

# LAND USE AND DEVELOPMENT CODE

## TOWN OF **WYOMING** Kent County, Delaware



**Adopted by the Town Council  
March 6, 2023**

Prepared by  
Wyoming Planning and Zoning Committee  
*with assistance from*  
Institute for Public Administration  
Biden School of Public Policy and Administration  
University of Delaware

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Kyle Dixon, Treasurer

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## TABLE OF CONTENTS

*§ = This symbol (§) represents a reference to sections within the document and is intended to assist the readers' navigation*

<b>Article 1. General Provisions .....</b>	<b>1</b>
§ 1-1. Title .....	1
§ 1-2. Authority .....	1
§ 1-3. Purposes .....	1
§ 1-4. Applicability .....	1
§ 1-5. Components .....	1
§ 1-6. Compliance Required .....	2
§ 1-7. Provisions are Minimum Requirements .....	2
§ 1-8. Relationship to Other Laws and Regulations .....	2
§ 1-9. Interpretation of Language .....	3
§ 1-10. Interpretation of Uses .....	3
§ 1-11. Interpretation of Zoning Map .....	3
§ 1-12. Relationship to Prior Ordinances .....	4
§ 1-13. Relationship to Other Regulations .....	4
§ 1-14. Relationship to Private Agreements .....	5
§ 1-15. Separability .....	5
<b>Article 2. Administrative Responsibilities.....</b>	<b>7</b>
§ 2-1. Planning Commission (Planning and Zoning Committee).....	7
§ 2-2. Board of Adjustment .....	8
§ 2-3. Administrator.....	10
§ 2-4. Town Council .....	10
<b>Article 3. Zoning Districts (Zones) .....</b>	<b>11</b>
§ 3-1. OS, Open Space.....	11
§ 3-2. R-1, Single-Family Residential .....	11
§ 3-3. R-2, Mixed Residential.....	11
§ 3-4. TC, Town Center .....	11
§ 3-5. C, Commercial.....	11
§ 3-6. I-1, Light Industrial .....	12
<b>Article 4. Use Regulations.....</b>	<b>13</b>
§ 4-1. Permitted Uses and Structures.....	13
§ 4-2. Accessory Uses and Structures.....	14
§ 4-3. Temporary Uses and Structures .....	17
§ 4-4. Prohibited Uses and Structures.....	17
§ 4-5. Pets on Property Used for Residential Purposes .....	18
<b>Article 5. Dimensional Regulations .....</b>	<b>19</b>
§ 5-1. Basic Area Regulations .....	19
§ 5-2. Exceptions .....	20
§ 5-3. Accessory Buildings and Structures .....	22
§ 5-4. Permitted Projections into Required Setbacks .....	22

§ 5-5.	Fences, Walls, Hedges, and Shrubbery .....	23
§ 5-6.	Townhouses—Additional Regulations.....	24
§ 5-7.	Design Standards .....	25
<b>Article 6.</b>	<b>Off-Street Parking and Loading .....</b>	<b>27</b>
§ 6-1.	Purposes and Scope .....	27
§ 6-2.	Off-Street Parking .....	27
§ 6-3.	Off-Street Loading .....	31
<b>Article 7.</b>	<b>Signs.....</b>	<b>33</b>
§ 7-1.	Applicability and Purposes.....	33
§ 7-2.	Regulations Applying to All Signs.....	33
§ 7-3.	Signs Permitted in All Zones.....	34
§ 7-4.	Reserved. ....	34
§ 7-5.	Permanent Signs.....	35
§ 7-6.	Temporary Signs. ....	39
§ 7-7.	Prohibited Signs .....	39
§ 7-8.	Exempt Signs.....	40
§ 7-9.	Nonconforming Signs.....	41
§ 7-10.	Administration.....	41
<b>Article 8.</b>	<b>Environmental Protection Regulations .....</b>	<b>42</b>
§ 8-1.	Purposes .....	42
§ 8-2.	Flood-Prone Areas.....	42
§ 8-3.	Wetlands.....	42
§ 8-4.	Water Resources Protection Areas .....	46
<b>Article 9.</b>	<b>Drainage and Erosion Control .....</b>	<b>53</b>
§ 9-1.	Drainage .....	53
§ 9-2.	Permanent Stormwater Management .....	53
§ 9-3.	Erosion and Sediment Control .....	54
<b>Article 10.</b>	<b>Landscaping, Screening, and Shade .....</b>	<b>55</b>
§ 10-1.	Screening.....	55
§ 10-2.	Landscaping.....	56
§ 10-3.	Shade .....	57
<b>Article 11.</b>	<b>Subdivision and Land Development .....</b>	<b>59</b>
§ 11-1.	Applicability .....	59
§ 11-2.	General Requirements .....	59
§ 11-3.	Adequate Public Facilities.....	60
§ 11-4.	Site-Layout Standards .....	61
§ 11-5.	Lot and Block Design.....	61
§ 11-6.	Easements .....	62
§ 11-7.	Public-Facility Reservations.....	62
§ 11-8.	Recreation and Open Space Required .....	62
§ 11-9.	Maintenance and ownership of Recreation and Open Space .....	64

§ 11-10. Plans and Profiles .....	65
§ 11-11. Inspections and Fees.....	66
§ 11-12. Bonds and Guaranty; Acceptance of Improvements .....	66
§ 11-13. Minor Subdivisions. ....	67
<b>Article 12. Streets, Sidewalks, Curbs, and Gutters .....</b>	<b>69</b>
§ 12-1. Roads and Streets .....	69
§ 12-2. Sidewalks .....	71
§ 12-3. Curbs and Gutters.....	71
<b>Article 13. Utilities.....</b>	<b>73</b>
§ 13-1. General Requirements .....	73
§ 13-2. Water Facilities.....	73
§ 13-3. Sanitary Sewer Facilities .....	73
§ 13-4. Lighting.....	74
§ 13-5. Other Utilities.....	74
<b>Article 14. Nonconforming Situations .....</b>	<b>75</b>
§ 14-1. Definition and Intent .....	75
§ 14-2. Nonconforming Lots .....	75
§ 14-3. Nonconforming Buildings and Structures .....	75
§ 14-4. Nonconforming Uses.....	75
§ 14-5. Nonconforming Signs.....	76
<b>Article 15. Procedures and Administration .....</b>	<b>77</b>
§ 15-1. Zoning Certificate.....	77
§ 15-2. Outside Technical Expertise.....	77
§ 15-3. Development-Plan Approval .....	77
§ 15-4. Administrative Reviews and Variances.....	84
§ 15-5. Conditional-Use Permits .....	86
§ 15-6. Text and Map Amendments .....	90
§ 15-7. Violation and Penalties.....	91
<b>Article 16. Definitions .....</b>	<b>93</b>

## ZONING MAP

A reference copy of the zoning map follows the last page. The official zoning map can be viewed at the Wyoming Town Hall located at 1 North Railroad Avenue, Wyoming, DE 19934 during business hours.

## LIST OF FIGURES

Figure 1.	Plantings and Townhouse Row Separations.....	24
Figure 2.	Parking Space Dimensions and Interior-Drive Aisle Widths.....	28
Figure 3.	Parking Area Layout .....	29
Figure 4.	Floodplain.....	<b>Error! Bookmark not defined.</b>
Figure 5.	Source Water Protection Areas .....	51
Figure 6.	Development-Plan Review Process.....	83
Figure 7.	Principal and Accessory Buildings and Structures.....	94
Figure 8.	Lots.....	99
Figure 9.	Setbacks.....	102
Figure 10.	Impervious and Pervious Surface.....	104
Figure 11.	Front, Side, and Rear Yards .....	106

**Article 1. General Provisions****§ 1-1. Title**

- A. This Ordinance shall be known as the Land Use and Development Code of Wyoming, Delaware.
- B. It shall be referred to as the Land Use and Development Code.

**§ 1-2. Authority**

This Land Use and Development Code has been made in accordance with the grant of power in Title 22, Chapters 3 and 7 of the *Delaware Code* and Sections 18 (Enumeration of Powers) and 33C (Zoning) of the *Wyoming Town Charter*.

**§ 1-3. Purposes**

- A. Pursuant to Title 22, Section 303 of the *Delaware Code*, this Land Use and Development Code has been made in accordance with the Town of Wyoming comprehensive plan and is designed to:
  - 1. Lessen congestion in the streets.
  - 2. Secure safety from fire, panic and other dangers.
  - 3. Promote health and the general welfare.
  - 4. Provide adequate light and air.
  - 5. Prevent the overcrowding of land.
  - 6. Avoid undue concentration of population.
  - 7. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, stormwater management, and other public facilities.
- B. Pursuant to Title 22, Section 303 of the *Delaware Code*, the regulations contained in this Land Use and Development Code has been made with reasonable consideration of the following, among other things.
  - 1. Maintaining the character of each district and its peculiar suitability for particular uses.
  - 2. Conserving the value of buildings.
  - 3. Maintaining the historical characteristics of the Town of Wyoming.
  - 4. Encouraging the most appropriate use of land throughout the Town of Wyoming.

**§ 1-4. Applicability**

This Land Use and Development Code shall apply to all land within the incorporated boundaries of the Town of Wyoming. It is intended that the extent of its applicability be automatically changed in accordance with the provisions of this Land Use and Development Code or provisions of State law which may affect its applicability.

