side Yard				
One		5' Min. / 10' Max	10' Min.	10' Min.
Sum of Both		15' Min. / 20' Max.	N/A	N/A
Maximum Building Height, Stories/ Feet		2 ½ / 35'	2 ½ / 35'	3 ½ / 45'
Maximum Building Coverage		50% Max	50% Max	50% Max
Minimum Lot Depth		100 feet	100 feet	100 feet

1. Lot Dimensions and yard sizes for structures not situated on subdivided, fee simple lots shall be at the discretion of the Planning and Zoning Commission and concurred by the Town Council. Plans must detail the bulk and density standards for the proposed RPC. Once accepted by the Town Council, these standards must be recorded with the record plat and shall govern land development in the district.

2. See Section 6-2, B and Section 4-8

Table 8-4. Dimensional & Density Standards in NB Neighborhood Business

Residential Area				
	NB Proposal	Single Family	Duplex	Townhouse
Minimum Living Space, per unit (in square feet)		1,250	1,250	1,250
Tract Area	5 acres Min.			
Maximum DUs Per Acre	5.5			
Lot Area per DU (SF)		15,500	7,500 / Unit 15,000 / Duplex	2,000
Street Frontage (feet)		75 Min.	75 Min.	Interior 20 Min. End 30 Min.
Lot Width at Front Building Line		70 Min.	30 Min./ Unit 60 Min./ Duplex	Interior 20 Min. End 30 Min.
Setbacks				
Front Yard		10' Min; 15' Max	10' Min; 15' Max	10' Min; 15' Max
Rear Yard		30' Min.	30' Min.	30' Min.
Side Yard				
One		5' Min. / 10' Max ²	10' Min.	10' Min.
Sum of Both		15' Min. / 20' Max.	N/A	N/A
Maximum Building Height, Stories/ Feet		2 ½ / 35'	2 ½ / 35'	3 ½ / 45'
Maximum Building Coverage		50% Max	50% Max	50% Max
Minimum Lot Depth		100 feet	100 feet	100 feet
Mixed-Use Area				
	NB Proposal	Commercial	Office/ Civic/ Institutional	Residential above Retail/ Office
Minimum Living Space, per unit (SF)		N/A	N/A	800
Tract Area	20 acres Min.			
Lot Standards		At the Discretion of Town Council		
Setbacks		At the Discretion of Town Council		
Maximum Building Height, Stories/ Ft		3 ½ / 45'	3 ½ / 45'	3 ½ / 45'
Maximum Building Coverage		At the Discretion of Town Council		
Minimum Lot Depth		At the Discretion of Town Council		

1. Lot Dimensions and yard sizes for structures not situated on subdivided, fee simple lots shall be at the discretion of the Planning and Zoning Commission and concurred by the Town Council. Plans must detail the bulk and density standards for the proposed NB. Once accepted by the Town Council, these standards must be recorded with the record plat and shall govern land development in the district.
2. Side yard reductions are permitted for single-family detached dwellings as set forth in Section 8-1 E.6.
3. See Section 6-2, J.

Table 8-5. Dimensional & Density Standards for Accessory Buildings and Structures

Standard	Detached Garage	Other Detached Accessory Buildings
Location	Rear yard	Rear yard
Setbacks		
Side-interior	5 feet	5 feet
Side-corner	5 feet	5 feet
Rear	5 feet	5 feet
Distance from main building	10 feet	10 feet
Distance from dwelling on adjacent Residential Lot	20 feet	20 feet
Maximum Height	2 ½ stories or 35 feet	2 ½ stories or 35 feet
Maximum Lot Coverage	Must be included in calculation of coverage for principal building	Must be included in calculation of coverage for principal building

Table 8-6. Permitted Projections¹ into Required Yards

Type of Projection	Front Yard	Interior Side Yard	Corner Side Yard	Rear Yard
Balconies, bay windows, entrances, oriels, and vestibules less than 10 feet wide	3 feet	3 feet	3 feet	3 feet
Chimneys	2 feet	2 feet	2 feet	2 feet
Cornices and eaves	2 feet	2 feet	2 feet	2 feet
Decks, platforms, or similar raised structures	Not permitted	Not permitted	Not permitted	6 feet
Outside stairways	Not permitted	Not permitted	Not permitted	6 feet
Porches, steps, stoops, terraces, and similar features				
Open	9 feet	3 feet	3 feet	9 feet
Roof covering porches, steps, stoops, terraces	4 feet	Not permitted	Not permitted	4 feet
Enclosed, including screened-in porches	Not permitted	Not permitted	Not permitted	Not permitted

1. Projections into required yards refer to structural features and elements that are permitted, without a variance, to extend into the setbacks otherwise specified by this ordinance. These structural features and elements may be constructed within the required setbacks as otherwise permitted. This table provides some latitude for additional projections.

Article 9. Subdivision & Land Development

Section 9-1. Applicability

The provisions of this Article govern the preparation of all development plans regardless of whether they result in the subdivision of land.

Section 9-2. General Requirements

A. Conformance to Applicable Rules and Regulations

In addition to the requirements established in this Ordinance, all subdivisions shall comply with the following laws, rules, and regulations. If a subdivision plan does not comply with these laws, rules, and regulations, it may be disapproved and building permits may be withheld.

1. All applicable statutory provisions.
2. The provisions of this Ordinance, building and housing codes, and all other applicable laws of the County and State.
3. The Municipal Comprehensive Plan.
4. Standards and regulations adopted by any Municipal boards, committees, or commissions.
5. Rules, regulations, and standards of applicable County or State agencies.

B. Subdivision Name

Sussex County 911 Addressing shall approve the proposed name of the subdivision.

C. Reference Monuments

1. Permanent reference markers shall be at such locations as approved by a registered land surveyor and represent common surveying practices.
2. Monuments shall be located on street right-of-way lines, at street intersections, angle points of curves and block corners. They shall be spaced so as to be within sight of each other, the site lines being wholly contained within the street lines.
3. The external boundaries of a subdivision should be monument in the field. These monuments should be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius and at all angle points in any line.

D. Character of Land

Land which the Town Council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features, which will be harmful to the safety, health, and general welfare of the current or future inhabitants of and/or its surrounding areas, shall not be subdivided or developed unless acceptable methods are determined by the developer and approved by the Town Council upon recommendation of the Administrator, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses that mitigate the characteristics that make the land unsuitable for development.

Section 9-3. Lot & Block Design

A. Block Design

1. Spacing. Streets shall be spaced so that blocks meet the dimensional requirements of this Ordinance and to minimize the number of intersections with existing or proposed State-maintained roads.
2. Shape. The lengths, widths, and shapes of blocks shall be appropriate for the character of the Municipality, the surrounding neighborhood, and the proposed development.
3. Easements. The subdivision plan shall provide for the reservation of easements through a block to accommodate utilities, drainage facilities, or pedestrian traffic.

B. Lot Design

1. General Requirement. Lots shall be arranged so that there will be no foreseeable

- difficulties, because of topography or other conditions, in securing building permits.
2. No lot lines shall be platted in any floodplain, wetland, riparian buffer, or designated open space.
 3. Lot Access. Every lot shall abut and have access to a public street.
 4. Lot Dimensions
 - a. General. Lot dimensions shall comply with the minimum size, width, depth, and other applicable dimensional and density standards of the zone in which they are located.
 - b. Side Lot Lines. In general, side lot lines shall be at right angles to street lines or radial to curving street lines unless a deviation from this rule will produce a better street or lot plan.
 - c. Corner Lots. Corner lots shall have sufficient extra width to permit the building setback from both streets required in this Ordinance.
 - d. Depth and Width. Excessive lot depth in relation to lot width shall be avoided.
 - e. Lot Area. The area of all lots shall be the minimum required for the zone in which the subdivision is located.
 - f. Lots Used for Single-Family Homes. The size and shape of lots intended for single-family use shall be sufficient to permit the construction of garage for a single automobile.
 - g. Non-Residential. The depth and width of properties proposed for non-residential uses shall be sufficient to provide parking, loading, landscaping, and other facilities specified in this Ordinance, and other applicable requirements.
 - h. Double the Minimum Area. Where lots are more than double the required minimum area, the Municipality may require that these lots be arranged to permit further subdivision and the opening of future streets.
 - i. Drainage
 - i. Lots shall be laid out so as to provide positive drainage away from all buildings.
 - ii. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area in which the subdivision is located.
 - iii. Drainage systems shall be designed to avoid concentration of storm water runoff from adjacent lots on to any single lot.
 - iv. Drainage plans must be approved and constructed according to the requirements of the Sussex Conservation District and Delaware stormwater regulations.
 - v. The use of open ditches shall be discouraged. Open ditches should only be used for drainage if no other practical alternative is possible. Best Management Practices should always be considered.
 5. Lot Orientation
 - a. The lot line common to the street right-of-way shall be the front lot line.
 - b. All lots shall face the front line and a similar line across the street.
 - c. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line on an adjacent lot.
 6. Lot Frontage
 - a. Street frontage of any lot shall be as specified in the Dimensional and Density Standards of this Ordinance measured along the right-of-way line. Where street frontage is not specified in the Dimensional and Density Standards, it shall be 30 feet.
 - b. Double Frontage and Reversed Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

Section 9-4. Easements

- A. Applicability
The requirements of this section shall only be construed to apply to the subdivision of land occurring after the adoption of this Ordinance.
- B. Required to Accommodate Public Utilities
 1. General Requirement. Easements shall be provided where necessary to meet public utility requirements.
 2. Along Lot Lines. All subdivision lots shall have five-foot-wide easements along all lot lines for a total easement width of at least 10 feet along a lot line common to two lots. Easements of greater width may be required along lot lines or across lots, where necessary.
 3. Along Perimeter Boundaries. Easements along perimeter boundaries of the subdivision shall be no less than 10 feet in width on the interior side of the boundary.
- C. Required to Accommodate Waterways and Drainageways
Where a proposed subdivision is traversed by any stream, waterway or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of easements along such waterways and drainageways.
- D. Permanent Obstructions Prohibited
No building, structure or other permanent obstruction shall be placed on any easement.

Section 9-5. Plans & Profiles

- A. Approval Required Prior to Start of Construction
Plans, profiles and specifications for the required improvements shall be prepared by the subdivider and submitted for approval by the Administrator and by the appropriate public authorities prior to construction.
- B. Required Information
The plans and profiles to be submitted for all new construction shall include the following:
 1. Plans and profiles of each street showing proposed grades and street intersection elevations;
 2. A typical cross section of proposed streets showing the width of roadways. Such cross section shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown;
 3. Construction and specification plans of proposed sanitary sewers and storm drains shall be approved by the County, the Sussex Conservation District, The Delaware Department of Transportation or Town Engineer where each has jurisdiction;
 4. Construction and specification plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants, shall be in accordance with the standards of the relevant state and public utility agencies and the State Fire Marshal;
 5. Plans and specifications for any forested buffer strips, if required.

Section 9-6. Inspections & Fees

- A. Inspections, As-Built Drawings Required
All construction work on improvements required herein shall be subject to inspection and approval by the Municipal Engineer and/or other authorized individuals during and upon completion of such construction work. Upon the completion of each improvement, the subdivider shall furnish the appropriate official with an accurate and detailed description of location and the completion date of the improvement as it was actually constructed.
- B. Fees for Inspections
The Town Council shall establish a schedule of fees to be paid by the subdivider in order to reimburse the Municipality for the cost of inspecting all construction work on improvements

required herein.

Section 9-7. Bonds & Guaranties

A. Performance Bond or Guarantee Required

As a condition of approval of improvement plans, the Town Council shall require the subdivider to post a performance bond or other guaranty for any improvements required by the application of this Ordinance in an amount sufficient to construct the improvements and in a form acceptable to the Municipal Attorney. The amount of such bond shall be no less than 125% of the cost of improvements. Bonding and guaranties may be required for street and road improvements, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, open space and parks, or other improvements deemed necessary by the Municipality.

B. Additional Bonds or Guarantees Authorized

Where a public agency other than the Municipality has the authority to require performance guaranties, but in the determination of the Town Council those guaranties are not adequate to ensure completion of improvements, the Town Council may require additional bonds or guaranties in accordance with the provisions of Subsection A of this section.

Article 10. Streets, Sidewalks, Curbs & Gutters

Section 10-1. Roads & Streets

- A. General Requirements
1. Private Streets. Private streets are prohibited.
 2. Service from Public Streets. Every subdivision shall be served by a dedicated public street. There shall be no private streets platted in any subdivision.
 3. Street Names
 - a. All new streets shall be named.
 - b. Street names shall be selected so as not to duplicate or closely resemble existing names within the Municipality, the same hundred, or postal district and shall be approved by Sussex County 911 Addressing.
 - c. The continuation of any street shall have the same name.
 - d. The developer shall be responsible for the placement of all new street name signs.
 4. Grading and Improvement Plan. Roads shall be graded and improved in conformance with the construction standards of the Delaware Department of Transportation. The Delaware Department of Transportation shall approve design specifications for state maintained roads prior to final plat approval. The Town Engineer shall approve design specifications for roads to be dedicated to the Town prior to final plat approval.
 5. Classification. Each road shall be classified as either a State-maintained road or a municipal street.
 6. Access to State-Maintained Roads. Where a subdivision borders on, or contains an existing or proposed State-maintained road, the State shall determine how access shall be provided from the subdivision to the State-maintained road.
- B. Design Standards
1. Generally. Streets shall be laid out to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees.
 2. Access streets, intended primarily for access to individual properties, shall be arranged to discourage their use by through traffic.
 3. No curvilinear or suburban style streets shall be permitted unless it can be demonstrated that they are necessary because of exterior lot configurations, or because of topographic conditions. Streets should be constructed in a grid pattern.
 4. Streets shall interconnect within a development, with adjoining development, and with existing streets. Cul-de-sacs are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Cul-de-sac streets shall not exceed 300 feet in length.
 5. Fire department access and fire lane layout shall be provided in accordance with the Delaware State Fire Prevention Regulations.
 6. Collector Streets
 - a. Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Municipality determines:
 - i. That topography or other physical condition prevents continuation;
 - ii. That coordination between the two subdivisions is unnecessary; or
 - iii. That access between the two adjacent subdivisions should be restricted.
 - b. Access to Undeveloped Adjacent Tracts. Collector streets shall be extended to the boundary lines of adjacent subdivisions. Temporary turnarounds shall be provided within the subdivision at the ends of the collector streets via temporary easements or

other means approved by the Commission.