**§ 1-5. Components**

- A. Text and Map—This Land Use and Development Code consists of the regulations written herein and a map depicting zoning districts in the Town.
- B. Tables—The tables contained herein are part of this Land Use and Development Code.
- C. Drawings and Graphics—The drawings and graphics herein are part of this Land Use and Development Code unless otherwise indicated.

**§ 1-6. Compliance Required**

- A. Partition, Combination, Land Development—Tracts, parcels, lots, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, in conformance with the provisions of this Land Use and Development Code. This provision also applies to land offered for sale or lease.
- B. Use—Buildings and land shall be used in conformance with the provisions of this Land Use and Development Code.
- C. Construction, Reconstruction, Alteration, Relocation—Buildings and parts of buildings shall be erected, reconstructed, converted, enlarged, moved, or structurally altered in conformance with the provisions of this Land Use and Development Code.
- D. Yards.
  - 1. No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no required yard or open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform to the dimensional regulations designated for the zoning district in which such building is located unless otherwise permitted.
  - 2. No yard or open space associated with a building on one lot shall be considered as a required yard for a building on any other lot.
  - 3. All required yards and open space shall be open and unobstructed to the sky unless otherwise permitted.
  - 4. All yards and open space 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.

**§ 1-7. Provisions are Minimum Requirements**

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

**§ 1-8. Relationship to Other Laws and Regulations**

- A. In General—Where this Land Use and Development Code 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.
- B. Conflict with Other Laws—Pursuant to Title 22, Section 307 of the *Delaware Code*,
  - 1. Wherever the regulations contained in this Land Use and Development Code require a greater width or size of yards or courts, or a lower height of building or fewer stories, or a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in any other statute or local ordinance or regulation, the regulations in this Land Use and Development Code shall govern.
  - 2. 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 fewer stories, or a greater percentage of lot to be left unoccupied, or imposed other more restrictive standards than are required by the regulations in this Land Use and Development Code, such statute, local ordinance or regulation shall govern.
- C. Compliance with Other Applicable Regulations—Compliance with the standards prescribed in this Land Use and Development Code does not relieve an applicant from compliance with other applicable statutes, resolutions, ordinances, rules, regulations, easements.



**§ 1-9. 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."

**§ 1-10. Interpretation of Uses**

- A. A use not specifically listed as permitted in a zoning district is prohibited unless determined to be comparable with a like use permitted in that zoning district.
- B. Standards for Interpretation
  - 1. The use closely resembles and contains the same characteristics as the uses in the zone to which it is to be added.
  - 2. 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.
  - 3. The use does not create traffic to a greater extent than do other uses listed in the classification to which it is to be added.
- C. The determination of similar uses shall not apply to off-street parking or signs.

**§ 1-11. Interpretation of Zoning Map**

- A. Zoning Districts—The incorporated area of the Town is divided into the zoning districts shown on the Zoning Map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Land Use and Development Code.
- B. Uncertainty as to Boundaries—Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning Map, the following rules shall apply.
  - 1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - 3. Boundaries indicated as approximately following Town or County limits shall be construed as following Town or County limits.
  - 4. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s).
  - 5. Boundaries indicated as following shorelines shall be construed to follow such shore lines. If the shore line changes, the boundary shall be construed as moving with the actual shore line.
  - 6. Boundaries indicated as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines.
  - 7. Boundaries indicated as parallel to, or extensions of, features described in this subsection shall be so construed. Distances not specifically indicated on the Zoning Map shall be determined by the scale of the map.
  - 8. Where physical or cultural features existing on the ground differ from those shown on the Zoning Map or in other circumstances not covered by this Section, the Planning and Zoning Committee shall interpret the zone boundaries.

- C. Errors or Omissions—If because of error or omission, the Zoning Map does not show a property as being in a zoning district, such property shall be classified in the least-intense Zoning District until changed by amendment.
- D. Parcels Split by Zoning Districts—Where a zoning district boundary divides a lot, tract, parcel, or property, the location of the district boundary, unless the Zoning Map indicates its dimensions, shall be determined by applying the map scale shown on the Zoning Map scaled to the nearest foot.

### **§ 1-12. Relationship to Prior Ordinances**

- A. Building Permits.
  - 1. Where construction has begun in accordance with a building permit validly issued more than 6 months prior to the adoption of this Land Use and Development Code, such construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued.
  - 2. Where a building permit has been validly issued within 6 months prior to the adoption of this Land Use and Development Code, construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued and as long as construction begins within 6 months of the adoption of this Land Use and Development Code.
  - 3. Construction is begun when excavation and the piers or footings of at least 1 or more buildings covered by the permit have been completed.
- B. Lots.
  - 1. Any lot, which was legally recorded (i.e., a lot of record) and was a buildable lot under the zoning or subdivision regulations in effect immediately prior to the effective date of this Land Use and Development Code, is a buildable lot under this Land Use and Development Code and does not require a variance to construct a single-family dwelling.
  - 2. This provision applies to all zones.
  - 3. This provision permits construction of a single-family dwelling only if the owner of the substandard lot owned no adjoining vacant lot or parcel on the effective date of this Land Use and Development Code.
- C. Plats—Subdivision plats, recorded prior to the adoption of this Land Use and Development Code, shall remain duly approved as if the prior ordinance was still in effect. Any lot, shown on such subdivision plat, shall be a buildable lot even though it may contain less than the minimum required area or street frontage.

### **§ 1-13. Relationship to Other Regulations**

- A. In General.
  - 1. Within This Code—Where regulations within this Land Use and Development Code conflict, the stricter standards shall apply.
  - 2. With Others—Where this Land Use and Development Code 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.
- B. Conflict with Other Laws—Pursuant to Title 22, Section 307 of the *Delaware Code*,
  - 1. Wherever the regulations contained in this Land Use and Development Code require a greater width or size of yards or courts, or a lower height of building or fewer 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 contained in this Land Use and Development Code shall govern.
  - 2. 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 fewer stories, or a greater percentage of lot to be left unoccupied, or imposed other higher standards than are required by the regulations contained in this Land Use and Development Code, such statute, local ordinance or regulation shall govern.

**§ 1-14. Relationship to Private Agreements**

It is not intended that this Land Use and Development Code invalidate or annul any easements, covenants, or other private written agreements between parties.

**§ 1-15. Separability**

- A. Town Council Declaration—The Town Council hereby declares that the sections, paragraphs, sentences, clauses, and phrases of this Land Use and Development Code can be separated from one another.
- B. Statement—Should a court decide that any section or provision of this Land Use and Development Code is unconstitutional or invalid, such decision shall not affect the validity of this Land Use and Development Code as a whole or any part other than the part judged unconstitutional or invalid.



## Article 2. Administrative Responsibilities

### § 2-1. Planning Commission (Planning and Zoning Committee)

#### A. Established.

1. A Planning Commission is hereby created pursuant to Title 22, Section 701 of the *Delaware Code*.
2. This Commission shall be known as the Wyoming Planning and Zoning Committee and shall be referred to in this Land Use and Development Code as the Planning and Zoning Committee.

#### B. Organization.

1. Members—The Planning and Zoning Committee shall consist of 5 members.
2. Qualifications
  - a. No voting member shall be a candidate for, a candidate-elect to, or incumbent in any elected political office or a Town employee at the time of appointment and throughout the term of office.
  - b. All members shall meet the following qualifications.
    - (1) Have knowledge of and experience with the problems of rural and urban development
    - (2) Be familiar with the comprehensive plan, this Land Use and Development Code, and other development-related laws, regulations, and policies
3. Term of Office.
  - a. Pursuant to Title 22, Section 701 of the *Delaware Code* and Wyoming Town Ordinance 7, Amendment 1 (effective June 15, 1998), each voting member shall serve a 5-year term or until a successor takes office.
  - b. The terms shall be staggered so that generally only 1 voting member is appointed or re-appointed each year.
4. Appointments—Pursuant to Title 22, Section 701 of the *Delaware Code* and Wyoming Town Ordinance #19-11, the Mayor subject to confirmation by Town Council shall appoint Planning and Zoning Committee members.
5. Chairperson and Secretary.
  - a. Chairperson—Pursuant to Wyoming Town Ordinance #19-11, the chairperson shall be responsible for coordinating meetings and keeping the Town Council informed on land-use and development matters.
  - b. Pursuant to Title 22, Section 701 of the *Delaware Code*, members shall elect annually a chairperson and a secretary from among themselves.
6. Vacancies—Pursuant to Title 22, Section 701 of the *Delaware Code*,
  - 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.
7. Removal—Pursuant to Title 22, Section 701 of the *Delaware Code*, the Council may remove a member for cause by majority vote after a hearing.
8. Compensation—The Town shall determine compensation for the Planning and Zoning Committee members.

#### C. Powers and Duties.

1. Preparation of a comprehensive plan for the Town as directed in Title 22, Section 702(a) of the *Delaware Code*.
2. Annual report on Planning and Zoning Committee activities to the Town Council pursuant to Title 22, Section 703 of the *Delaware Code*.
3. Determination of similar uses in accordance with § 1-10.

4. Text and Map Interpretations.
    - a. Interpret the text of this Land Use and Development Code.
    - b. Resolve uncertainties in the location of zoning district boundaries in accordance with § 1-11 of this Land Use and Development Code.
  5. Approval of Preliminary Development Plans in accordance with § 15-3.B.2.
  6. Recommendations to the Town Council on applications for the following items.
    - a. Conditional Uses.
    - b. Final Development Plan approvals upon request.
    - c. Changes to the text of this Land Use and Development Code.
    - d. Changes to the zoning map.
  7. Recommendations on all applications or appeals that come before the Board of Adjustment.
  8. Plans and studies as requested.
  9. Other duties as set forth in Title 22, Chapters 3 and 7 of the *Delaware Code*.
- D. Meetings and Hearings.
1. Schedule.
    - a. The Planning and Zoning Committee shall hold at least 1 regular meeting each month unless not needed.
    - b. The Planning and Zoning Committee may meet at other times at the call of the Chairperson.
  2. Conduct of Meetings.
    - a. All meetings shall be open to the public.
    - b. Three (3) members constitute a quorum.
    - c. The Planning and Zoning Committee shall adopt rules for the transactions of business.
  3. Minutes.
    - a. The Planning and Zoning Committee shall keep minutes of its resolutions, transactions, findings, and determinations.
    - b. The minutes shall record the following.
      - (1) The vote of each member on each item considered by the Planning and Zoning Committee.
      - (2) When a member is absent, or fails to vote on any item.
  4. Action.
    - a. A majority vote of the entire Planning and Zoning Committee is required to take official action, irrespective of the number of members actually present at a meeting.
    - b. All official actions of the Planning and Zoning Committee shall be in writing.
    - c. All actions of the Planning and Zoning Committee shall be a public record.

## **§ 2-2. Board of Adjustment**

- A. Established.
1. A Board of Adjustment is hereby established pursuant to Title 22, Section 321 of the *Delaware Code*.
  2. It shall be known as the Wyoming Board of Adjustment and shall be referred to as the Board of Adjustment in this Land Use and Development Code.

**B. Organization**

1. **Members**—Pursuant to Title 22, Section 322(d)(1) of the *Delaware Code*, the Board of Adjustment shall consist of not less than 3 or more than 5 members.
2. **Qualifications**—Pursuant to Title 22, Section 322(d)(1) of the *Delaware Code*,
  - a. Members shall be residents of the Town.
  - b. At the time of appointment and throughout the term of office, a member shall not be a candidate for, a candidate-elect to, or incumbent in any elected political office or a Town employee.
  - c. Members shall have knowledge of and experience with the problems of rural and urban development.
3. **Term of Office**—Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*,
  - a. Each member of the Board of Adjustment shall serve a 3-year term or until a successor takes office.
  - b. 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 3 years.
4. **Appointments**—Pursuant to Title 22, Section 322(d)(1) of the *Delaware Code*,
  - a. The Mayor shall appoint members of the Board of Adjustment.
  - b. The Town Council shall confirm the appointments by majority vote.
5. **Officers**.
  - a. Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*, members shall elect a chairperson and a secretary from among themselves.
  - b. Members shall designate a member to assume the chairperson's duties when the chairperson is unable to serve.
6. **Vacancies**—Pursuant to Title 22, Section 322(d)(2) of the *Delaware Code*,
  - a. A vacancy occurring prior to the expiration of a term shall be filled for the remainder of the unexpired term 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.
7. **Removal**—Pursuant to Title 22, Section 322(d)(3) of the *Delaware Code*, the Town Council may remove a member for just cause after a hearing by majority vote.
8. **Staff Support**—The Town Council may assign appropriate staff to the Board of Adjustment.
9. **Compensation**—Members shall serve without compensation but may be reimbursed for expenses related to duties as members of the Board of Adjustment.

**C. Meetings and Hearings**

1. **Meetings and hearings** of the Board of Adjustment shall be scheduled and conducted as follows.
  - a. **Schedule**—Pursuant to Title 22, Section 323 of the *Delaware Code*, the Board of Adjustment shall hold meetings and hearings at the call of the Chairperson and as the Board of Adjustment shall determine.
  - b. **Conduct of Meetings**.
    - (1) Pursuant to Title 22, Section 323 of the *Delaware Code*, meetings shall be open to the public.
    - (2) Three (3) members constitute a quorum.
    - (3) Pursuant to Title 22, Section 323 of the *Delaware Code*, the chairperson or, if the chairperson is absent, the acting chairperson may
      - a) Compel the attendance of witnesses
      - b) Administer oaths
    - (4) Pursuant to Title 22, Section 323 of the *Delaware Code*, the Board of Adjustment shall adopt rules for the transaction of business.

- c. Minutes.
    - (1) The Board of Adjustment shall keep minutes of its examinations and other official actions, including resolutions, transactions, findings, and determinations.
    - (2) The minutes shall record the following.
      - a) The vote of each member on each item considered by the Board of Adjustment.
      - b) When a member is absent, or fails to vote on any item.
  - 2. Action.
    - a. Pursuant to Title 22, Section 327(b) of the *Delaware Code*, the Board may 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.
    - b. A majority of those present and voting is required to take official action.
    - c. All official actions of the Board of Adjustment shall be in writing.
  - 3. Records Management—Pursuant to Title 22, Section 323 of the *Delaware Code*, the Board's examinations and official actions shall be:
    - a. Filed immediately in the office of the Board of Adjustment.
    - b. A public record.
  - 4. The office of the Board of Adjustment shall be located in the same place as the Town's offices.
- D. Powers and Duties.
- 1. Administrative Review—Hear and decide appeals where an error is alleged in any order, requirement, decision, determination, interpretation, or denial of an application by any administrative official in the administration or enforcement of this Land Use and Development Code pursuant to Title 22, Section 327(a)(1) of the *Delaware Code*.
  - 2. Special Exceptions—Hear and decide special exceptions to the terms of this Land Use and Development Code pursuant to Title 22, Section 327(a)(2) of the *Delaware Code*.
  - 3. Variances—Authorize variance from the strict application of the provisions of this Land Use and Development Code pursuant to Title 22, Section 327(a)(3) of the *Delaware Code*.

### § 2-3. Administrator

- A. Administrator Named.
- 1. The Building Inspector appointed pursuant to Section 33D of the Wyoming Town Charter shall be the Administrator of this Land Use and Development Code.
  - 2. The Town Clerk may assist the Administrator with the filing and processing of permits, applications, and other duties involved in the administration of this Land Use and Development Code.
- B. Responsibilities—The Administrator shall have the following responsibilities.
- 1. Administration of, and securing compliance with, the provisions of this Land Use and Development Code.
  - 2. Staff support to the Planning and Zoning Committee, Town Council, and Board of Adjustment.

### § 2-4. Town Council

- A. Administrative Responsibilities.
- 1. Taking action on Final Development Plans in accordance with § 15-3.B.3.
  - 2. Taking action on Conditional Use applications in accordance with § 15-5.
  - 3. Establishing fees and charges by resolution from time-to-time.
- B. Legislative Responsibilities.
- 1. Adoption of comprehensive plan.
  - 2. Taking action on changes to the text and map of this Land Use and Development Code.



**Article 3. Zoning Districts (Zones)**

This Article establishes the names, symbols, and purposes of the zoning districts.

**§ 3-1. OS, Open Space**

- A. Name—Open Space.
- B. Symbol—OS.
- C. Purposes.
  - 1. Preserve areas with natural limitations to development such as floodplains, wetlands, and other areas with environmental constraints, land within recorded subdivisions designated as such.
  - 2. Provide areas for certain non-intensive uses such as parks and recreation facilities.

**§ 3-2. R-1, Single-Family Residential**

- A. Name—Single-Family Residential.
- B. Symbol—R-1.
- C. Purposes.
  - 1. Provide sufficient space for low-density, single-family residential development and customary accessory uses.
  - 2. Provide for other uses, such as churches and recreational facilities that are normally compatible with residential uses.
  - 3. Allow agriculture uses that do not detract from or interfere with residential uses.
  - 4. Allow for development that is consistent with the small-scale, traditional character of the town.

**§ 3-3. R-2, Mixed Residential**

- A. Name—Mixed Residential.
- B. Symbol—R-2.
- C. Purposes.
  - 1. Provide sufficient space for low- and medium-density residential development and customary accessory uses.
  - 2. Provide for other uses, such as churches and recreational facilities that are normally compatible with residential uses.
  - 3. Allow for development that is consistent with the small-scale, traditional character of the town.

**§ 3-4. TC, Town Center**

- A. Name—Town Center.
- B. Symbol—TC.
- C. Purposes.
  - 1. Encourage a mix of small-scale, neighborhood oriented retail, office, and residential uses, consistent with the existing scale and character of the area, in order to promote the economic stability of the town.
  - 2. Provide for a limited number of apartment dwellings in conjunction with retail, office, and service uses, but only on the second and third stories of such buildings.
  - 3. Provide for the continuation and improvement of existing residential uses.
  - 4. Encourage redevelopment by permitting residential structures to be used wholly or partially for permitted non-residential uses.
  - 5. Provide a modification procedure, utilizing development-plan review, to alleviate difficulties relating to parking and other area regulations.

**§ 3-5. C, Commercial**

- A. Name—Commercial.
- B. Symbol—C.
- C. Purposes.