- C. Construction Standards
Streets shall be constructed to applicable State standards.
- D. General Standards for Rear Access
1. Rear access is a desirable feature which has many benefits related to community design, off-street parking, emergency service and utility access, and convenience to the homeowners. Rear access is encouraged in all residential developments, including those in the RPC and NB zones. Rear access shall be required in all townhouse dwellings which contain four or more units attached in a row.
 2. The preferred form of rear access is a paved alley designed for vehicular access. Where required, the minimum acceptable form of rear access shall be a paved walkway or pathway that provides access to the rear of interior units in townhouse style developments. Such paved walkways are permitted in other types of residential developments when proposed as part of a comprehensive pedestrian and bikeway plan for the community or where they can be shown to benefit property owner's access to the rear of their properties.
 - a. In an RPC and NB district, at least 50% of the townhouses with four units or more are required to have vehicular rear access.
 3. Parking shall be prohibited within the right-of-way of any alley. All parking must be located on individual lots on parking pads, in driveways, or in garages. It shall be permissible and encouraged to access parking pads, driveways, and garages from alleys where they are provided.
- E. Design Standards for Rear Access
1. An alley designed for vehicular use shall have a paved surface with a minimum width of 16 feet. The turning radii shall be designed to allow for the safe passage of passenger vehicles, service vehicles such as trash trucks, and emergency vehicles such as fire trucks.
 2. If the alley is to be dedicated to the Town it shall be located in a right-of-way at least 12 feet in width. The Town may require additional right-of-way not to exceed 16 feet when utilities are proposed in alleys. If the alley is not to be dedicated to the Town the alley must be common open space that is transferred to the homeowners or condominium association, which will be responsible for maintenance.
 3. Walkways and pathways intended to provide access to the rear yards of townhouse style dwellings shall be a minimum of six feet in width and paved with a hard surface such as concrete, asphalt or a similar approved surface.
 4. All walkways and pathways shall be considered common open space, and transferred to the homeowners or condominium association for maintenance. Deed restrictions shall be enacted to ensure that no fences, sheds, or other obstructions are placed in the walkway easements.
 5. Any fence installed in the rear yard of a residential unit with rear access shall have a gate allowing access to the alley or rear access walkway or pathway.
- F. Road Pavement Width
1. Pavement widths for new roads shall be no less than 24 feet, unless otherwise specified by this Ordinance.
- G. Design Standards for Residential Planned Communities and Neighborhood Business
1. Circulation Standards. The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off-street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to

streets of lower traffic volumes, and promote safe and efficient mobility through the development.

- a. **Pedestrian Circulation.** Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the Town. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. Sidewalks in residential areas. Clear and well-lighted sidewalks depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.
- b. **Sidewalks in mixed-use areas.**
 - i. A pedestrian access way shall be provided for every customer entrance.
 - ii. Continuous internal pedestrian walkways, no less than five feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. Buildings shall be connected to each other and to the public sidewalk system by pedestrian walkways.
 - iii. For commercial or office buildings that do not front a Commercial/Mixed-Use Collector road, sidewalks no less than eight feet in width shall be provided along the full length of the building along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
 - iv. Designated pedestrian walkways will be required to traverse the vehicular parking aisle to the minimum extent possible. Such walkways shall be located so that no customer entrance is farther than 100 feet from the nearest walkway.
 - v. Walkways shall connect focal points of pedestrian activity such as, transit stops, street crossings, building and store entry points, and parking areas. The walkways should feature adjoining landscaped areas that include trees, shrubs, benches, planting beds, ground covers or other such materials to enhance the appearance of the walkway areas.
 - vi. All internal pedestrian walkways in the parking lot area shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
- c. Curb extensions at intersections in the mixed-use area are required when on street parking is provided.
- d. **Disabled Accessibility.** Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.
- e. **Crosswalks.** Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.
- f. **Bicycle Circulation.** Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other non-motorized users) and separate, striped, bicycle lanes on streets.
- g. **Public Transit Access.** Where public transit service is available or planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through surveillance, and shall be well lighted.
- h. **Motor Vehicle Circulation.** Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such curb extensions,

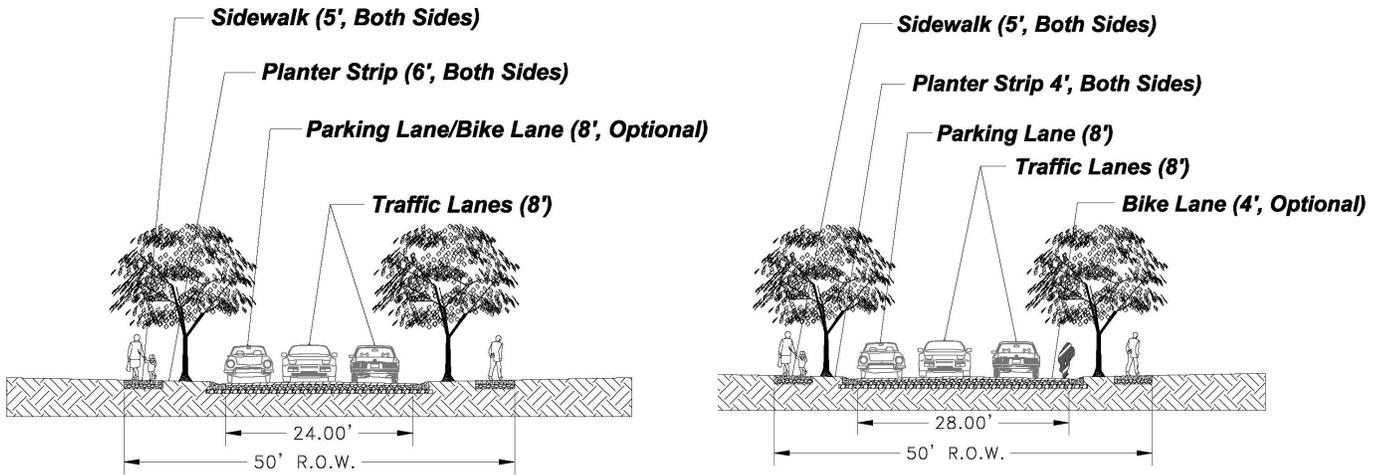
- traffic circles, and medians may be used to maintain required operating speeds.
2. Street Hierarchy. Each street within the RPC and NB shall be classified according to the following:
 - a. Alley. See Section 10-1.D.1. These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley access development is desired to increase residential densities. Alleys may also provide delivery access, trash and recycling pick-up, or alternate parking access to commercial properties. Alleys may also be used for utility placements, such as electric, cable, gas, among others. Building frontage shall not be provided on an alley. An intersection between an alley and a street does not establish a corner lot as defined herein.
 - b. Access. An access street shall be used for streets serving access to less than 50 dwelling units (Less than 500 ADT). This street provides primary access to individual residential properties in residential neighborhood areas. Traffic volumes are relatively low, with a design speed of 20 mph.
 - c. Sub-Collector. A sub-collector street shall be used for streets serving access to 50-300 dwelling units-(501 to 3000 ADT). This street connects streets of lower and higher function. Design speed is 25 mph.
 - d. Collector Road. A collector road shall be used for streets serving access to more than 300 dwelling units (over 3001 ADT). This street provides access to commercial or mixed-use buildings, but it is also part of the Town’s major street network. On-street parking, whether diagonal or parallel, helps to slow traffic. Additional parking is provided in lots near the buildings.
 3. Street Design Standards.
 - a. Alley.
 - i. Pedestrian Access

Alley Design Standards – Pedestrian Access	
Total Alley Right of Way Width	20 feet maximum
Pavement width	16 feet
Traffic movement	Pedestrian Access Only
Travel lane width	N/A
Design speed	N/A
Parking	N/A
Curb type	N/A
Curb radius	N/A
Sidewalk width	None
Utility/ Planter Strip width	N/A
Landscaping	N/A

ii. Vehicular Access

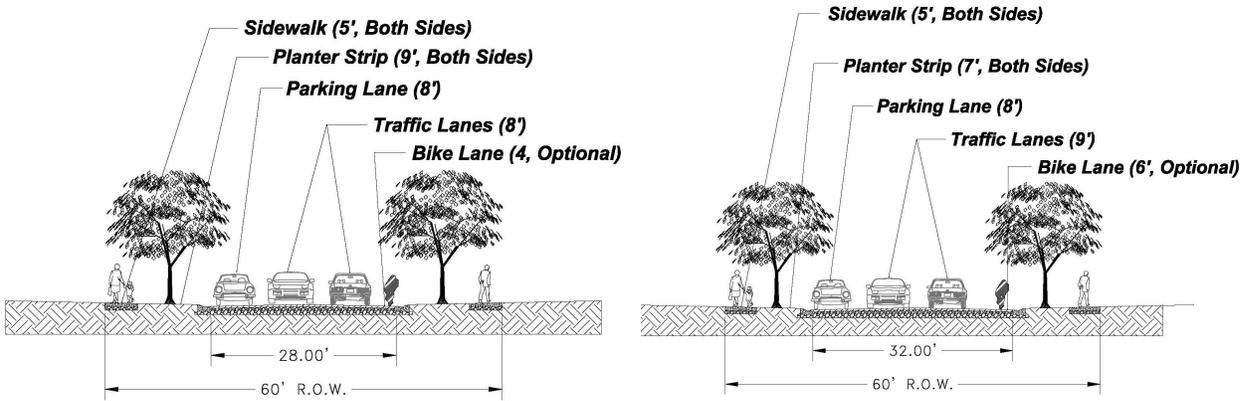
Alley Design Standards – Vehicular Access	
Total Alley Right of Way Width	16 feet maximum
Pavement width	12 feet minimum
Traffic movement	Two-way with queuing
Travel lane width	8 to 10 feet
Design speed	5 to 10 mph
Parking	Driveway/Garage
Curb type	Pavement may be edged with a 1 foot concrete band flush with pavement. (optional)
Curb radius	5 feet (Alley – Driveway)
Sidewalk width	None
Utility/ Planter Strip width	2 feet for utilities
Landscaping	None

b. Access Street.



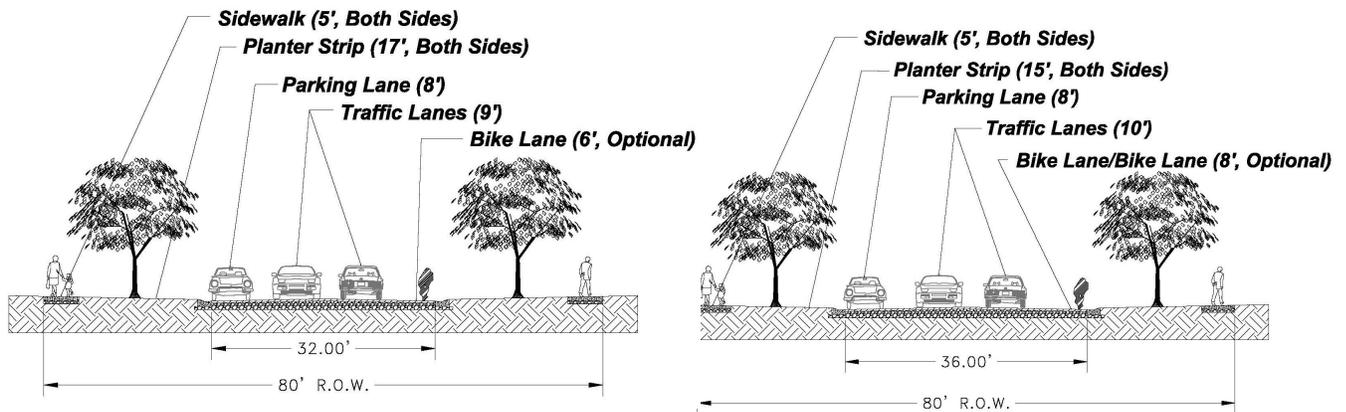
Access Street Design Standards	
Total right-of-way width	50 feet
Pavement width	24 to 28 feet
Traffic movement	Two-way
Travel lane width	8 feet
Bike lane width	4 feet (optional)
Design speed	15 to 20 mph
Parking	Driveway / Garage / On Street
Intersection types allowed	T-intersections, 4-Way Intersections
Curb type	2 foot rolled curbing
Curb radius	15 feet minimum
Sidewalk width	5 feet, both sides
Planter strip width	4 to 6 feet, both sides
Landscaping	Per Section 12-6. Landscaping & Tree Preservation.

c. Sub-Collector Street.