1. Provide for appropriate locations for commercial, office, and service uses serving a wider area than the small-scale, neighborhood-business uses provided for the TC Zone.
2. Allow for development that is consistent with the small-scale, traditional character of the town

**§ 3-6. I-1, Light Industrial**

A. Name—Light Industrial.

B. Symbol—I-1.

C. Purposes.

1. Provide sufficient space in appropriate locations for certain types of low-intensity manufacturing, warehousing, and business uses.
2. Protect surrounding areas from the adverse effects of industrial uses
3. Prohibit certain heavy-industrial activities.
4. Allow for development that is consistent with the small-scale, traditional character of the town

## Article 4. Use Regulations

### § 4-1. Permitted Uses and Structures

<b>Permitted Uses and Structures</b> <b>Blank Not Permitted</b> <b>P Permitted Use</b> <b>DP Development-Plan Approval required</b> <b>CU Conditional Use required</b> <b>D See Definition in Article 16.</b>	Definition	OS Zone	R-1 Zone	R-2 Zone	TC Zone	C Zone	I-1 Zone
<b>Residential</b>							
Bed and Breakfast	D		CU	CU	CU		
Boardinghouse	D		CU	CU	CU		
Conversion of a single-family dwelling into a 2-family or multi-family dwelling			CU	CU	CU		
Dwelling, 2-Family	D			DP	DP		
Dwelling, Semi-Detached	D			DP	DP		
Dwelling, Manufactured Home	D			DP			
Dwelling, Multi-Family	D				DP		
Dwelling, Single-Family, Including Modular	D		P	P	DP		
Dwelling, Townhouse	D			DP	DP		
Home-Based Business			CU	CU	CU		
<b>Sales and Rental of Goods, Merchandise, and Equipment</b>							
Bank with Drive-In					DP	DP	DP
Bank without Drive-In					DP	DP	DP
Restaurant with Drive-In	D					CU	CU
Restaurant without Drive-In- 5,000 SF or smaller	D				DP	DP	DP
Restaurant without drive-In- more than 5,000 SF						DP	DP
Retail Sales and Service Establishments - 5,000 SF or smaller	D				DP	DP	DP
Retail Sales and Service Establishments— more than 5,000 SF	D					DP	DP
Wholesale Trade Establishments	D					DP	DP
<b>Office, Clerical, Research, and Services</b>							
Business Services, Office, Personal Services - 5,000 SF or smaller	D				DP	DP	DP
Business Services, Offices, Personal Services – more than 5,000 SF	D					DP	DP
Social Services	D				DP	DP	DP
<b>Manufacturing, Processing, Creating, Repairing, Renovating, Painting, Cleaning, and Assembling of Goods, Merchandise, and Equipment</b>							
Any process or activity involving cleaning, distribution, manufacture, processing, production, bulk storage, or testing							CU
<b>Educational, Cultural, Religious, Philanthropic, Social, Fraternal</b>							
Clubs and Fraternal Organizations	D				CU	CU	
Country Club	D		CU	CU			
Educational Institutions, public and private	D		CU	CU	CU	CU	CU
Golf Course	D		CU	CU			
Library			CU	CU	DP	DP	
Museum					DP	DP	
Places of Worship	D		CU	CU	CU	CU	CU
Recreation Facility		DP		CU	DP	DP	DP

<b>Permitted Uses and Structures</b> <b>Blank Not Permitted</b> <b>P Permitted Use</b> <b>DP Development-Plan Approval required</b> <b>CU Conditional Use required</b> <b>D See Definition in Article 16.</b>	Definition	OS Zone	R-1 Zone	R-2 Zone	TC Zone	C Zone	I-1 Zone
<b>Institutional, Care, Confinement, and Medical Facilities</b>							
Day-Care Center	D				CU	CU	
Day Care Home, Family (1-6 Children)	D		CU	CU	CU		
Day Care Home, Large Family (7-12 Children)	D		CU	CU	CU		
Hospital	D					CU	
Medical Clinic	D				CU	CU	
Nursing and Care Facilities	D					CU	
Surgical Center	D					CU	
<b>Storage, Parking, and Vehicles</b>							
Automobile Sales	D					DP	DP
Automobile Service Station	D					CU	DP
Distribution Center, under 35,000 square feet	D					CU	DP
Gasoline Station	D					CU	DP
Parking Garage, Public or Commercial						DP	DP
Self-Storage Facility	D					CU	DP
Warehouse, under 35,000 square feet	D						DP
<b>Public, Semi-Public, and Security</b>							
Communications Towers							CU
Government Facilities and Services, Local	D	P	P	P	P	P	P
Government Facilities and Services, Non-Local	D	CU	CU	CU	CU	CU	CU
Public Parks And Open Space		P	P	P	P	P	
Public-Safety Facilities	D	P	P	P	P	P	P
Public-Utility Service Facilities	D	P	P	P	P	P	P
Public-Utility Service Lines	D	P	P	P	P	P	P
<b>Not Listed Elsewhere</b>							
Agriculture	D		P				
Animal Shelter	D					CU	CU
Cemeteries	D		CU	CU	CU		
Funeral Home	D				CU	CU	
Kennel, Commercial	D					CU	CU
Kennel, Non-Commercial	D		CU				
Veterinary Clinics and Hospitals	D					CU	CU

NOTES: SF = square feet

#### § 4-2. Accessory Uses and Structures

- A. Definition—A use is an accessory use if it meets all of the following criteria.
1. It is incidental and subordinate to the principal use.
  2. It is customary to the principal use.
  3. It is operated and maintained under the same ownership and on the same lot as the principal use.
  4. It does not include structures or structural features inconsistent with the principal use.
  5. It 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 and buildings are permitted in all zones.

1. Accessory buildings shall only be permitted on the same lot with the principal building to which they are accessory. All accessory uses shall be such that they do not alter the character of the premises on which that are located or impair the neighborhood.
  2. No more than two accessory buildings shall be permitted on any lot, no more than one of which may be a doghouse.
  3. Accessory buildings must be located at least ten feet from the principal building.
- C. Regulations Governing Certain Accessory Uses.
1. Major Recreational Equipment.
    - a. Definition of Major Recreational Equipment—Includes boats, boat trailers, travel trailers, pick-up campers, or coaches designed to be mounted on motor vehicles, motorized dwelling unit, tent trailers, 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.
    - b. Regulation—On a lot in a residential zone, major recreational equipment may:
      - (1) Be parked or stored in a carport, within an enclosed building, or behind the nearest portion of a building to a street.
      - (2) Not be used for living, sleeping, or other housekeeping purposes.
      - (3) Be parked anywhere for a maximum of 24 hours while loading and unloading.
  2. Unlicensed Vehicles and Trailers—On any residentially zoned property, a vehicle or a trailer without valid license plates shall be parked either in a completely enclosed building or in a side or rear yard that is enclosed with a solid fence at least 6 feet high.
  3. Commercial Vehicles—In any residential zone, only 1 commercial vehicle, not exceeding 1-ton capacity, may be parked on a lot.
  4. Satellite-Dish Antennas in Residential Zones.
    - a. Regulations Pertaining to All Satellite-Dish Antennas.
      - (1) Only 1 satellite dish antenna, not exceeding 10 feet in diameter, may be installed on a residential lot.
      - (2) Transmitting satellite dishes are not permitted.
      - (3) A building permit is required before a satellite dish antenna over 3 feet in diameter is installed.
      - (4) Satellite-dish antennas shall employ, to the extent possible, colors and materials that blend with their surroundings.
    - b. Regulations Pertaining to Ground-Mounted Dish Antennas.
      - (1) Shall be installed only in rear yards.
      - (2) Shall be set back at least 5 feet from a property line.
    - c. Regulations Pertaining Roof-Mounted Dish Antenna—A roof-mounted dish antenna over 3 feet in diameter may be installed when an applicant for a building permit demonstrates that a ground-mounted dish antenna is unable to obtain sufficiently clear reception.
  5. Solar Energy System
    - a. Solar energy systems shall be permitted as an accessory uses in all residential districts in accordance with the following:
      - (1) The minimum lot size for ground mounted systems shall be one acre.
      - (2) Ground-mounted solar energy systems shall only be permitted in the rear yard.
      - (3) Ground-mounted solar energy systems shall be set back the greater of:
        - (a) A minimum of ten feet from side and rear property lines, or
        - (b) A distance equivalent to the height of the system from the ground to the tallest point of the solar energy system.
      - (4) Ground-mounted solar energy systems shall not exceed 20 feet in height.
      - (5) Ground-mounted solar energy systems shall be visually screened from adjacent properties to a height of six feet by either an opaque fence or a dense vegetative screen.
      - (6) All exterior electrical and/or plumbing lines shall be buried below the surface of the ground and placed in a conduit.

- (7) Roof mounted systems on the principal building shall not be more than three (3) feet higher than the finished roof to which it is mounted. No part of the system shall extend beyond the edge of the roof.
    - (8) Roof-mounted solar energy systems shall comply with all building height requirements for the zoning district where the system is to be installed.
    - (9) Zoning permits and construction permits shall be required for all solar energy systems.
  - b. Solar energy systems shall be permitted as accessory uses in all nonresidential districts, including the Town Center District in accordance with the following:
    - (1) For the purposes of this subsection, the solar energy system shall be considered an accessory use if:
      - a) It is located within a nonresidential complex or campus that includes one or more contiguous lots under common ownership and management,
      - b) The principal use of the complex or campus is a use other than a solar energy system, and
      - c) The energy generated by the solar energy system is intended to primarily reduce on-site consumption of utility-supplied energy.
    - (2) Ground-mounted solar energy systems shall not occupy more than 30 percent of the total lot area of the complex or campus for which the solar energy system is proposed.
    - (3) Ground-mounted solar energy systems that are proposed to occupy more than 30 percent of the lot area of the complex or campus may be permitted subject to Conditional Use approval by the Planning Commission.
    - (4) Ground-mounted solar energy systems shall not be located between the principal structure and the public street upon which the principal structure fronts.
    - (5) All exterior electrical lines must be buried below the surface of the ground and placed in a conduit.
    - (6) Solar energy systems, whether roof-mounted or ground-mounted, shall comply with all building setback and maximum height requirements for the zoning district where the system is to be installed.
    - (7) Decommissioning. Solar energy systems shall be maintained and kept in a state suitable for immediate operation. When it can be demonstrated that a solar energy system, as approved in accordance with this section, is in a state of disrepair, is unable to produce electricity, is unsafe, or if the property itself has been abandoned, that system shall be removed by the property owner and the accessory use terminated.
6. Small Wind Energy System
- a. Small Wind Energy Systems shall be permitted as an accessory use in residential and nonresidential districts in accordance with the following:
    - (1) Small Wind Energy Systems shall not be permitted in the Town Center District.
    - (2) The minimum lot size for accessory small wind energy systems shall be one acre.
    - (3) Small Wind Energy Systems shall be set back 1.0 times the turbine height from adjoining property lines. Turbine height shall be interpreted to mean the total height of the tower plus the length of one blade.
    - (4) The aggregate noise or audible sound of a Small Wind Energy System shall not exceed five decibels above the existing average noise level of the surrounding area and shall be restricted to a maximum of 60 decibels measured at any location along the property line of the parcel where the Small Wind Energy System is located.
    - (5) Small Wind Energy Systems shall be free from signage, advertising, flags, streamers, decorative items, or any item not related to the operation of the wind turbine. Electric wiring for the turbines shall be placed underground for nonbuilding integrated systems.

- (6) Any Small Wind Energy System shall be visually screened to a height of six feet by either an opaque fence or a dense vegetative screen from any adjoining residential properties.
- (7) Decommissioning. Small wind energy systems shall be maintained and kept in a state suitable for immediate operation. When it can be demonstrated that a small wind energy system, as approved in accordance with this section, is in a state of disrepair and is not suitable for immediate operation, that system shall be removed and the accessory use terminated.

#### **§ 4-3. Temporary Uses and Structures**

##### **A. Intent and Purpose.**

1. Intent—Allow for the short-term placement of activities in temporary facilities or outside of buildings.
2. Purpose—Avoid incompatibility between temporary uses and surrounding areas.

##### **B. Permitted Temporary Uses.**

1. Real estate sales offices within approved development projects.
2. Christmas tree sale lots for a period not to exceed 30 consecutive calendar days; however, a permit shall not be required when a sale is in conjunction with an established commercial business or charitable organization.
3. Other seasonal products sales, such as pumpkins.
4. Circuses and carnivals.
5. Temporary outdoor display/sales of merchandise in any zone under the following conditions
  - a. No more than 8 such displays/sales are conducted in any calendar year.
  - b. The sales/displays are not conducted for a period of more than 4 consecutive days.
  - c. The merchandise is customarily sold on the premises.
  - d. The premises are not utilized for a permanently established business.
6. Fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as auditoriums, stadiums or other public assembly facilities.
7. Farmers' markets and swap meets.
8. On- and off-site contractors' construction yards provided that the site is properly maintained and kept free of trash and debris.
9. Roadside stand for the sales of agricultural products produced on property where offered for sale under the following conditions.
  - a. The stand is located at least 15 feet from any street.
  - b. No more than 2 signs advertise the sale of agricultural products.
  - c. The area of 1 side of any sign is not greater than 6 square feet.
  - d. The stand and signs are kept in good condition during seasons when products not sold.
10. Similar temporary uses which, in the opinion of the Town Council, are compatible with the zoning district and surrounding land uses.

##### **C. Zoning Certificate Required—See § 15-1.**

#### **§ 4-4. Prohibited Uses and Structures**

- A. Abattoir—A place where livestock are killed and prepared for distribution to butcher shops and food markets.
- B. Animal Rendering—A place waste animal parts are converted into other materials.
- C. Asphalt Refining.
- D. Automobile Wrecking Yard—An establishment that cuts up, compresses, or otherwise disposes of motor vehicles.
- E. Blast Furnace, Garbage or Offal Reduction, Dumping.
- F. Bulk storage of toxic chemicals, gasoline above-ground, explosives.

1. Applicability—Bulk storage shall mean a single container used for storing or dispensing which exceeds 55 gallons.
  2. Exception—Storage containers that are associated with, are located on the same lot with, and dispense heating fuels to dwelling units
- G. Crude Oil Refining.
- H. Junkyard—Any lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.
- I. Large-Scale Promotional Balloons.
- J. Liquid Waste Disposal.
- K. Manufacture of asphalt, bleaching compounds, coal, coke, cork products, corrosive acid, fertilizer, gelatins, glue, industrial alcohol, linoleum, matches, oils, paint, rubber, soap, tar products.
- L. Ore Smelting.
- M. Rubber Treatment.
- N. Salvage Yard—A facility for storing, selling, dismantling, shredding, compressing, or reclaiming scrap, discarded material, or equipment.
- O. Tanning or Curing of Hides.

#### **§ 4-5. Pets on Property Used for Residential Purposes**

- A. The keeping of household pets is permitted in residential zones subject to the limitations in this Section.
- B. Applicability.
1. Household pets include dogs, cats, canaries, parakeets, and other kindred animals and fish normally kept as household pets.
  2. Household pets do not include mules, donkeys, cows, bulls, swine, sheep, goats, fowl- (excluding chickens and ducks), and other domesticated animals unless located on a parcel of land consisting of at least 20 acres.
- C. Limitations.
- a. No more than 3 dogs over 6 months old shall be permitted.
  - b. No animals (except dogs) shall be penned or housed within 20 feet of any lot line.
- D. Keeping of Backyard Chickens and Ducks
1. Keeping of chickens or ducks for individual domestic purposes is permitted subject to the following restrictions:
    - a. The keeping of chickens and nonflying ducks shall be permitted on lots of 7,000 square feet or larger
    - b. Chickens and ducks may be kept on the same lot, not to exceed a maximum of five (5) total birds on a residential lot.
    - c. Chickens shall be registered with the Delaware Department of Agriculture.
    - d. Chickens and ducks shall be housed in a coop that shall be at least four (4) square feet per bird. The maximum coop size shall be 144 square feet. The coop must be water tight and well maintained.
    - e. Ducks shall be provided a clean water source that is big enough to fit the birds' entire body and deep enough to submerge their heads.
    - f. All chicken coops and runs shall be located in a rear yard and shall be a minimum of 20 feet from side and rear property lines.
    - g. The coops and runs shall be kept clean, dry and odor free. Odors shall not be discernable from property lines.
    - h. Keeping of roosters shall be prohibited.



## Article 5. Dimensional Regulations

### § 5-1. Basic Area Regulations

#### A. Residential Zones.

Standard <div>Zone and Dwelling Type</div>	R-1 Zone	R-2 Zone		
	Single-Family Detached	Single-Family Detached	Semi-Detached	Townhouse
Tract Standards				
Tract Area	10,000 SF	5,000 SF	7,000 SF	20,000 SF
Maximum DUs Per Acre	4.0	8.0	12	15.0
Maximum DUs per TH Row	N/A	N/A	2	6
Distance between Buildings or TH Rows (feet)	N/A	N/A	N/A	40
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation			
Lot Standards				
Lot Area Per DU (SF)	10,000	5,000	3,500	Interior = 2,000 End= 3,000
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation			
Lot Width at Front Property Line (feet)	65	50	40	20
Setbacks (feet)				
Front Yard				
State-Maintained Roads	35	35	35	35
Other	25	20	20	20
Side Yard	10	7	7	Interior = 0 End = 10
Rear Yard	25	25	25	25
Maximum Building Height to Top of Building (feet)	35	35	35	35
Maximum Building Coverage (Percent of lot area)	30%	45%	45%	45%
Maximum Impervious Surface (Percent of lot area)	60%	75%	80%	80%

#### Notes

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. DU means dwelling unit.
4. SF means square feet.
5. EBL means established building line.
6. On a corner lot in the R-2 Zone, the rear setback may be reduced by 20% to allow for the "skewing" of a residential dwelling on the lot.
7. The total building coverage shall be calculated using the square footage of the building footprint of both the principal building and any accessory buildings.

## B. TC (Town Center) Zone.

1. The Town Council, with Planning and Zoning Committee recommendation, shall determine the dimensional regulations and parking requirements for each new, changed, or expanded use in the TC Zone. In making such determinations, the Town Council shall make the following findings.
  - a. That the placement of buildings, structures and parking are compatible with the neighborhood and with existing development in character and scale.
  - b. That proposed parking spaces, building coverage, and overall design are sufficient to avoid congestion, provide for adequate stormwater management, and will not place unreasonable demands on public facilities.
2. The Area Regulations of the R-2 Zone shall be used for permitted residential uses in the TC Zone.

## C. Commercial (C) and Industrial (I) Zones.

Standard	C Zone	I-1 Zone
Minimum Tract Area	2,500 SF	1 acre
Street Frontage (feet)	In accordance with <i>Standards and Regulations for Subdivision Streets and State Highway Access</i> , Delaware Department of Transportation	
Lot Width at Front Property Line (feet)	20	50
Setbacks (feet)		
Front	15	50
Side	20	20
Rear		
Adjoining Residential Zone	15	20
Adjoining Non Residential Zone	Same as adjacent zone	20
Maximum Building Height to Top of Building (feet)	35	35
Maximum Building Coverage (% of lot area)	60%	50%
Maximum Impervious Area (% of lot area)	85%	80%

**Notes**

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. SF means square feet.
4. The total building coverage shall be calculated using the square footage of the building footprint of both the principal building and any accessory buildings.