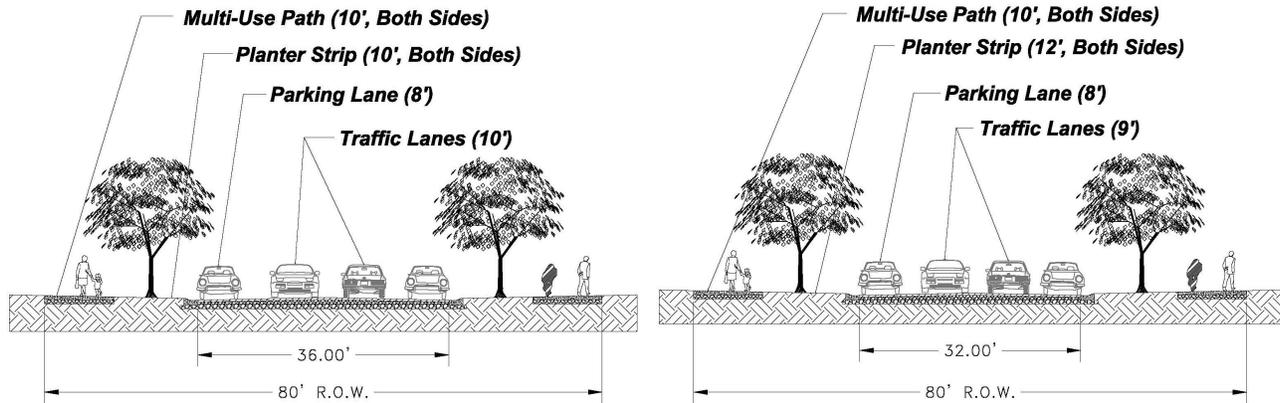
Sub-Collector Street Design Standards	
Total right-of-way width	60 feet
Pavement width	28 to 32 feet
Traffic movement	Two-way
Traffic lane width	8 feet each
Bike lane width	4 to 6 feet (optional)
Design speed	25 mph
Parking lane	8 feet
Intersection types allowed	T-intersections and 4-Way Intersections
Curb type	2 foot rolled curbing
Curb radius	20 feet minimum
Sidewalk width	5 feet, both sides
Planter strip width	7 to 9 feet, both sides
Landscaping	Per Section 12-6. Landscaping & Tree Preservation

d. Collector Street.
i. No Island, With 5' Sidewalks



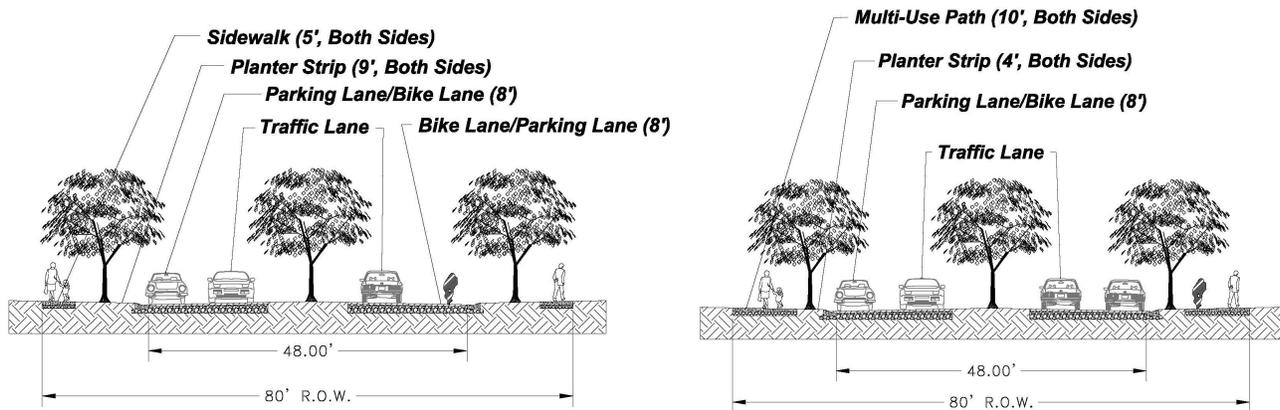
Collector Street Design Standards	
Total right-of-way width	80 feet
Pavement width	32 to 36 feet
Traffic movement	Two-way
Traffic lane width	10 feet
Bike lane width	4 to 6 feet on one side, when a bike lane is required by the review authority
Design speed	25 mph
Parking	On-street both sides (if no bike lane), 8-feet wide
Intersection types allowed	T intersection, 4-way, as per Section 10-1. B-1.
Curb type	2 foot rolled curbing
Curb radius	25 feet minimum
Sidewalk width	5 feet, both sides, with bump-outs at intersections, and mid-block crossings where approved.
Planter strip width	15 to 17 feet
Landscaped median width	None.
Landscaping	Per Section 12-6. Landscaping & Tree Preservation

ii. No Island, With 10' Multi-Use Paths



Collector Street Design Standards	
Total right-of-way width	80 feet
Pavement width	32 to 36 feet
Traffic movement	Two-way
Traffic lane width	10 feet
Bike lane width	Part of 10' Wide Multi-Use Path
Design speed	25 mph
Parking	On-street both sides, 8-foot wide
Intersection types allowed	T intersection, 4-way, as per Section 10-1. B-1.
Curb type	2 foot rolled curbing
Curb radius	25 feet minimum
Sidewalk width	Part of 10' Wide Multi-Use Path, with bump-outs at intersections, and mid-block crossings where approved.
Planter strip width	10 to 12 feet
Landscaped median width	None.
Landscaping	Per Section 12-6. Landscaping & Tree Preservation

iii. 12' Landscape Island



Collector Street Design Standards	
Total right-of-way width	80 feet
Pavement width	36 feet
Traffic movement	Two-way
Traffic lane width	10 feet
Bike lane width	8' Wide or Part of 10' Wide Multi-Use Path
Design speed	25 mph
Parking	On-street one side or both sides w/ Multi-Use Path, 8-foot wide
Intersection types allowed	T intersection, 4-way, as per Section 10-1. B-1.
Curb type	2 foot rolled curbing
Curb radius	25 feet minimum
Sidewalk width	5' Wide both sides or Part of 10' Wide Multi-Use Path, with bump-outs at intersections, and mid-block crossings where approved.
Planter strip width	4 to 9 feet
Landscaped median width	12 feet
Landscaping	Per Section 12-6. Landscaping & Tree Preservation

4. **Street Layout.** The Neighborhood Business and Residential Planned Communities should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:
 - a. **Intersections.** All shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment (the through street receives precedence) which significantly reduces accidents without the use of traffic controls.

- b. **Corner radii.** The roadway edge at street intersections shall be rounded by a tangential arc with a radius as required in Section 10-1 F.3 of this Article for each street type. When two of the different street types identified in Section 10-1 F.3 of this Article intersect, the intersection design shall comply with the standard for the wider street type. A larger radius may be created through stabilized surface in corners.
- c. **Driveways.** Individual residential lots shall be prohibited along collector streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or mix residential uses. Clear sight triangles shall be maintained at intersections, as specified in Section 8-2 C. herein, unless controlled by traffic signal devices.
- d. **Orientation of streets.** The streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

Section 10-2. Sidewalks

- A. Requirement
Sidewalks are required in all subdivisions on both sides of the street. Sidewalks shall be dedicated as part of the right-of-way of all streets.
- B. Design
Sidewalks shall be five feet wide and separated from the curb by a three foot grass strip, which may contain trees. The Planning and Zoning Commission may alter this if necessary if it is demonstrated that topographic conditions make this standard unworkable.
- C. Construction Standards
Sidewalks shall be constructed according to applicable State standards.

Section 10-3. Emergency Access

- A. General
New developments shall be designed to provide emergency access to the units in accordance with Delaware State Fire Prevention Regulations.

Section 10-4. Curbs & Gutters

- A. Requirement
Curbs and gutters may be required for the purposes of drainage, safety, and the delineation or protection of pavement edges.
- B. Design
Curb and gutter design shall be governed by the type of street on which they border.
- C. Construction Standards.
Unless otherwise specified by the Town, curb and gutter shall be Integral Curb and Gutter Type 2 (rolled curb) in the Delaware Department of Transportation's Standard Construction Details.

Article 11. Utilities

Section 11-1. General Requirements

- A. General
 - 1. New developments in the MR, RPC and NB zones shall be designed to the maximum extent possible to consolidate and coordinate utility placement and access for trash collection and other services.
 - 2. The purpose of this section is to enable utilities and services to be provided in an efficient manner which is also aesthetically pleasing.
- B. Connections Required
 - 1. Provision shall be made for each lot and principal use in the Municipality to be connected to those utility services available in the Municipality at the time of development or subdivision.
 - 2. Developers/subdividers shall provide required utilities at their expense and dedicate them to the Municipal, County, or other entity as applicable.
- C. Location
 - Connections. The subdivider shall install underground service connections to the street property line of each platted lot at his/her expense.
- D. Easements
 - 1. Easements shall be provided for public and private utilities.
 - 2. Easements shall be at least 10 feet wide.
 - 3. The subdivider or developer and the applicable utility companies shall coordinate the establishment of utility easements established in adjoining properties.

Section 11-2. Public Utilities

- A. Requirements
 - 1. In new dwelling units constructed with alley access, public utility equipment (such as gas meters, electric meters, telephone boxes etc.) shall be installed in the rear of the units.
 - 2. The Planning and Zoning Commission may require additional right-of-way in alleys to facilitate utility locations to the rear of units. In no case may the Commission require right of way in excess of 16 feet. Utility easements may also be used in lieu of additional right-of-way.
 - 3. In new dwelling units without rear access, public utility equipment located on the front of units shall be screened from public view by landscaping, fencing, or some other method.
 - 4. Attached and multi-family dwelling units in under common ownership or condominium ownership are required to consolidate public utility equipment in a centralized location on the structure. This equipment shall be screened from public view by landscaping, fencing, or some other method.

Section 11-3. Water Facilities

- A. Requirements
 - Connection to municipal water system is required.

Section 11-4. Wastewater Facilities

- A. Requirements
 - Each lot and each principal use in the Municipality shall be provided with a connection to wastewater facilities according to the following guidelines:
 - 1. Connection to a sanitary sewer collection and transmission system shall be required.
- B. Design and Construction Standards
 - Subdivisions connected to a sanitary sewer collection and transmission system shall be

designed and constructed in accordance with the requirements of the County.

Section 11-5. Lighting

A. Requirement

Any lighting shall be directed towards the ground of the property it is intended to illuminate and shall not shine avoidable amounts of light on adjacent properties or create conditions of glare for adjacent properties.

Section 11-6. Trash Collection

A. Requirements

1. Developers are required to submit information to the Planning and Zoning Commission detailing how trash collection will be accomplished in new developments in the MR, RPC and NB zones.
2. Trash collection shall be incorporated with the Town’s municipal trash disposal provider.
3. Individual trash receptacles may not be stored outside in the front of attached or multi-family dwelling units. It is acceptable to store trash receptacles inside of front loaded garages.
4. If alleys are provided, trash collection from the rear of the units is encouraged.
5. In attached dwelling units without alley access, provisions should be made to enable trash collection from locations easily accessible to rear access walkways or pathways. Provisions should also be made to allow the residents of interior units to store their trash containers in their rear yards.

Section 11-7. Other Utilities

A. General Requirement

Provision shall be made for each lot and principal use in the Municipality to be connected to utility services, including but not limited to, gas, electricity, telephone, fiber optic, and cable television.

B. Electric and Telecommunications

1. Electrical and telephone wires and cables, both main and service lines, shall be placed underground in accord with the rules and specifications of the Public Service Commission laws on utility service in developments and any applicable ordinances of the County.
2. All main underground cables that are within the right-of-way of a street shall be located as specified by the Municipality or DeIDOT, where they have jurisdiction. Underground electric and telephone lines may be located in front yards. Where alleys are used, the utilities should, if possible, be located in the alleys.

C. Gas or Other Underground Utilities

Gas or other underground utilities should be planned in coordination with other utilities and easements for all utility locations.

Article 12. Environmental Protection Standards**Section 12-1. Water Resource Protection Areas**

A. Wellhead Protection Areas

Definition. Wellhead water resource protection areas are surface and subsurface areas surrounding public potable water supply wells or wellfields where the quantity or quality of groundwater moving toward such wells or wellfields may be adversely affected by land use activity. Such activity may result in a reduction of recharge or may lead to introduction of contaminants to groundwater used for public potable water supply ("wellhead").

B. Regulations Governing Development

Areas within 100 feet of the well shall be 100% open space.

1. The natural runoff flowing into wellhead areas shall be allowed and all new stormwater runoff shall be diverted around the wellhead protection areas whenever possible.
2. The stormwater system's discharge to wellhead WRPAs shall be by sheet flow through grassland or discharge from a stormwater management facility having a wetland or aquatic bench. Stormwater runoff from all parking areas shall be directed to a stormwater management facility before it is discharged into a wellhead WRPA.
3. Within the wellhead area, impervious surfaces shall be limited to the buildings and access associated with the well and distribution and treatment facilities and their maintenance.
4. The minimum lot area for a proposed public water supply well and related facility drawing from a confined aquifer shall be one acre and the minimum lot area for a public well drawing from an unconfined aquifer shall be two acres.
5. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in a designated wellhead area.
6. Hazardous waste storage, treatment and disposal facilities, and sanitary, and industrial facilities as defined in *Delaware Regulations Governing Hazardous Waste* shall be permitted in wellhead areas.
7. Where possible, groundwater recharge shall be encouraged within the wellhead protection areas by replacing turf grass with low-maintenance cool or warm season grasses, shrubs and/or trees.

C. Excellent Recharge Areas

Definition. A recharge area is a water resource protection area designated as having the best potential for groundwater recharge. Recharge areas possess high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis performed originally by the Delaware Geological Survey. Recharge areas were delineated using methodology described in the following report: Delaware Geological Survey; Open File Report No. 34 entitled "*Methodology for Mapping Ground – Water Recharge Areas in Delaware's Coastal Plain*," dated August 1991.

D. Regulations Governing Development

Underground storage tanks containing petroleum products or any hazardous substances listed in 40 CFR 116 in an aggregate equal to or greater than a reportable quantity as defined in 40 CFR 117 may be constructed with double containment in accordance with the Delaware Standards for Underground Storage Tanks.

Section 12-2. Drainage

A. Natural Drainage System Utilized to Maximum Extent Feasible

1. To the extent practicable, all development shall conform to the natural contours of the land. Natural and preexisting man-made drainage ways shall remain undisturbed.

2. To the extent practicable, lot boundaries shall be made to coincide with the natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.
- B. Proper Drainage Required
1. All developments, lots, and properties shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the site.
 2. Surface water may not be channeled or directed into a sanitary sewer.
 3. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

Section 12-3. Permanent Stormwater Management

- A. Requirement
- Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development.
1. No development or property may be constructed or maintained in a way that such development or property unreasonably hampers the natural flow of water from higher adjacent properties across the development or property thereby unreasonably causing substantial damage to the higher adjacent property.
 2. No development or property may be constructed or maintained so that surface waters from such development or property are unreasonably collected and channeled onto lower adjacent properties at such locations at such volumes as to cause substantial damage to the lower properties.
 3. All stormwater management systems shall be approved by the Sussex Conservation District and constructed in accordance with Delaware state regulations.
- B. Design and Construction
1. Stormwater drainage systems shall be separate from and independent of sanitary sewage systems.
 2. Stormwater drainage systems shall be designed and constructed in accordance with standards and specifications of the Sussex Conservation District.
 3. Off-Site Runoff
 - a. Where subdivision and/or development results in increased quantities of stormwater runoff leaving the area to be developed, the subdivider shall demonstrate that off-site drainage improvements are adequate to handle the additional water and that all new or expanded swales, pipes or other off-site improvements are located in dedicated easements which permit efficient access for maintenance purposes.
 - b. Standards for assessing the adequacy of off-site drainage systems shall be those established by the Sussex Conservation District or by the State Department of Transportation where it has jurisdiction.

Section 12-4. Erosion & Sediment Control

- A. Requirement
- Development plans shall include adequate provisions for controlling temporary flooding, soil erosion, and sediment during construction and after construction is completed.
- B. Design and Construction
1. All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook.
 2. Top Soil. No top soil shall be removed from a site or used as spoil. Top soil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding and planting.

Section 12-5. Screening

The Town Council may, through the development review process, require the reasonable provision of screening in order to shield neighboring properties from the adverse effects of a development.

Section 12-6. Landscaping & Tree Preservation

- A. Trees Along Dedicated Streets
 - 1. Municipal Streets. The developer shall plant or retain sufficient trees between the paved portion of the street and the sidewalk.
 - a. One deciduous tree, whose trunk will be at least 12 inches in diameter when fully mature, shall be placed every 40 feet.
 - b. The trees to be planted shall be those that can generally be expected to thrive in the area and shall not have a root system that will damage adjacent sidewalks, underground infrastructure or the streets themselves. Street trees shall be selected from the list found in Appendix 1.
- B. Protection & Retention of Large Trees
 - 1. All properties in the municipality shall retain all existing trees 10 inches in diameter or more unless the retention of such trees would, according to the Town Council's determination, unreasonably burden the property owner.
 - 2. No excavation or subsurface disturbance may be undertaken within the drip line of any tree 10 inches in diameter or more, and no impervious surface may be located within 12.5 feet, measured from the center of the trunk, of any tree 18 inches in diameter or more unless compliance with this subsection would, according to the Town Council's determination, unreasonably burden the property owner. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
- C. Tree Planting on Lots
 - 1. The developer shall plant at least two trees on each new lot.
 - 2. These trees shall be in place before the time that a certificate of occupancy is issued for the structure on that lot.

Section 12-7. Riparian Buffer Areas (RBA)

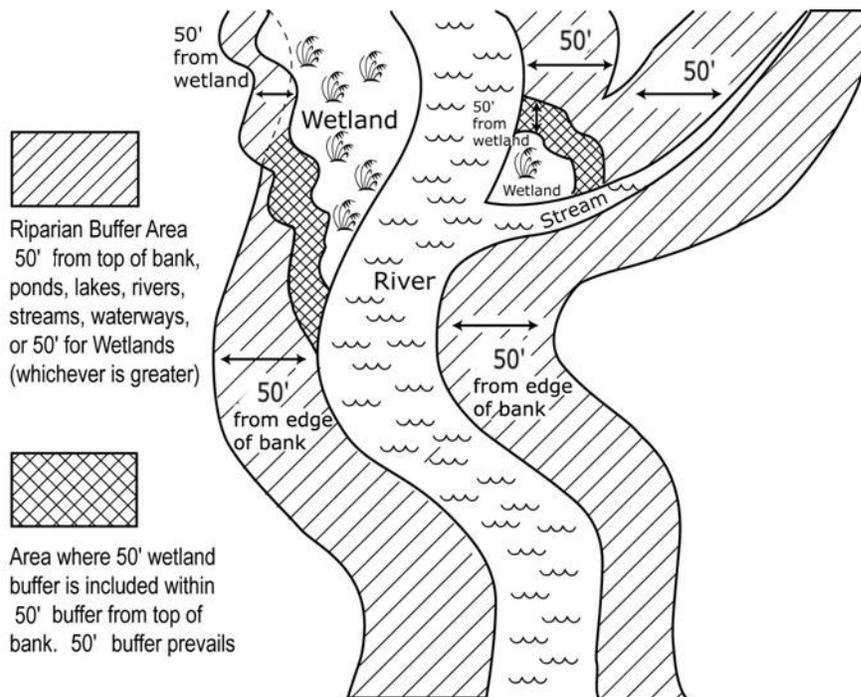
- A. Minimum Riparian Buffer Area Requirement
 - 1. RBAs are to be established and permanently protected within all new development via dedication to the Town, deed restriction or conservation easement.
 - 2. The RBA shall extend a minimum of 50 feet past each top of bank of a lake, river, stream or waterway and/or 50 feet beyond any wetland, whichever is greater. Note that there is also a 30 foot building setback from any floodplain as required in Section 12-8 below.
 - 3. The RBA shall contain no lot lines, structures or infrastructure such as stormwater maintenance ponds. However, as appropriate, the riparian buffer may contain walking trails.
 - 4. The riparian buffer, and other associated open space, shall be demarked with permanent markers to ensure against encroachment.
 - 5. The Planning and Zoning Commission is authorized to consider and approve minor adjustments to these minimum standards and dimensions to accommodate for necessary road crossings, topography, existing structures and similar conditions on a parcel. Such adjustments shall not impact more than 10% of the riparian buffer area required under the minimum standards in this ordinance.
- B. Establishment and Maintenance
 - 1. Where native vegetation is not present, the RBA must be reforested with native species according to Table 12-1, *RBA Reforestation Requirements per Acre*.

2. No vegetation shall be removed from the RBA, except for removal of invasive and exotic species and hazardous trees.
3. A transition zone, consisting of scrub/shrub vegetation or low maintenance warm or cool season grass is encouraged between forested RBA and lot lines.
4. A maintenance plan for the RBA shall be established at the time of subdivision and a responsible party designated to implement the plan.

Table 12-1. RBA Reforestation Requirements per Acre

No. of Plants	Types of Plants
1	4" caliper canopy
4	3" caliper canopy
10	1-1/2" caliper canopy
6	1-1/2" caliper understory trees
50	6" whip canopy
30	Bare root or 1 gallon pots

Figure 12-1. Diagram, Riparian Buffer Area



Section 12-8. Open Space and Recreation

- A. General
 1. It is important to provide opportunities for active recreation in all communities, but particularly in town where individual units may not have very large yards.
 2. Attractive, age appropriate active recreation facilities can and do improve the quality of life and property values.
- B. Active Open Space Requirements

In new residential developments over 10 acres in size in the MR, RPC and NB zones, active open space shall be provided at a rate of 435 square feet per unit, or one-half acres, whichever is greater.

C. Open Space Standards

1. In new residential developments in the MR, RPC and NB zones active open space shall be designed to be centrally located and accessible to all residents in a community.
2. Active open space may be in the form of one large area, or numerous smaller areas interspersed throughout the community.
3. The Planning and Zoning Commission may require improvements (example: playground equipment) in the active open space areas which are appropriate to the intended future residents of the community.
4. Active open space should be integrated with passive open space and natural areas whenever it is practical to do so.
5. Active open space areas shall be connected to residences and to one another by sidewalks, walking trails, and/or any pathway or walkway system designed into the community.
6. Recreational walking trails may count towards to active open space requirement at the discretion of the Planning and Zoning Commission.

D. Passive Open Space Requirements

1. All lands in any new development project in any zone that are constrained by site limitations, environmental features, or buffers as regulated by other parts of this ordinance shall be set aside as passive open space. Passive open space areas may either be left in their natural states, or enhanced using appropriate and environmentally sustainable planting, reforestation, or stabilization methods.
2. Passive Open Space shall contain the following lands in new development projects:
 - a. Riparian buffer areas;
 - b. Floodplains;
 - c. Wetlands;
 - d. Forested areas (outside lot lines);
 - e. Water resource protection areas.
3. Passive Open Space may also contain the following:
 - a. Identified areas of cultural resources;
 - b. Significant or important view sheds or aesthetic features.
4. Passive Open Space shall be permanently protected through deed restrictions or conservation easements.
5. Passive Open Space shall be demarked with permanent markers to ensure against encroachment.
6. No structures, lot lines, or infrastructure shall be permitted within passive open space, with the exception of walking trails.

Article 13. Signs

Section 13-1. Applicability and Purposes

- A. Applicability
These sign regulations apply within every existing and future zoning district in the Municipality. A sign may be erected, placed, established, painted, created, or maintained in the Municipality only in conformance with this Ordinance.
- B. Purposes
 1. To encourage the effective use of signs as a means of communication in the Municipality.
 2. To avoid visual clutter and competition among sign displays in their demand for public attention.
 3. To promote the safety and convenience of pedestrians and motorists.
 4. To minimize the adverse effects of signs on nearby public and private property.

Section 13-2. General

- A. Sign Area Measurement
The sign area is the entire portion of the sign that can be enclosed within a single, continuous rectangle. The area includes the extreme limits of the letters, figures, designs, and illumination, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.
- B. Placement
 1. Setbacks. Setbacks are measured from the portion of the sign nearest to the property line.
 2. Height. Height is measured from the portion of the sign which is vertically the farthest from the ground.
- C. Requirements. Refer to Table 13-1, *Sign Measurement Requirements* for Sign measurement and placement requirements.
- D. Color
Interference with Traffic Safety. A sign must not use color combinations that may be confused with a traffic sign or signal.
- E. Illumination
 1. Prevention of Glare
 - a. Definition. Glare is a direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.
 - b. Prevention Requirement. Any illuminated sign must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.
 2. Interference with Traffic Safety. A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.
 3. Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity.
 4. Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must be illuminated only during the hours the entity is open for public business.
- F. Structural Limitations
 1. Interference with Traffic Safety. A sign must not be shaped like a traffic sign or traffic signal, or use wording similar to traffic signals, or interfere with traffic safety.
 2. Shaped Like Humans or Animals. A sign must not be shaped to resemble any human or animal form, but must conform to a geometric shape.
 3. Wind Activated. A sign must not be set in motion or powered by wind.
 4. Moving Parts. A sign must not have moving parts.

Section 13-3. Permanent Signs

- A. Definitions
1. Free Standing Sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.
 2. Permanent Sign. A permanent sign is a sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.
 3. Wall Sign. Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

Section 13-4. Real Estate, Development & Construction Signs

- A. Definition
- Real estate, development and construction signs are signs displayed on private property while such property is offered for sale, rental, or lease; or is being developed; or while an individual or company is engaged in construction.
- B. General Requirements
1. Where Allowed. Real estate, development and construction signs may be erected in any zone.
 2. Display Period. Real estate, development and construction signs may be displayed while a property is being offered for sale, while land is being developed, and while construction is taking place.
 3. Removal. Real estate, development and construction signs must be removed within 30 days of the sale of a property, the completion of a land development project, or the termination of an individual's construction activity.
 4. Materials. Real estate, development and construction signs must be made of materials sufficiently durable for the time that they are displayed.
- C. Additional Requirements by Sign Type
- RESERVED

Section 13-5. Temporary Signs

- A. Definition
- A temporary sign is a sign displayed on private property for less than 30 days usually made of non-permanent material such as canvas, cardboard, paper, or wood.
- B. Requirements for Temporary Signs
- Temporary signs shall be removed within one week (7 calendar days) after the event that they are advertising has concluded.

Section 13-6. Electronic Variable Message Sign

- A. One reader board per Unit is permitted on a wall, ground or monument sign; provided, however, that such reader board shall conform to and not exceed the maximum number and size of signs permitted in the district in which the Unit is located. An electronic variable message reader sign or board (EVMS) is subject to the following specifications:
1. Nonresidential units may substitute an electronic variable message sign in lieu of other permitted monument, ground or wall signs. Such EVMS shall be further subject to the standards of this paragraph.
 2. Except for public emergency announcements, the message displayed on the EVMS shall be static and non-animated and shall not be changed more than once in any given 12 hour

time period. In the event of a public emergency, announcements may scroll continuously until the public emergency message is no longer necessary.