**§ 5-2. Exceptions**

## A. Lot Area.

1. Improved Lots—Any structure erected on a lot, whose area is less than the required minimum lot area, may be extended without a variance as long as the proposed extension complies with all provisions of this Land Use and Development Code except for minimum lot size.
2. Unimproved Lots in Recorded Subdivisions—An unimproved lot, shown on a recorded subdivision plat whose area is less than the required minimum lot size, may be developed without a variance as long as the proposed development complies with all provisions of this Land Use and Development Code except for minimum lot size.

**B. Lot Widths.**

1. Improved Lots—Any structure erected on a lot, whose lot width is less than the required minimum lot width, may be extended without a variance as long as the proposed extension complies with all provisions of this Land Use and Development Code except for minimum lot width.
2. Unimproved Lots—An unimproved lot, whose width is less than the required minimum lot width, may be developed without a variance if all of the following criteria are met.
  - a. The lot width equals at least 80% the required minimum lot width.
  - b. It does not adjoin either another unimproved lot or an improved lot owned or controlled by the owner of the subject lot.
  - c. The proposed building or structure complies with all other provisions of this Land Use and Development Code.

**C. Building Setback Lines.**

1. Policy Statement—Where the established building line within 200 feet of each side lot line of a property is less than the minimum required building setback, a proposed structure or an extension to an existing structure shall be positioned within five feet of the established building line.
2. Criteria.
  - a. The established building line shall be the average front setback of existing buildings within 200 feet of each side lot line of a subject lot.
  - b. The subject lot must be in the same zone and have the same lot layout.

**D. Height Limits—**The height limitations of this Land Use and Development Code do not apply to appurtenances usually required to be placed above the roof level and not intended for human occupancy, except where they would be a hazard to aircraft flight operations. Such appurtenances include, but are not limited to, the following.

1. Belfries.
2. Bulk storage elevators.
3. Chimneys.
4. Cupolas.
5. Domes.
6. Elevator or air conditioning shafts.
7. Flagpoles.
8. Ornamental towers.
9. Parapet wall that extends fewer than 4 feet above height limit of the building on which it rests.
10. Public monuments.
11. Radio and television antennas.
12. Scenery lofts occupying less than 25% of the ground floor area of a building.
13. Silos and farm structures.
14. Smoke stacks.
15. Solar-energy systems.
16. Spires.
17. Water storage facilities.

**§ 5-3. Accessory Buildings and Structures**

Placement	On same lot as principal building or structure
Setbacks	
Front	Not permitted
Side	Not permitted
Rear	5 feet
Maximum Height	20 feet

**§ 5-4. Permitted Projections into Required Setbacks**

Type of Projection	Front Yard and Corner Side Yard	Side Yard	Rear Yard
Air conditioners and heat pumps either free-standing or wall-mounted	3 feet	5 ft	3 feet
Balconies	10 feet	Not permitted	10 feet
Bay windows less than 10 feet wide	3 feet	Not permitted	3 feet
Chimneys	24 inches	24 inches	24 inches
Cornices, eaves, gutters, windowsills and other ornamental features	24 inches	24 inches	24 inches
Decks, platforms, or similar raised structure	Not permitted	Not permitted	10 feet
Porches, enclosed	Not permitted	Not permitted	10 feet
Porches, screened	Not permitted	Not permitted	10 feet
Porches, unscreened and open	5 feet	Not permitted	10 feet
Steps, covered	3 feet	Not permitted	3 feet
Steps, uncovered	10 feet	5 feet	10 feet
Ramps or platforms designed and used for handicap access	Permitted	Permitted	Permitted

**Note**

See Figure 9.

**§ 5-5. Fences, Walls, Hedges, and Shrubbery**

- A. Setback—The building line and yard requirements of this Land Use and Development Code shall not apply to fences, walls, hedges, or shrubbery.
- B. Fence Materials.
1. Materials—Fences shall be constructed of materials specifically designed for fences.
  2. Residential Zones—In residential zones and on property used residentially, barbed wire, razor wire, or any similar material, or wire measuring less than 11 gauge is prohibited.
  3. Non-Residential Zones—Where barbed or razor wire fence is used in a non-residential zoning district, a landscape screen with a minimum width of 5 feet shall be provided between the fence and any street or residential use.
- C. Lots Bordering Alleys.
1. Gate Required—A fence on a property bordering an alley must have a gate that provides access to the property from the alley.
  2. Setback Required—Fences bordering alleys shall be placed at least 1 foot away from an alley's right-of way. Outward swinging gates shall be placed so that they do not swing open into the alley right-of way or outside the 1-foot required setback.
- D. Height Regulations.
1. Maximum Fence Heights.
    - a. Residentially-Used Properties.

Location	Through Lots	Lots Bordering Alleys	All Other Lots
(1) Front Property Line	4 feet	4 feet	4 feet
(2) Side Property Line	6½ feet	6½ feet	6½ feet
(3) Rear Property Line	6½ feet	6½ feet	6½ feet
(4) Side or Rear Yard on Corner Lots	4 feet	4 feet	4 feet

- b. Non-Residentially-Used Properties.

Location	Through Lots	Lots Bordering Alleys	All Other Lots	With Planning and Zoning Committee Authorization
(1) Front Property Line	4 feet	4 feet	4 feet	Not authorized
(2) Side Property Line	6½ feet	6½ feet	6½ feet	10 feet
(3) Rear Property Line	6½ feet	6½ feet	6½ feet	10 feet
(4) Side or Rear Yard on Corner Lots	4 feet	4 feet	4 feet	Not authorized

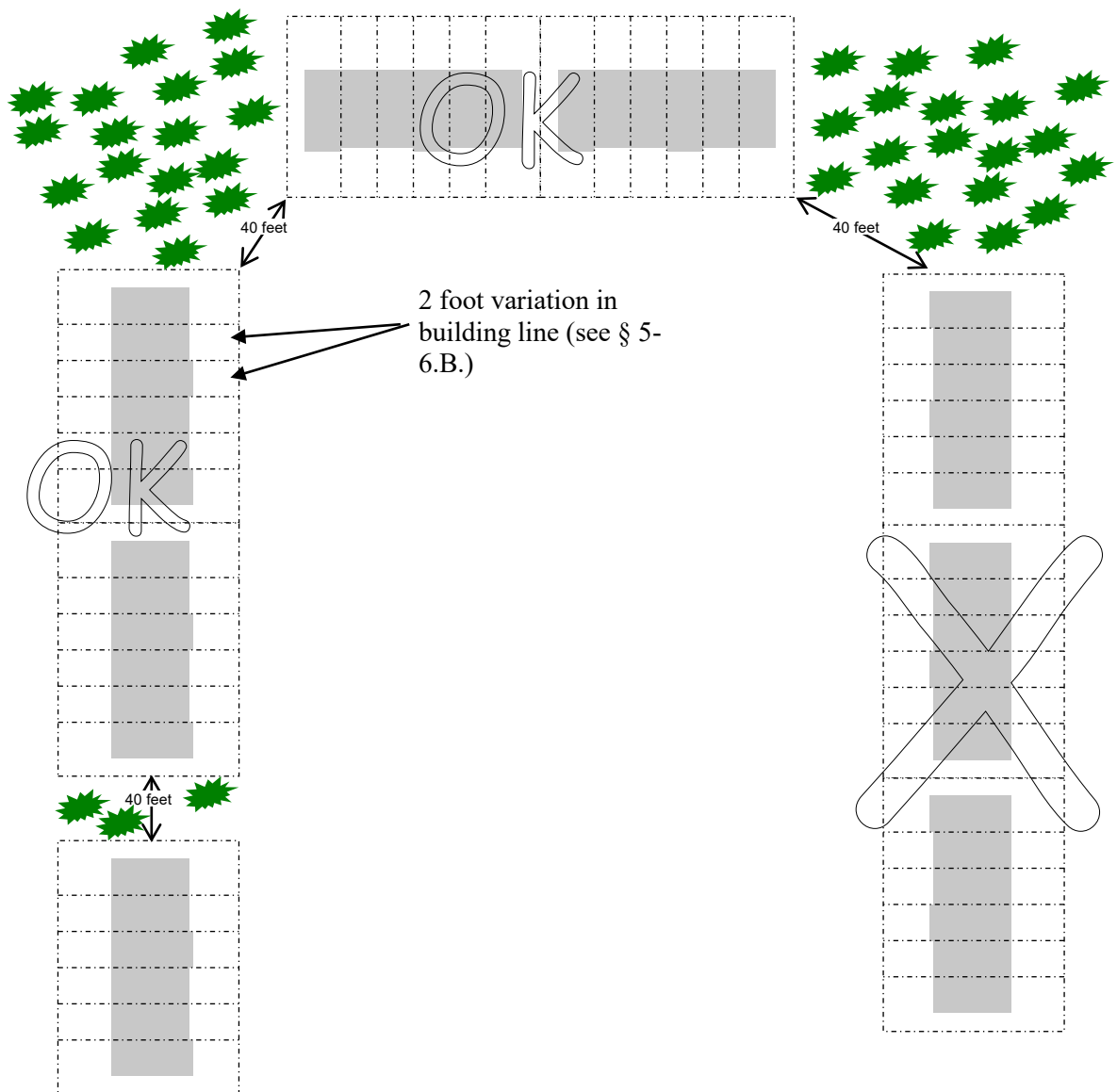
2. Height Increases Permitted—For non-residential properties, the Planning and Zoning Committee may authorize, without a variance, increases in fence heights in the side and rear yards except on corner lots. In doing so, the Planning and Zoning Committee shall make a finding that safety concerns or the nature of a particular use indicates need for a fence higher than the maximum fence heights of § 5-5.D.1.
3. Measurement of Height—Measurements shall be made from the surface of the ground next to the fence, wall, or hedge, and where the yards on the 2 sides differ in elevation, measurements shall be made from the surface of the yard with the higher elevation.