3. A public emergency announcement is limited to weather related emergencies, national and local security events, Amber Alerts, and the like. It is not intended to permit scrolling messages, including but not limited to, schools, churches, civic groups for social events, annual meetings, National Fire Safety Week, time to change smoke and fire detector batteries, and other similar messages.
4. The EVMS shall be limited to 2 feet by 12 feet per 20 foot linear front footage of a unit and shall not exceed a maximum of 200 square feet.
5. Lighting of such reader board shall be LED lighting using the color red. LED lighted signs may only change that less than every eight seconds.
6. The applicant for the EVMS permit shall certify in writing to the Town that the message, except for public emergency announcements, to be displayed on the sign shall remain static and shall not flash or scroll at any time and that the message will remain unchanged for at least 12 hours at a time.
7. The EVMS sign size must not exceed signage permitted in Table 13-1.

Section 13-7. Prohibited Signs

- A. General.
 1. Definition. A prohibited sign is one that cannot be erected or maintained.
 2. The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.
- B. List of Prohibited Signs
 1. Obstructive Signs. A sign must not be placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians, or that interferes, in any way, with placement or function of any traffic control device.
 2. Roof Signs. A sign mounted on the roof of a building or that is dependent upon a building for support, but projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel gable, or hip roof, or the deck line of a building with a mansard roof.
 3. Unsafe Sign. A sign which creates a safety hazard due to structural or electrical conditions, or by reason of inadequate maintenance. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 30 days of notice of the unsafe condition.
 4. Moved by the Wind. A sign in the form of a banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device which will move in the wind.
 5. Signs in the Public Right-of-Way. Generally, signs may not be placed in public rights-of-way. Exceptions to this regulation are signs erected by any governmental agency or utility company in the performance of its official public duties.
 6. Attached to the Property of Others. A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees or other vegetation, or to any public structure such as a utility pole without permission of the owner.
 7. Abandoned or Obsolete Sign. A legally-erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for six months or more.
 8. Off-Site Sign (Billboard). A sign directing attention to a business, commodity, service, or entertainment conducted, sold, ordered at a location other than the premises on which the sign is located.

Section 13-8. Exempt Signs

A. Definition

An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article, but it must comply with the applicable provisions governing Prohibited Signs.

B. List of Exempt Signs

1. Two Square Feet or Less.

- a. Residential Living Sign. A sign on private property, customarily associated with residential living or decoration.
- b. Newspaper and Mailbox. A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.
- c. Warning Signs. A sign warning the public about trespass, danger, or safety considerations.

2. Regardless of Size

- a. Not Visible Outside of Property. A sign not visible beyond the property lines of the property on which the sign is located.
- b. Official Duties of Government or Utilities. A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.
- c. Required by Law. A sign whose display is required by law or regulation.
- d. Flags on Flagpoles. A flag displayed on a flagpole.
- e. Commemorative Sign. A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure like a cornerstone, memorial, plaque or historical marker.
- f. Part of a Dispenser. A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump.
- g. Holidays. A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it must be removed within 20 days following the end of the holiday.
- h. Adornments and Decoration.

Section 13-9. Non-Conforming Signs

See Article 5, Nonconforming Situations.

Section 13-10. AdministrationA. Permits Required. See Table 13-1, *Sign Measurement Requirements*.

B. Application Procedure

Applications shall be submitted to the Planning and Zoning Commission.

C. Town Council Review

The Planning and Zoning Commission shall review the sign request or forward the sign request to the Administrator for review prior to issuing a Certificate of Zoning Compliance. Sign requests shall follow the procedures described in Figure 4-1, *Single-Family Development Plan Approval* of this ordinance.

D. Permit Fees

The Municipality may adopt fees for the processing and issuing of sign permits.

Section 13-11. Property Addressing Required.

- A. Street addresses must be prominently displayed at the main entrance of all main or principal buildings on a lot. Address numbers must be clearly visible to the public and to emergency service personnel, from the roadway the structure fronts on.
- B. Address numbers must be Arabic numerals in a standard, highly legible font.
- C. Address numbers must be of a contrasting color in order to provide maximum visibility when affixed to the structure.
- D. Commercial structures or shopping centers with two or more tenants must display the suite number at both the main entrance and also at any side or rear entrance or loading dock associated with that particular commercial space or unit.
- E. Address numbers must be a minimum of four inches in height for single-family residential dwellings, including duplexes, townhouses, and manufactured homes.
- F. Address numbers must be a minimum of four inches in height for multi-family dwellings. Multi-family dwellings must also indicate each apartment number prominently at the main entrance of the apartment unit in numbers no less than four inches in height.
- G. Address numbers for all other land uses shall be no less than eight inches in height.

Section 13-12. Signage in the Neighborhood Business District

- A. A comprehensive sign program is required for the entire Neighborhood Business District, which establishes a uniform sign theme. The sign program shall be approved as part of the final plan approval.
- B. Signs shall share a common style (e.g., size, shape, material).
- C. Sign materials should be durable, attractive and coordinated with materials used on the primary structure(s).
- D. Hanging signs shall be mounted perpendicular to the building face and shall not exceed eight square feet.

Table 13-1. Sign Measurement Requirements

Location/Subject of Sign	Sign Types Allowed	Maximum Area (SF) ¹	Permit Required?
Home-based business	Free-standing, wall	16	Yes
Business or commercial use in non residential zone	Free-standing, wall	32	Yes
Subdivision entrance	Free-standing	32	Yes
Real Estate/Temporary	Free-standing	16	No
Conditional use in a residential zone	Free-standing Wall	16	Yes
Institutional use	Free-standing Wall	32	Yes
Neighborhood Business District	Free-standing	32 1 freestanding sign is permitted for multiple tenants or buildings on the property provided the total sign area shall not exceed 200 sq.ft. Maximum aggregate: 300 sq. ft. for lots up to 100 sq. ft. of frontage. 0.50 sq. ft. for each additional ft. of street frontage	Yes
	Wall	1.5 sq. ft. per lineal foot of building wall occupied by each business. Maximum 32 sq. ft. each sign.	

Table 13-2. Sign Setback and Height Requirements

Sign Type	Setbacks	Maximum Height
Free-standing	Front: 10 feet from right-of-way Side: Same as principal use. No signs shall be placed within the sight triangle	5 feet
Wall	Shall be placed on a wall facing a public street or right-of-way, having the same setbacks as the principal use	Below the eave. On flat roofed structures, no sign shall be placed higher than the roof of the structure, or the maximum permitted building height in the zone, which ever is more restrictive.
Freestanding in the Neighborhood Business District	Front: 20 ft. from right-of-way. Side: Same as principal use. No signs shall be placed within the sight triangle	The height of the sign, including the sign structure, shall not exceed 12 feet and the lowest point on the sign face shall not exceed 24 inches above the adjacent ground. The lowest point of the sign face shall not exceed 24 inches above the adjacent ground.

Article 14. Parking Standards

Section 14-1. Purpose & Scope

- A. Purposes
 1. To relieve congestion and facilitate the movement of vehicular traffic.
 2. To facilitate the movement of police, fire, and other emergency vehicles.
 3. To protect adjoining residential neighborhoods from the negative effects of on-street parking.
 4. To promote the general convenience, welfare, and prosperity of uses which depend upon off-street parking facilities.
- B. Scope
 1. When Required. Off-street parking facilities shall be provided under the following conditions:
 - a. When any use is established or changed.
 - b. When any building or structure is erected, altered, renovated, or expanded.
 2. The parking requirements in this part of the Ordinance do not limit requirements or conditions that may be imposed on development plan approvals or other approvals.
 3. Parking facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

Section 14-2. Parking Standards

- A. Definitions

Off-Street Parking Space. A permanently reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

On-Street Parking Space. A temporary parking space for one motor vehicle that is located within the street right-of way.
- B. General Requirements
 1. New residential developments in the MR, RPC and NB zones shall be designed to have adequate parking for both residents of the housing units, and on-street parking or overflow parking available to accommodate visitors, service delivery vehicles, and families with more than two vehicles.
 2. Parking shall be arranged in a manner so as not to block the travel lanes or impede access to rear access areas and to not obstruct cul-de-sacs and other designated turning areas.
- C. Computation of Required Number of Spaces
 1. General. The minimum number of required off-street parking spaces shall be determined according to the Table 14-1, *Required Off-Street Parking Spaces*.
 2. Fractional Spaces. Where the computation of spaces results in a fractional space, the fractional space shall be counted as one additional required space.
 3. Number of Employees. The number of employees shall be based on the maximum number of persons employed on the premises at one time on a typical day or night, whichever is greater. Seasonal variations in employment may be considered in determining an average day or night.
 4. Joint Use. Where more than one use occupies a single structure, the parking requirements shall be computed by adding together the number of required parking spaces for each use.
 5. Shared Facilities. Houses of worship, auditoriums or educational institutions may make arrangements with business establishments, which normally have different days or hours of operation, for sharing up to 100% of their required parking facilities. Such amendments must be approved by the Planning and Zoning Commission and Municipal Governing

- Body through site plans as a conditional use as described in Section 4-1.
6. Uses Not Specifically Listed. The required number of parking spaces for uses not specifically listed in Table 14-1, *Required Off-Street Parking Spaces*, shall be the same as for a similar listed use.
 7. Modification of Required Spaces. The Town Council may modify the parking requirements when the Governing Body determines that the requirements are clearly excessive and unreasonable.
- D. Location
1. General
 - a. Parking facilities shall be located on the same lot with the building or use served.
 - b. Parking facilities may be located within required building setback areas.
 - c. Parking spaces or zones for use by persons with disabilities shall be provided in accordance with the International Building Code as amended and adopted by the County.
 2. Exception. Required parking facilities may be located within 300 feet from the building or use served when:
 - a. A change in use or an enlargement of a building requires an increase in the number of parking spaces.
 - b. Spaces are provided collectively to serve two or more buildings.
- E. Design Standards
1. Parking Space Dimensions
 - a. Vertical and Diagonal Parking. 10 feet by 20 feet.
 - b. Parallel Parking. 10 feet by 22 feet off-street. 8 feet by 22 feet on-street.
 2. Interior Drive Aisle Width. 25 feet.
 3. Entrances and Exits
 - a. The location and design of entrances and exits shall be in accord with the requirements of applicable state regulations and standards.
 - b. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
 4. Backing onto Public Road Prohibited. Off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, except for dwelling units each having an individual driveway.
 5. Drainage. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
 6. Surface Material. Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable Municipal specifications.
 7. Separation from Walkways and Streets.
 - a. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device or by distance so that vehicles cannot protrude over publicly used areas.
 - b. Parking within front yard setbacks shall be discouraged and subject to site plan review.
 8. Marking. Parking spaces in lots of more than four spaces shall be marked by painted lines or curbs or other means to delineate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
 9. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare into residential areas.
 10. Screening. See Article 15.
 11. Interior Parking Lot Landscaping. See Article 15.
 12. Maintenance. Off-street parking areas shall be maintained in a clean and orderly condition

- at the expense of the owner or lessee.
13. Accessible Parking. Accessible parking spaces shall be signed in accordance with the following:
 - a. Such signs shall be vertical and placed at a height of at least five feet from grade but no more than seven feet when measured from the surface directly below the sign to the top of the sign for each parking space.
 - b. Such signs shall comply with state and federal specifications for identification of parking spaces reserved for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches wide (horizontal) and 18 inches tall (vertical) that includes the universal handicapped (wheelchair) symbol of access shall be required for each parking space reserved for use by persons with disabilities.
 - c. These requirements shall not be construed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space, or a tow-away warning sign.
 14. In units with rear access alleys, the parking spaces must be located in the rear of the units off of the alley.
 15. If garages are provided, one space may be counted in the garage provided that the garage is at least 12 feet in width.
 16. On-street parking spaces must be situated so as not to obstruct any driveway, alley, walkway, pathway or any other curb cut.
 17. Overflow parking must be provided at a rate of one additional parking space per unit. Overflow parking may take the form of parking lots, curb bump outs, or other innovative design measures. Overflow parking areas may be constructed of alternative materials such as pavers, grass pave, stone or gravel, or other materials approved by the Planning Commission and Town Council.
 18. Driveways which are one car wide may be either 20 feet in length or 40 or more feet in length. Driveways which are between 20 and 40 feet in length may encourage vehicles to park over sidewalks, walkways, or to park in such a way as to impede traffic on Town streets.
 19. See Section 14-2, E, 17 for overflow parking requirements.
 20. If in the opinion of the Planning and Zoning Commission, the required number of parking spaces is excessive and will lead to unnecessary expanses of pavement and impervious surfaces, the Planning and Zoning Commission may grant a waiver to the parking standards, provided the applicant present a parking need analysis with findings that a reduction in parking spaces is warranted and aid in the overall good design of the mixed-use area.
 21. The required number of parking spaces for an individual lot that is part of a master planned retail development project may be waived if the overall project meets the parking requirements.
 22. Multifamily units shall be required to provide three parking spaces per unit. A garage may count as one space.
- F. Major Recreational Equipment & Unlicensed Vehicles
1. Major Recreational Equipment
 - a. Major Recreational Equipment includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, recreational vehicles (RVs), motorized dwellings, tent trailers, personal watercraft, snow mobiles, and similar equipment as well as cases or boxes used for transporting major recreational equipment regardless or whether the equipment is inside of the boxes.
 - b. Regulation. On a lot in a residential zone, Major Recreational Equipment:

- i. May not be parked within the front yard setback;
 - ii. May not be used for living, sleeping, or other housekeeping purposes;
 - iii. May be parked anywhere for a maximum of 24 hours while loading and unloading;
 - iv. Major recreational equipment may be parked in R, MR, C, in the side or rear yard provided it does not take up required parking for that lot and is a minimum of five feet from the property line;
 - v. No major recreational equipment shall be parked on townhouse or multi-family lots regardless of zone.
2. Unlicensed Vehicles and Trailers. On any residentially zoned property, a vehicle or a trailer that is not used in support of customary farming operations and does not have current license plates may be parked or stored only in a completely enclosed building.

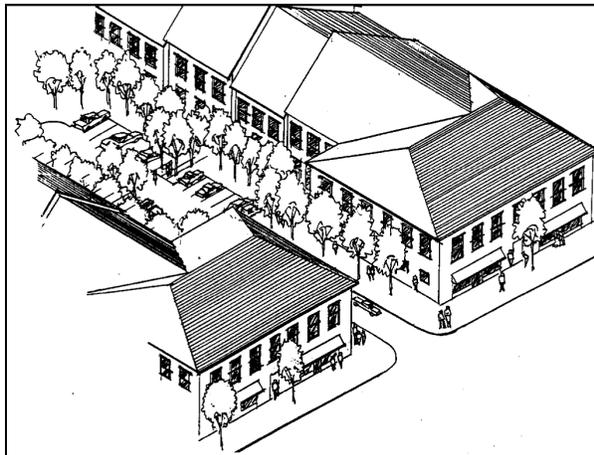
Table 14-1. Required Off-Street Parking Spaces

Use	Parking Spaces Required
Dwellings: single-family dwellings	2 per unit
Dwelling, multi-Family	3 per unit
Home-based businesses	1 per non-resident employee in addition to requirements for resident parking
Non-residential uses on non-residential lots	1 per 300 square feet of floor area
New residential development in MR, RPC, or NB zones	.75 on-street or overflow ¹ parking per unit.
Non-residential uses in the mixed-use area in the NB	1 per [500] square feet of gross building area. ^{2,3}

G. Design Standards for Neighborhood Business District.

- 1. Parking requirements. Parking areas for shared or community use should be encouraged. The typical area in a mixed-use area anticipated by this ordinance is depicted below. Parking in a NB shall comply with the parking requirements set forth in Article 14. In addition:
 - a. Rear and Side Parking:
 - i. For all buildings up to 35,000 square feet, a minimum of 50% of the required parking area shall be located at the rear or side of buildings.
 - 1. The Planning and Zoning Commission may grant a waiver to this standard as part of the site plan review process. The waiver must aid in the overall good design, and provide for safe, convenient and efficient access.
 - ii. For all buildings of 35,000 square feet and larger, at least 25% of the required parking spaces shall be placed in the side areas of the proposed development project.
 - b. The parking lot(s) shall be located between the smaller structures and the larger structure.
 - c. In order to reduce the scale of parking areas, break the parking areas up into groups of no more than 35 spaces per area, separated by pedestrian walkways, landscape islands and planters, public streets, buildings, or any combination thereof.
 - d. The parking lot shall be designed with traffic-calming features along the fire lanes fronting the building facades.
 - e. Pedestrian access shall be provided from all parking areas to the primary building entrances.
 - f. Design parking lots to avoid dead-end aisles.
 - g. Separate parking areas from buildings by a landscaped strip, a raised concrete walkway or pedestrian plaza.

- h. For mixed-use areas, parking should be provided that takes in account the needs of the different users through design measures such as shared parking with time provisions and metered parking.
- i. Provide cross-access easements between adjacent lots to facilitate the flow of traffic between complementary users.
- j. Applicants may request that the Town consider designs that provide for shared parking between different uses with staggered peak parking demand in order to reduce the total number of spaces within the development.
- k. A parking lot or garage may not be adjacent to or opposite a street intersection.
- l. Parking lots or garages must provide not less than one bicycle rack for every 25 motor vehicle parking spaces.
- m. Adjacent on-street parking may apply toward the minimum parking requirements. At the discretion of the Planning & Zoning Commission, the required parking may be provided within a five minute (1/4-mile) radius of, and with reasonable access to, the site which it serves.
- n. Parking shall be accessed by alley or rear lane, when available.
- o. Pedestrian entrances to all parking lots and parking structures shall be directly from a frontage line.
- p. The vehicular entrance of a parking lot or garage on a frontage shall be no wider than 30 feet.
- q. The maximum number of parking spaces provided shall not exceed the minimum number required by more than 10%. Any parking areas that exceed the minimum number required shall be pervious parking. Pervious parking areas shall be constructed of permeable pavement and turf pavement like "turf block," "turf stone," and SF-Rima or grass, or some other material as approved by the Planning and Zoning Commission.



Aerial perspective sketch of a mixed-use area integrating commercial (ground floor) and residential (second story) uses. A relatively narrow gap in the continuous street wall (created by the mixed-use buildings) provides access from the street to a landscaped, pedestrian-friendly parking lot.

- 2. Service access. Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.
- 3. Paving. Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.
- 4. Parking area landscaping and screening.

- a. All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:
 - i. A landscaped area at least five feet wide along the public street or sidewalk.
 - ii. Screening at least two feet in height, on three sides and not less than 50% opaque. Screening should be avoided at entrances to provide a clear line of sight.
 - iii. Screening shall have openings no larger than is necessary to allow automobile and pedestrian access; and shall not obstruct motorist of vehicular and pedestrian traffic on the adjoining street.
 - iv. One tree for each 25 linear feet of parking lot frontage.
 - b. Parking area interior landscaping.
 - i. The corners of parking lots, "islands," and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
 - ii. One landscaped island shall be provided for every 15 parking spaces.
 - c. Landscaping shall not obscure or block the view within three feet of a fire hydrant.
5. Parking Structure. Parking structures shall be masked from the frontage by a Liner Building at the first story. A Liner Building, if less than 30 feet deep and two stories, shall be exempt from parking requirements.

Article 15. Architectural Design Standards**Section 15-1. General**

- A. New developments should be designed with architectural diversity and character in order to provide a high level of design quality in the built environment.
- B. Developers, architects, and designers are to be afforded flexibility to meet the challenge of designing attractive new communities but are compelled to follow the design standards in this Article.

Section 15-2. Architectural Design Standards

- A. These architectural design standards apply to all properties within the corporate limits of the Town of Frankford.
- B. No building permit shall be issued for the construction of a single-family detached dwelling unit in the R, MR, RPC and NB zones if it is like or substantially like any neighboring building (either on an adjacent lot or across the street from) existing or for which a building permit has been issued. To be deemed unlike any such building a proposed building shall differ in at least one of the following respects:
 - 1. Relative location of windows on the front elevation or in each of both side elevations with respect to each other and with respect to any door, chimney, porch, or attached garage in the same elevation;
 - 2. The length, width, and overall dimensions of the structure, including the overall height and/or the pitch of the roof;
 - 3. The materials used in siding, roofing, and other exterior surfaces and/or architectural features such as porches, gables, porticos and the like. Different color combinations, while encouraged, will not represent a suitable substitute for alternating architectural materials and patterns of architectural features.
- C. Attached dwelling units containing more than two units in a row shall have facades which alternate siding styles and patterns to provide visual distinction to each unit. Alternation between siding and brick is permitted and encouraged.
- D. The facades of attached dwelling units containing more than two units in a row shall be offset by at least three feet per unit in order to provide architectural relief.
- E. Attached dwelling units with more than four units in a row, manufactured homes, and multi-family units shall have deed restrictions in place which address common treatments for landscaping, fencing, and maintenance of the exterior appearance of the unit.
- F. Landscaping may be considered by the Planning and Zoning Commission as part of the overall architectural treatment of the development.
- G. To foster the goal of architectural diversity, deviation from these standards may be permitted by the Planning and Zoning Commission when the Commission determines that the proposed design is of superior architectural quality. The Commission may not act to relax these standards unless the developer places voluntary deed restrictions on the property to ensure that the concept proposed to the Commission is implemented in the construction and subsequent maintenance of the community.
- H. No more than six attached dwelling units in a row are permitted.
- I. Garages may not be constructed even with the front façade of a residential structure. All garages, whether attached or detached, must be offset at least five feet from the front façade, regardless of whether they are accessed from the front, side, or rear. The offset may be either in front of or behind the front façade. In the case of garages offset in front of the front façade, additional features such as porches, porticos, bay windows or the like shall be provided to the façade in order to provide relief, and visually integrate the garage into the façade of the house.

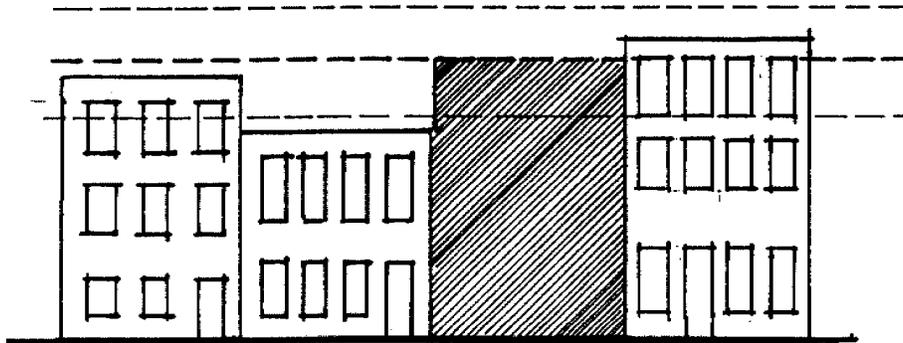
Section 15-3. Architectural Design Standards for Neighborhood Business District

The requirements of this section apply to all proposed development within the NB District. The review authority may approve minor variations to the standards in this section as deemed appropriate, provided that the Town Council also first finds that the minor variation will still produce a building that complies with the purpose of this zoning district and the Comprehensive Plan.

A. Architectural Elements, Entries and Facades.

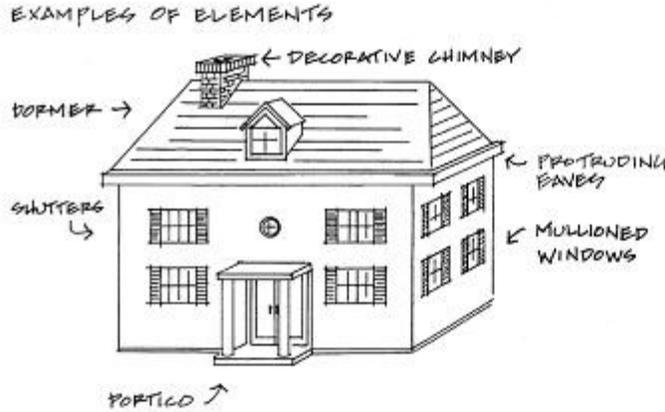
1. All structures shall be designed to comply with the following requirements:
 - i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street or square.
 - ii. The front facade of the principal building on any lot in a Neighborhood Business District shall face onto a public street, or square.
 - iii. The front façade of any residential structure shall not be oriented to face directly toward a parking lot.
2. All commercial, office, civic and institutional structures shall be designed to comply with the following requirements:
 - i. Elevation of First Floor. At least 75% of the street fronting length of the first habitable floor of a nonresidential structure shall be located no more than two vertical feet above or below the sidewalk elevation at any point along the street property line.
 - ii. Facade Articulation. To encourage visual continuity and pedestrian activity, at least 60% of the total street frontage ground floor length of any new or reconstructed building shall be differentiated architecturally by recessed windows and entries, display windows, offset surfaces, differentiated piers and columns, offset planes, textured materials, awnings, or other details or displays of interest to pedestrians.
 - iii. Railings and Decorative Grilles. Any decorative railing or grille work that is placed behind street level windows shall be at least 75% open to perpendicular view and no more than six feet in height above grade. No security gate or grille shall be installed on the exterior of any structure.
 - iv. Upper Story Design Features. A minimum of 50% of the building frontage width above the first story shall be differentiated by recessed windows, balconies, offset planes, or other architectural details that provide dimensional relief.
 - v. Parapets. A parapet extension of a storefront on a street-fronting facade shall be incorporated and integrated into the design of the building on all publicly visible facades and frontages, and not be limited to street-fronting facades.
 - vi. Pedestrian Access to Buildings. The primary entrance of each ground-floor use shall be located within the primary building frontage, and shall be recessed a minimum of three feet when accessed from the public right-of-way. Walk-up facilities and entries shall be recessed and provide adequate queuing space to avoid interruption of pedestrian flow.
 - vii. Windows and Doors. A minimum of 50% of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior. Mirrored, reflective glass or tinted glass shall not be used except as an architectural or decorative accent. After installation, clear glass windows shall not later be treated or so as to become opaque, or to be blocked so as to prevent visibility of the ground floor interior from the sidewalk.

- viii. Height Variations. To create a visually unified street, buildings should be no more than 30% taller or 30% shorter than the average building height on the block.



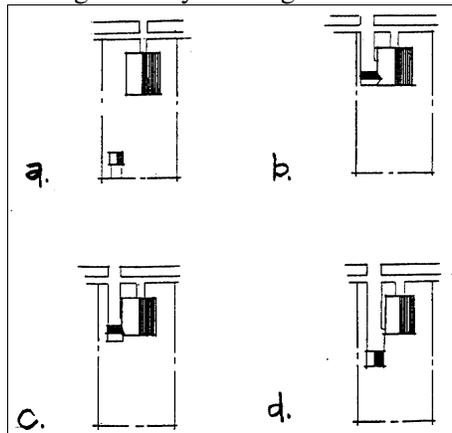
Schematic elevation sketch of a average building height creating a defined streetscape.