**§ 5-6. Townhouses—Additional Regulations**

The following are in addition to the standards in § 5-1.A.

- A. The facades of the townhouses in each townhouse row (which consists of a maximum of 6 townhouses) shall be varied in architectural treatment and roof lines.
- B. Offsets.
  - 1. No more than 2 adjacent townhouses shall have the same front building line.
  - 2. The variation in the building line shall be at least 2 feet.
- C. When the rear lot lines of townhouses abut one another, a 20-foot wide alley shall be provided.
- D. When more than 2 townhouse rows are adjacent, the third townhouse row shall be separated from the other two with a 40-foot planting area that is measured from lot line to lot line and includes a mixture of evergreen and deciduous plantings as illustrated in Figure 1.

**Figure 1. Plantings and Townhouse Row Separations**



**§ 5-7. Design Standards****A. Residential buildings****1. Building Form and Placement**

- a. New buildings longer than 40 feet in width should be designed to appear as several smaller building segments. At a minimum, each building segment should be projected or recessed from the other by a minimum depth of 2 feet.
- b. New buildings taller than 24 feet or with a third story, shall have the third story setback from the primary façade by a minimum of 8 feet.
- c. Residential buildings are encouraged to have a front porch, porticos, bay window or similar construction. Front porches should run a minimum of  $\frac{1}{4}$  the length of the front façade and be a minimum of 5 feet deep.
- d. Where there are existing dwellings on either side of a proposed dwelling, the new dwelling shall have a front yard setback that is within 5 feet of the setback of the adjacent dwelling.
- e. Attached garages on new single family dwellings shall be designed to either:
  - 1) Be setback from the plane of the front façade of the dwelling by a minimum of 18 feet; or
  - 2) Be sideloading.
- f. Building design shall incorporate architectural elements commonly found in the traditional Victorian style of the Town of Wyoming.

**2. Roof form.**

- a. New residential construction shall integrate gable or hip roof lines with a pitch that ranges from 6/12 to 12/12. Alternative roof forms may be approved by Town Council as a Conditional Use.
- b. Rooflines longer than 30 feet shall incorporate variations to the roofline every 30 feet. Dormers are strongly encouraged.
- c. A variety of rooflines are encouraged along a street frontage. No more than three dwelling units in a row shall have the same roof line.

**B. Nonresidential and mixed-use buildings**

The following guidelines shall apply to new construction or redevelopment in the Town Center and Commercial Districts

**1. Building Form**

- a. Buildings longer than 40 feet in width should be designed to appear as several smaller building segments. Projections and recesses of a minimum depth of 2 feet shall be used to separate the different building segments.
- b. Buildings taller than 24 feet or buildings that have a third story, shall have the third story setback from the primary façade by a minimum of 8 feet.
- c. All building walls visible from a public street shall have windows or doors at intervals of no less than every 20 feet.
- d. The maximum building footprint in the Town Center shall be 5,000 square feet and 10,000 square feet in the Commercial district.
- e. Building design shall incorporate architectural elements commonly found in the traditional Victorian style of the Town of Wyoming.

**2. Roof form.**

- a. New nonresidential or mixed residential construction shall integrate gable or hip roof lines with a pitch that is between 7/12 and 12/12. Alternative roof forms may be approved by Town Council as a Conditional Use.
- b. Flat roofs are strongly discouraged. If unavoidable, the flat roof shall be lined with a decorative parapet.

**3. Utilities**

- a. Rooftop utilities shall not be visible from the street.

- b. Ground level utilities and dumpsters shall be screened using fencing or evergreen landscaping or similar treatment.



## **Article 6. Off-Street Parking and Loading**

### **§ 6-1. Purposes and Scope**

#### **A. Purposes.**

1. Relieve congestion and facilitate the movement of vehicular traffic.
2. Facilitate the movement of police, fire, and other emergency vehicles.
3. Promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen vehicle movements in the vicinity of intensive pedestrian traffic.
4. Protect adjoining residential neighborhoods from the negative effects of on-street parking.
5. Promote the general convenience, welfare, and prosperity of commercial and other uses that depend on off-street parking and loading facilities.

#### **B. Scope.**

1. When Required—Off-street parking and loading facilities shall be provided as accessory uses under the any of 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 and loading requirements in this Article are in addition to other applicable regulations in this Land Use and Development Code.
3. The parking and loading requirements in this Article do not limit requirements or conditions that may be imposed on Development-Plan or Conditional-Use approvals.
4. Parking and loading facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

### **§ 6-2. Off-Street Parking**

#### **A. Definition of Off-Street Parking—**A space for the parking of a motor vehicle within a public or private parking area.

#### **B. Computation of Required Number of Spaces.**

1. Fractional Spaces—Where the computation of spaces results in a fractional space, the fractional space shall be counted as 1 additional required space.
2. 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.
3. Shared Facilities.
  - a. Places of worship, auditoriums, or educational institutions may make arrangements with business establishments, which normally have different days or hours of operation, for sharing their required parking facilities.
  - b. The Planning and Zoning Committee shall approve shared-parking arrangements.
4. Uses Not Specifically Listed—The required number of parking spaces for uses not specifically listed in this Code shall be the same as for a similar listed use.

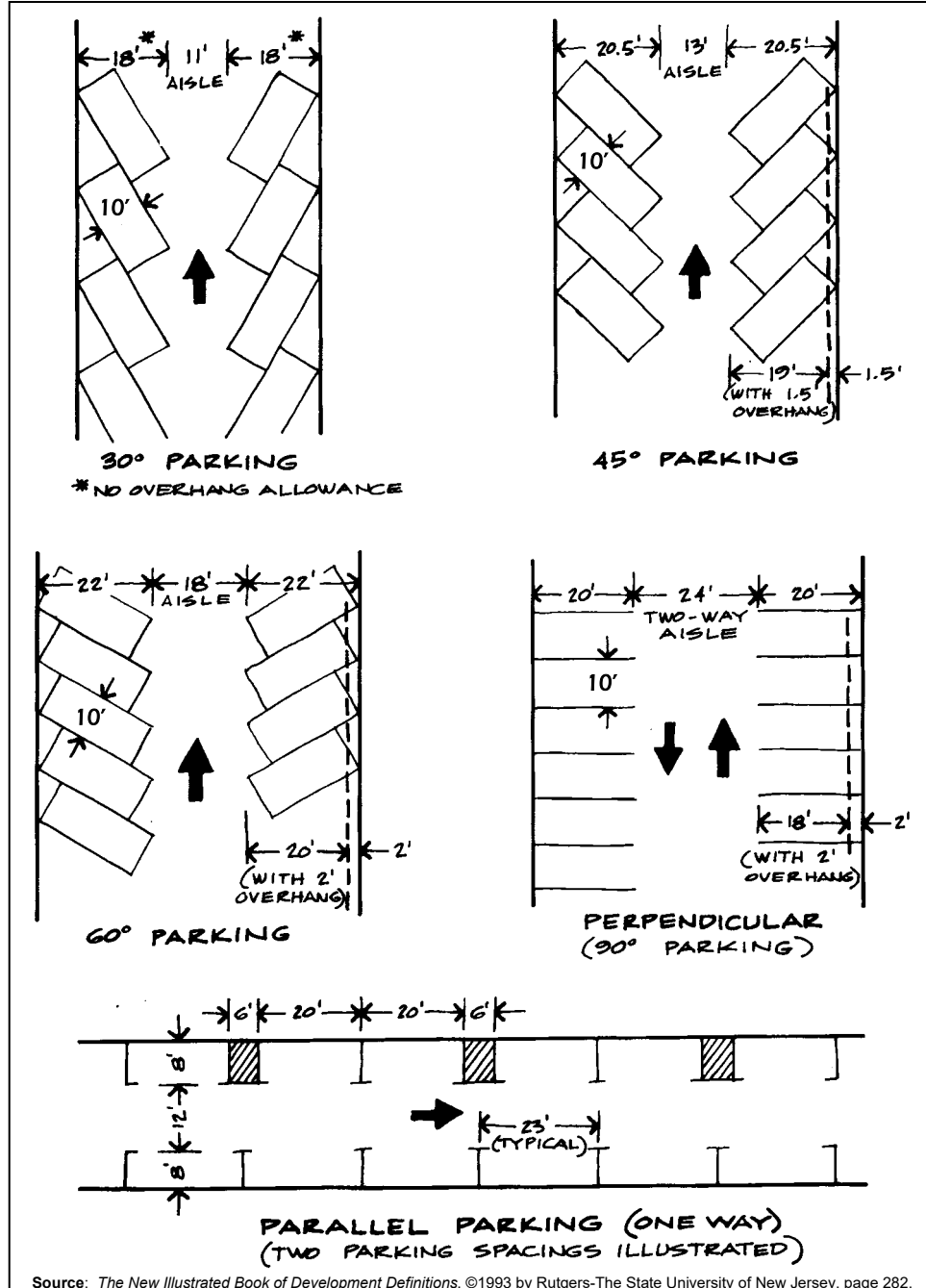
#### **C. Location.**

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.
2. Exception—Required parking facilities may be located within 300 feet of the building or use served in any of the following situations exist.
  - 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 more than 1 building.