- ix. In order to reduce the impact of the large-scale structures from the street side, parent/anchor structures should be located behind, and away from the street. Smaller structures should be closer to the street.
3. All residential structures shall be designed to comply with the following requirements:
- i. All requirements provided in Section 15-2.
 - ii. Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
 - iii. In addition to the requirements of Section 15-2, at least two of the following architectural details shall be used to articulate a buildings façade:
 - a. Transoms and unique window forms
 - b. Special window, such as mullioned, and door surrounds and top pieces
 - c. Roof Dormers
 - d. Columns with special capitals
 - e. Unique railings and balustrade
 - f. Decorative chimney
 - g. Porches
 - h. Porticos
 - i. Protruding eaves
 - j. Window shutters
 - k. Recesses and bays
 - l. Balcony



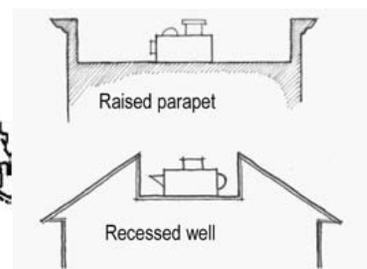
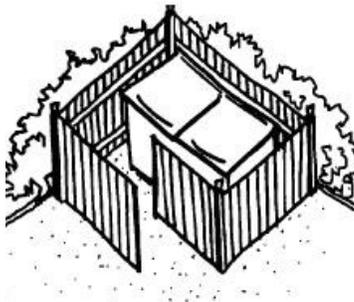
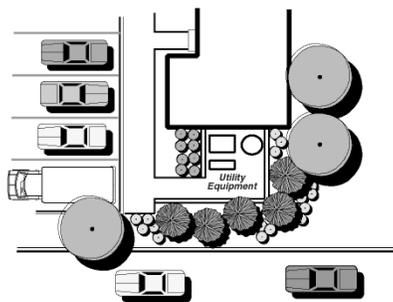
Architectural elements enhance visual quality and contribute to a human-scaled development.

- B. Guidelines for garages. To ensure garage doors do not dominate street-facing facades, and overshadow pedestrian entryways, garages must meet the following requirements:
 1. All garages shall comply with Section 7-3 and Table 8-3 *Dimensional and Density Standards for Accessory Buildings and Structures*.
 2. For single-family detached dwellings, garages may be placed on a residential lot within the principal building or an accessory building and comply with the following:
 - a. Garages attached to the front of the main structure are prohibited.
 - b. Alternative garage locations on a single-family housing lot include:
 - i. Detached rear garage with rear access from an alley.
 - ii. Attached side garage with front access from the local street.
 - iii. Attached rear garage with front access from the local street.
 - iv. Detached rear garage, behind the house, accessed from the local street.
 - v. See plan-view below which diagrams the four alternative garage locations on a single-family housing lot.



3. All garages for other than single-family detached homes must meet the following requirements:
 - a. Where vehicular rear access is required as set forth in Section 10-1 D.1., access to garages shall be from the alley.
 - b. For front-loaded garages, the garage must be offset at least five feet from the front façade and designed to blend into the front façade and not detract from the front of the house.

4. Garages accessed from the side or rear may be equal to the front façade of the principal structure if the garage façade facing the street appears as a livable space through use of windows and architectural treatment consistent with the principle building.
- C. Guidelines for lighting.
1. Street lighting shall be provided along all streets. Generally, more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Streetlights shall be installed on both sides of the street at intervals of no greater than 50 feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.
 2. Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.
 3. The maximum height of parking lot poles is 30 feet, measured from grade. The maximum height of poles within plaza and other pedestrian areas is 20 feet, also measured from grade.
 4. Cobra lights are prohibited.
 5. Parking lot poles should be located in medians or perimeter buffer areas wherever possible.
 6. Provide path lights to illuminate pedestrian walkways.
 7. Refer to Section 11-5 for additional lighting standards.
- D. Guidelines for Loading and Service Areas.
1. Locate outdoor storage, trash collection or compaction, loading, truck parking utility meters, HVAC equipment, electrical transformers and switchgear or other such service and utility areas shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.
 2. Locate service and utility areas away from any public street in areas of low visibility. Appropriate locations such area include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.
 3. Combine service and utility areas between multiple sites, where feasible.
 4. Clearly identify service entrances with signs to discourage the use of main entrances for deliveries.
 5. Screen service and utility areas from public view with walls and/or landscaping. Screening materials and design should be attractive and compatible with the building and overall landscape designs.
 6. Utility equipment located on roof-tops shall be screened from public view with parapet walls or sloped roof forms that are integral to the design of the building.



7. All outdoor display areas, including garden centers and any seasonal sales, shall be enclosed and screened on all sides with walls and/or fences. Chain-link fences are discouraged.
8. All outdoor display areas shall be designated on the site plan and must not extend into parking areas.
9. Seasonal sales area may be located in the parking areas; however, shall not reduce the parking area by 2,000 square feet.

Article 16. Text & Map Amendments

Section 16-1. General

The Town Council may amend, supplement, change, or modify the number, shape, area, or boundaries of the zoning districts or the text of the regulations contained in this Ordinance. Screening may consist of landscaping, berms, fences, or a combination of these elements.

Section 16-2. Types of Amendments & Who May Initiate

- A. Text Amendment
An amendment to the text of this Ordinance may be initiated by the Town Council.
- B. Zoning Map Amendment
An amendment to the Zoning Map may be initiated by the Town Council or by a petition from the owner of the property proposed for a zoning change.

Section 16-3. Application Submission

- A. Planning and Zoning Commission to Accept Applications
An application for map or text amendment shall be submitted to the Planning and Zoning Commission at least 15 days prior to the Planning and Zoning Commission's next regular meeting.
- B. Planning and Zoning Commission Recommendation
The Planning and Zoning Commission shall send application to the Administrator for technical review and the Administrator shall send comments back to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the proposed amendment based on the Municipality's Comprehensive Plan and the intent of this ordinance and shall forward recommendations and Administrator comments to the Town Council prior to the Municipal Governing Body's public hearing.

Section 16-4. Town Council Review

- A. Town Council to Hold Hearing
The Town Council shall set a public hearing date.
- B. Public Notice
 - 1. Prior to the public hearing, a notice shall be published in a newspaper of general circulation in the Municipality.
 - 2. The notice shall provide information about the nature of the proposed amendment and announce the time and the place for the Town Council's public hearing.
- C. Timing of Public Hearing
The public hearing shall be held within 15 days of publication of the notice.
- D. Conduct of Public Hearing
All interested parties and citizens shall be given an opportunity to be heard.
- E. Review Criteria
 - 1. The Town Council shall consider the Municipality's Comprehensive Plan, public testimony, and recommendations of the Administrator and Planning and Zoning Commission in making decisions regarding text and map amendments.
 - 2. Text Amendment. The Town Council may make changes to a proposed text amendment.
 - 3. Map Amendment (Rezoning).
 - a. Land must be placed in a zoning classification that is in accordance with the uses of land provided for in the Comprehensive Plan.
 - b. The Town Council may not add land to what was included in the proposed amendment.
 - c. Placing a single parcel of land in more than one zoning district (split zoning) should be avoided.

4. Comments of any regulatory agency that has authority over the proposed use, or as required by law.

Section 16-5. Limitation on Reapplication

No application for an amendment, supplement, change, or modification or repeal requesting the same or substantially the same relief in regard to the same property shall be received by the Town Council for a period of one year following the decision in the matter by the Town Council.

Article 17. Violations & Penalties

Section 17-1. Town Council Authorized to Institute Action

The Town Council is authorized and directed to institute appropriate actions to put an end to any violations of this Ordinance.

Section 17-2. Penalties for Violations

A. Initial Violation

1. **Defined.** An initial violation is the first time that any person or corporation that:
 - a. Shall violate any provision of this Ordinance;
 - b. Shall fail to comply with any requirements of this Ordinance;
 - c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
 - d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
2. **Penalty.** An entity, who commits a initial violation, shall be charged with such violation and shall be liable to a fine of not more than \$100.00.

B. Subsequent Violation

1. **Defined.** A subsequent violation is defined as each and every day, following the initial violation, that any person or corporation that:
 - a. Shall violate any provision of this Ordinance;
 - b. Shall fail to comply with any requirements of this Ordinance;
 - c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
 - d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
2. **Penalty.** An entity who commits a subsequent violation shall be charged with such violation and shall be assessed for a violation in the amount of \$100.00 each day without the necessity of a separate citation or summons issued by the Municipality. The person in violation will be allowed a 14 day grace period from the date of violation before the fine begins. On the 15th day the \$100 fine per day will begin.

Section 17-3. Responsible Parties

The owner or owners of any building or premises, or part of such building or premises, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection with such building or premises, and who have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.

Appendix 2 – Title 22, Chapter 7 of the Delaware Code**Municipalities****A. CHAPTER 7. PLANNING COMMISSION****§ 701. Establishment; membership**

Any incorporated city or town may at any time establish a planning commission under this chapter. A planning commission established hereunder shall consist of not less than five nor more than nine members. Such members shall in cities be appointed by the mayor, subject to confirmation by the city council, and in towns where there is not a mayor shall be elected by the town commissioners. When a planning commission is first established the members thereof shall be appointed or elected for terms of such length and shall be so arranged that the term of at least one member shall expire each year and their successor shall be appointed or elected for terms of two to five years each. Any member of the planning commission so established in a city may be removed for cause after a public hearing by the mayor with the approval of city council; members of the planning commission elected by town commissioners shall be removed by them for cause after a public hearing by a majority vote. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in a city in the same manner as an original appointment and in a town by the town commissioners. Such a planning commission shall elect annually a chairperson and a secretary from among its own number and may employ experts, clerical and other assistants. It may appoint a custodian of its plan and records who may be the city engineer or town clerk. (22 Del. C. 1953, § 701; 49 Del. Laws, c. 415, § 1; 59 Del. Laws, c. 463, § 1; 70 Del. Laws, c. 186, § 1.)

§ 702. Comprehensive development plan

(a) A planning commission established by any incorporated municipality under this chapter shall prepare a comprehensive plan for the city or town or portions thereof as the commission deems appropriate. It is the purpose of this section to encourage the most appropriate uses of the physical and fiscal resources of the municipality and the coordination of municipal growth, development and infrastructure investment actions with those of other municipalities, counties and the State through a process of municipal comprehensive planning.

(b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues. The comprehensive planning process shall demonstrate coordination with other municipalities, the county and the State during plan preparation. The comprehensive plan for municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction, a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements, goals and planning components for public and private uses of land, transportation, economic development, affordable housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and such other elements which in accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity and general public welfare of the jurisdiction's residents.

(c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted pursuant to Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal

zoning regulations pursuant to Chapter 3 of this title, it shall, within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.

(d) After a comprehensive plan or portion thereof has been adopted by the municipality in accordance to this chapter, the comprehensive plan shall have the force of law and no development shall be permitted except as consistent with the plan.

(e) At least every five years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas. The adopted comprehensive plan shall be revised, updated and amended as necessary, and re-adopted at least every 10 years.

(f) The comprehensive plan or amendments or revisions thereto shall be submitted to the Governor or designee at such time as the plan is made available for public review. The municipality shall provide sufficient copies for review by the Governor's Advisory Council on Planning Coordination. The Advisory Council, within 30 days of plan submission, shall conduct a public meeting, at which time the municipality shall make a presentation of the plan and its underlying goals and development policies, except when the Advisory Council determines that the comprehensive plan, amendments or revisions are fully consistent with statewide land development goals, policies and criteria as adopted by the Governor or Cabinet Committee on State Planning Issues. Following the public meeting the plan shall be subject to the state review and certification process set forth in § 9103 of Title 29. If the Advisory Council determines that a public meeting is not required as provided above, the plan shall be submitted directly to the Governor or his or her designee for certification provided in § 9103 of Title 29. Any proposed comprehensive plan that has been submitted to the Office of State Planning Coordination prior to July 13, 2001, for review shall be exempt from the requirements of this subsection.

(g) Municipalities shall provide to the Office of State Planning Coordination by December 31 of each year a report describing implementation of their comprehensive plan and identifying development issues, trends or conditions since the plan was last adopted or amended. (22 Del. C. 1953, § 702; 49 Del. Laws, c. 415, § 1; 71 Del. Laws, c. 477, § 1; 73 Del. Laws, c. 186, §§ 7-9.)

§ 703. General studies and reports

The planning commission shall have full power and authority to make such investigations, maps and reports of the resources, possibilities and needs of the city or town as it deems desirable, providing the total expenditures of said commission shall not exceed the appropriation for its expenses. Upon completion of any such reports the planning commission shall submit the same to the city council or town commissioners with its recommendations. It shall report annually to the city council or town commissioners on the activities of the planning commission during the preceding year. (22 Del. C. 1953, § 703; 49 Del. Laws, c. 415, § 1.)

§ 704. Adoption of official map

Each incorporated city or town established under this title may, by action of its city council or town commissioners, adopt an official map prepared under the direction of such planning commission and showing the public ways and parks therein as theretofore laid out and established by law and the private ways then existing and used in common by more than two owners. Such official map is hereby declared to be established to conserve and promote the public health, safety and general welfare. Upon the

adoption of such a map and upon any change therein or addition thereto made, as hereinafter provided, the city or town clerk shall forthwith file with the recorder of deeds in the respective counties a certificate of such action and a copy of such map as adopted or as changed or added to. (22 Del. C. 1953, § 704; 49 Del. Laws, c. 415, § 1.)

§ 705. Change of or addition to official map

An incorporated city or town so adopting an official map by action of its city council or town commissioners may, whenever and as often as it may deem it for the public interest, change or add to such map, so as to place thereon lines and notations showing existing or proposed locations not theretofore mapped of new or widened public ways and new or enlarged parks and proposed discontinuances in whole or in part of existing or mapped public ways and parks. No such change or addition shall become effective until after a public hearing in relation thereto before the city council or town commissioners, at which parties in interest shall have an opportunity to be heard. At least 10 days' notice of such a public hearing shall be given by advertisement in a newspaper of general circulation in the city or town or in the county in which the city or town is located. No such change or addition which has not been previously recommended by the planning commission established by this chapter shall be adopted until after a report thereon by said commission and no variance from a plan prepared or approved by said planning commission shall be made except by a two-thirds vote of all the members of a city council or by a two-thirds vote of the town commissioners; provided, that the last mentioned requirement shall be deemed to be waived in case the matter has been referred to said commission for a report and it has failed to report within 30 days thereafter. (22 Del. C. 1953, § 705; 49 Del. Laws, c. 415, § 1.)

§ 706. Establishing or changing public ways and parks

This chapter shall not abridge the powers of the city council or the town commissioners of any town or any other municipal officer in regard to public ways or parks in any manner except as provided herein, nor shall they authorize the taking of land or the laying out or construction of a way or a park or the alteration, relocation or discontinuance thereof, except in accordance with the laws governing the same; provided, that after an incorporated city and/or town has adopted an official map under this chapter no public way shall be laid out, altered, relocated or discontinued if such laying out, alteration, relocation or discontinuance is not in accordance with such official map as it then appears, unless the proposed laying out, alteration, relocation or discontinuance has been referred to the planning commission of such city or town established under this chapter and such planning commission has reported thereon or has allowed 45 days to elapse after such reference without submitting its report. After a city or town has adopted an official map under this chapter, no person shall open a way for public use, except as provided under the sections of this chapter, unless the location of such way is in accordance with the official map as it then appears or has been approved by the planning commission established under this chapter, and, in either case, the grading, surfacing and draining of such way have been approved by such commission or by the city or town engineer. (22 Del. C. 1953, § 706; 49 Del. Laws, c. 415, § 1.)

§ 707. Public way or park to be shown on official map

Upon final action by the proper authorities in laying out, altering or relocating a proper way or in discontinuing the whole or any part thereof or in establishing or enlarging a public park or closing thereof in whole or in part, the lines and notations showing such improvement, discontinuance or closing, as so established or effected, shall, without further action by the city council or town commissioners, be made a part of the official map, if any, of the incorporated city or town in which such public way or park is located. (22 Del. C. 1953, § 707; 49 Del. Laws, c. 415, § 1.)

§ 708. Reference of certain matters to planning commission

In a city or town having a planning commission established under this chapter, but which has not adopted an official map, no public way shall be laid out, altered, relocated or discontinued unless the proposed laying out, alteration, relocation or discontinuance has been referred to the planning commission of such city or town and such commission has reported thereon or has allowed 45 days to elapse after such reference without submitting its report. Any city or town having a planning commission established under this chapter may, by ordinance, bylaw or vote, provide for the reference of any other matter or class of matters to the planning commission before final action thereon with or without provision that final action shall not be taken until the planning commission has submitted its report or has had a reasonable fixed time to submit such report. Such planning commission shall have full power to make such investigations, maps and reports and recommendations in connection therewith, relating to any of the subjects referred to under this section, as it deems desirable. (22 Del. C. 1953, § 708; 49 Del. Laws, c. 415, § 1.)

§ 709. Entry upon lands; making examinations and surveys

Planning commissions established under this chapter, their officers and agents may, so far as they deem it necessary in carrying out this chapter, enter upon any lands and there make examinations and surveys and place and maintain monuments and marks. (22 Del. C. 1953, § 709; 49 Del. Laws, c. 415, § 1.)

§ 710. Enforcement

The Court of Chancery shall have jurisdiction on petition of the planning commission established hereunder to enforce this chapter and any ordinance or bylaws made thereunder and may restrain by injunction violations thereof. (22 Del. C. 1953, § 710; 49 Del. Laws, c. 415, § 1.)

§ 711. Limitations on powers and liabilities

This chapter shall not be construed to authorize the taking of land nor the authorization of a city or town to lay out or construct any way which may be indicated on any plan or plot until such way has been laid out as a public way in the manner prescribed by law, nor shall this chapter be construed to render a city or town liable for damages except as may be sustained under § 705 of this title by reason of changes in the official map. (22 Del. C. 1953, § 711; 49 Del. Laws, c. 415, § 1.)

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Appendix 3 – Title 22, Chapter 3 of the Delaware Code

Municipalities

B. CHAPTER 3. MUNICIPAL ZONING REGULATIONS

Subchapter I. General Provisions

§ 301. Grant of power

For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes. (39 Del. Laws, c. 22, § 2; Code 1935, § 6228; 22 Del. C. 1953, § 301.)

§ 302. Division into districts; regulations

For any or all of the purposes provided in § 301 of this title, the legislative body may divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this chapter, and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district but the regulations in 1 district may differ from those in other districts. (39 Del. Laws, c. 22, § 3; Code 1935, § 6229; 22 Del. C. 1953, § 302.)

§ 303. Purpose of regulations

The regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality. (39 Del. Laws, c. 22, § 4; Code 1935, § 6230; 22 Del. C. 1953, § 303.)

§ 304. Establishment and enforcement of regulations

The legislative body of the municipality shall provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established and enforced and from time to time amended, supplemented or changed. However, no such regulations, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality. (39 Del. Laws, c. 22, § 5; Code 1935, § 6231; 22 Del. C. 1953, § 304.)

§ 305. Changes in regulations; procedure

The regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such changes signed by the owners

of 20% or more, either of the area of the lots included in such proposed change or of those immediately adjacent thereto extending 100 feet there from or of those directly opposite thereto extending 100 feet back from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three fourths of all the members of the legislative body of the municipality; provided, however, that in any municipality of this State with a population in excess of 50,000 persons, the foregoing provisions regarding a protest shall not be applicable to any such change which is proposed in connection with the construction of federally assisted multi-family housing for the elderly and handicapped, in all instances of which such change shall become effective by the favorable vote of a simple majority of all the members of the legislative body of the municipality. The provisions of § 304 of this title, relative to public hearings and official notice, shall apply equally to all changes or amendments. (39 Del. Laws, c. 22, § 6; Code 1935, § 6232; 22 Del. C. 1953, § 305; 67 Del. Laws, c. 183, § 1.)

§ 306. Zoning commission

In order to avail itself of the powers conferred by this chapter, the mayor or the chief executive of cities or incorporated towns shall appoint a commission to be known as the zoning commission of 3 members, the appointments to be confirmed by the legislative body, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The commission shall consist of not more than two members from one party and appointments shall be made for two, four, and six years, and for six year terms thereafter. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The legislative body shall not hold its public hearings or take action until it has received the final report of such commission. (39 Del. Laws, c. 22, § 7; Code 1935, § 6232; 22 Del. C. 1953, § 306.)

§ 307. Conflict with other laws

Wherever the regulations made under authority of this chapter require a greater width or size of yards or courts, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this chapter shall govern. Wherever any other statute, local ordinance or regulation requires a greater width or size of yards or courts, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposed other higher standards than are required by the regulations made under authority of this chapter, such statute, local ordinance or regulation shall govern. (39 Del. Laws, c. 22, § 10; Code 1935, § 6236; 22 Del. C. 1953, § 307.)

§ 308. Enforcement

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. (39 Del. Laws, c. 22, § 9; Code 1935, § 6235; 22 Del. C. 1953, § 308.)

§ 309. Residential facilities for persons with disabilities

(a) For purposes of all local zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24 hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term "persons with disabilities" includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act Chapter 46 of Title 6. (62 Del. Laws, c. 390, § 4; 74 Del. Laws, c. 149, §§ 9-11.)

§ 310. Transfer of development rights; receiving zones

For any or all the purposes provided in § 301 of this title, the legislative body of the municipality is expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels from any unincorporated area in any county to districts, zones, or parcels designated to receive such development rights, and to enter into agreements with counties for such purposes. Whenever a municipality exercises its authority to provide for the receipt of development rights it shall:

- (1) Have adopted a comprehensive plan as required by this chapter and conform thereto;
- (2) Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning requirements;
- (3) Limit designation of receiving areas to locations where the municipality has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either existing or planned public facilities which serve the area to accommodate such growth;
- (4) Demonstrate that the creation and regulation of receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plans of the municipality and the statewide planning goals and objectives established pursuant to Chapter 91 of Title 29; and
- (5) Provide for appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with counties which would permit the transfer and use of development rights between counties and municipalities. (72 Del. Laws, c. 122, § 5.)

Subchapter II. Boards of Adjustment

§ 321. Creation and powers

The legislative body of cities or incorporated towns shall provide for the appointment of a board to be known as the board of adjustment and in the rules and regulations adopted pursuant to the authority of this chapter shall provide that the board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 321.)

§ 322. Composition; terms of office

(a) In cities or incorporated towns not having heretofore adopted a home rule charter pursuant to Chapter 8 of this title, the board of adjustment shall consist of the chief engineer of the street and sewer department, the city solicitor and the mayor or an authorized agent of the mayor. If the city or incorporated town has no city engineer or city solicitor, then the mayor or chief executive of such city or town shall appoint two members, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearing, who, with the presiding officer of the zoning commission, shall constitute the board of adjustment for such city or town. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(b) In cities or incorporated towns having heretofore or hereafter adopted a home rule charter pursuant to Chapter 8 of this title, the legislative body thereof may establish a board of adjustment consisting of five members who shall be residents of the city or incorporated town and who shall have knowledge of and experience in the problems of urban and rural development, and who, at the time of appointment, shall not be candidates-elect for or incumbents of an elective public office. The mayor or chief executive officer of such city or incorporated town, with consent of the legislative body thereof, shall appoint four members for terms of four years, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. The mayor or chief executive officer of such city or incorporated town, with the consent of the legislative body thereof, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of that appointing official. The members shall be entitled to compensation as determined by the city or incorporated town.

(c) In the event that a city or incorporated town qualifying under subsection (b) of this section fails to establish a board of adjustment as permitted in subsection (b) of this section, the board of adjustment shall consist of those persons designated in subsection (a) of this section.

(d)

- (1) Anything heretofore in this section to the contrary notwithstanding, any city or town, by its legislative body, may establish a board of adjustment consisting of not less than three nor more than five members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town. The mayor or chief executive officer of such city or 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 legislative body.
- (2) 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 1 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 their own number a chairperson and a secretary.
- (3) Any member of the board of adjustment may be removed from office by the legislative body for cause after a hearing by a majority vote of all the elected members of the legislative body of such city or 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. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 322; 57 Del. Laws, c. 717; 58 Del. Laws, c. 276; 59 Del. Laws, c. 137, § 1; 64 Del. Laws, c. 284, § 1; 70 Del. Laws, c. 186, § 1.)

§ 323. Rules; meetings; administration of oaths; records

The board of adjustment shall adopt rules in accordance with any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 323; 70 Del. Laws, c. 186, § 1.)

§ 324. Appeals to board

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 324.)

§ 325. Stay of proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with the officer that, by reason of facts stated in the certificate, a stay would in the officer's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court having jurisdiction on application on notice to the officer from whom the appeal is taken and on due cause shown. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 325; 70 Del. Laws, c. 186, § 1.)

§ 326. Notice and hearing on appeal

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 326.)

§ 327. Determinations of board

(a) The board of adjustment may:

- (1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto;
- (2) Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under such ordinance;
- (3) Authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinances, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or 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 any zoning ordinance, code, regulation or map.

(b) In exercising the powers provided in subsection (a) of this section the board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 327; 65 Del. Laws, c. 61, § 1.)

§ 328. Appeal to Superior Court from board's decision

(a) Any person or persons, jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer or any officer, department, board or bureau of the municipality may present to the Superior Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the filing of the decision in the office of the board.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 328.)

§ 329. Priority of proceedings

All issues in any proceeding under this subchapter shall have preference over all other civil actions and proceedings. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 329.)

§ 330. Hearing on appeal

If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 330; 70 Del. Laws, c. 186, § 1.)

§ 331. Record on appeal

The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. The cost of a transcript of the hearing appealed from is the responsibility of the person appealing the decision, unless the cost is awarded against the Board as provided in § 332 of this title. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 331; 73 Del. Laws, c. 38, § 1.)

§ 332. Costs on appeal

Costs shall not be allowed against the board of adjustment, unless it appears to the Court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from. For purposes of this section, the word "costs" includes all fees paid or owed to the Prothonotary's Office in connection with the appeal to the Superior Court and all documented out-of-pocket expenses incurred by the Board of Adjustment in preparing, filing and serving sufficient copies of the record of the proceedings appealed from, including but not limited to expenses for photocopying, copying and/or duplication of survey drawings or plots, audio tape recordings, video tape recordings, computer discs, and expenses for

preparing the transcript of the hearing. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 332; 73 Del. Laws, c. 38, § 2.)

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