## D. Design Standards.

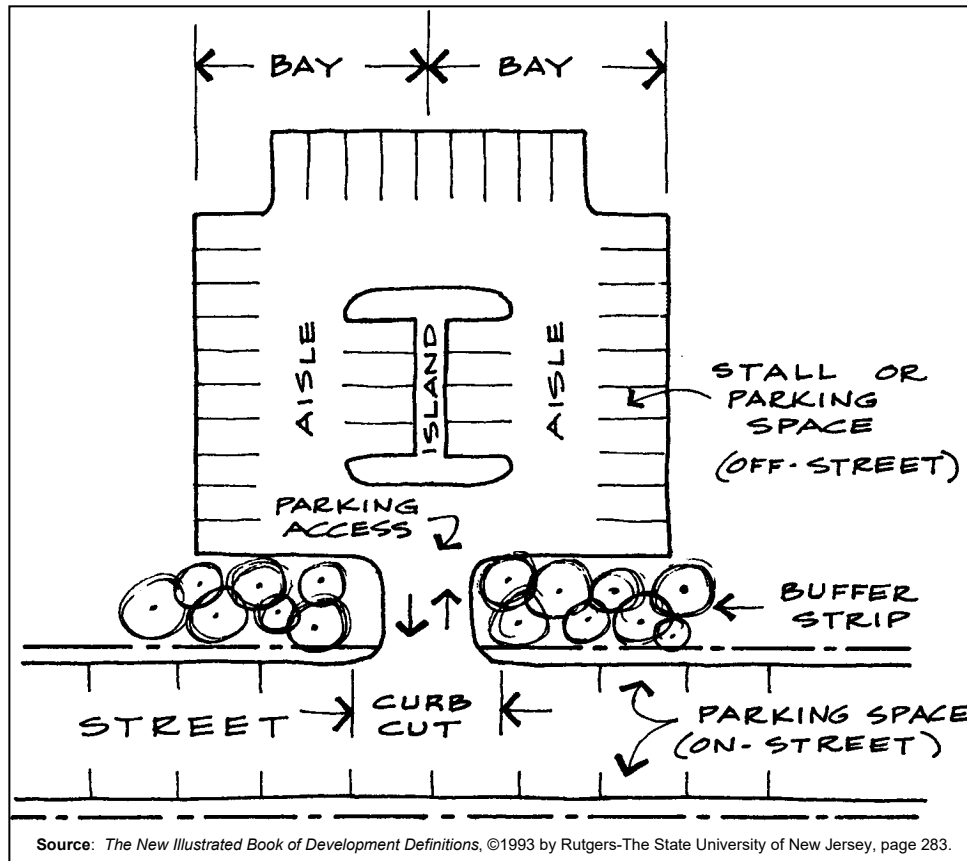
1. Parking Space Dimensions and Interior-Drive Aisle Widths shall be provided according to the dimensions shown in Figure 2.

Figure 2. Parking Space Dimensions and Interior-Drive Aisle Widths



2. 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 as depicted in Figure 3. Plantings in the buffer strip shall be of a type and sited so that, when mature, they will not obstruct visibility for vehicles that enter and exit the parking facility.

**Figure 3. Parking Area Layout**



3. Backing Onto Public Road Prohibited—Off-street parking areas that make it necessary for vehicles to back out directly onto a public road are prohibited, except for dwelling units having individual driveways.
4. Drainage—Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
5. Surface Material—Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable State or Town specifications.
6. Separation from Walkways and Streets.
  - a. Off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, 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 allowed only on surfaces designed and intended for the parking of vehicles.

7. Marking.
    - a. Parking spaces in lots of more than 10 spaces shall be marked by painted lines, curbs, or other means to delineate individual spaces.
    - b. Signs or markers shall be used as necessary to ensure efficient traffic operation within the lot.
  8. On properties used for non-residential purposes, the following standards shall apply.
    - a. Lighting.
      - (1) Adequate lighting shall be provided if off-street parking spaces are to be used at night.
      - (2) The lighting shall be arranged and installed to minimize glare into residential areas.
    - b. Screening and Interior Landscaping—See § 10-3.
    - c. Maintenance—Off-street parking areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee.
  9. Landscaping—See standards for interior parking lots in § 10-4.
- E. Handicapped Parking.
1. Number of Spaces, Design Standards—Parking spaces for the disabled shall be provided in compliance with the Town Building Code.
  2. Reservation of Spaces—Property owners or tenants shall reserve required handicapped-accessible spaces for the duration of any approved land use.
- F. Required Spaces by Use.

Use	Required Number of Off-Street Parking Spaces
Automobile Sales	2.7 per square foot of interior sales area, plus 1.5 per square foot of interior storage or display area, plus 2 per service bay
Automobile Service Station	2.0 per service bay, plus 2.0 per gasoline pumping position, plus Additional spaces for accessory uses, such as convenience stores or eating establishments, with Provision for sharing or joint use
Bank	3.0 per 1,000 square feet plus 4 stacking spaces per drive through lane
Bed and Breakfast	2.0 spaces, plus 1.25 per guest room
Boardinghouse	2.0 spaces, plus 1.25 per guest room
Conversion of a single-family dwelling into a 2-family or multi-family dwelling	Same as required for the type(s) of dwelling(s) into which the single- family dwelling will be converted
Day-Care Center	0.35 per person on licensed capacity
Dwelling, 2-Family	2.0 per dwelling unit
Dwelling, 2-Family, Semi-Detached	2.0 per dwelling unit
Dwelling, Manufactured Home	2.0 per dwelling unit
Dwelling, Multi-Family, 1-Bedroom	1.75 per dwelling unit
Dwelling, Multi-Family, 2-Bedrooms	2 per dwelling unit
Dwelling, Multi-Family, 3-Bedrooms or more	3 per dwelling unit, plus 0.5 for each additional bedroom
Dwelling, Multi-Family, Efficiency or Studio	1.5 per dwelling unit
Dwelling, Semi-Detached	2.0 per dwelling unit
Dwelling, Single-Family, including modular	2.0 per dwelling unit
Dwelling, Townhouse	2.0 per dwelling unit
Dwelling, Triple-Attached	2.0 per dwelling unit
Educational Institutions, Colleges and Universities	Determined by parking study for specific institution

Use	Required Number of Off-Street Parking Spaces
Educational Institutions, Elementary and Secondary Schools	0.35 per student
Funeral Home	1 space per 20 square feet of patron area
Governmental Uses	As determined by the Administrator of this Code
Home-Based Business	Same as required for type of dwelling unit in which the home-based business will operate, plus Additional spaces as determined by Town Council during conditional-use approval
Hospital	0.4 per employee, plus 1 per 3 beds, plus 1 per 5 average daily outpatient treatments, plus 1 per 4 medical staff
Hotel or Motel	1.25 per guest room, plus 10.0 per 1,000 square feet for restaurant or lounge, plus 30.0 per 1,000 square feet for meeting or banquet rooms
Industrial Uses	2.0 per 1,000 square feet
Library	4.5 per 1,000 square feet
Medical Clinics and Offices	5.0 per 1,000 square feet
Mixed-Use Developments	As determined by each use with provision for sharing or joint use
Museum	1.5 per 1,000 annual visitors
Nursing and Care Facilities, Assisted-Living	0.4 per dwelling unit
Nursing and Care Facilities, Nursing Home	1.0 per number of beds of rated capacity
Offices, Non-Medical	4.0 per 1,000 square feet
Places of Worship	0.6 per seat in areas where formal religious services take place, plus Additional spaces for accessory uses, with Provision for sharing or joint use
Public Assembly	0.25 per person of rated capacity
Restaurant, Fast Food, with Drive-In	15.0 per 1,000 square feet plus 8 stacking spaces per drive-through lane
Restaurant without Drive-In	18.0 per 1,000 square feet
Restaurant, Walk-up	1 per employee on largest shift, plus four per service window
Retail Sales and Service Establishments	4.5 per 1,000 square feet
Self-Storage Facility	.25 per 1,000 square feet
Surgical Center	5.0 per 1,000 square feet
Warehouse	0.7 per 1,000 square feet
Wholesale Trade Establishments	2.5 per 1,000 square feet
Not Listed in this table	Standards for the use most closely resembling the use not listed

G. Modification Permitted—The Planning and Zoning Committee may modify number of required parking spaces under the following circumstances.

1. Upon submission of a parking study by a qualified traffic analyst demonstrating that sufficient off-street parking needs can be achieved with fewer spaces than this Code requires.
2. In the Town Center Zone.

### § 6-3. Off-Street Loading

A. Definition—An off-street loading space is a space or berth that is not on a dedicated street that is used for the loading or unloading of cargo, products, or materials from vehicles.

## B. Computation of Required Number of Spaces.

## 1. Required Spaces by Use.

Use or Category	Square Feet	Loading Spaces Required
Retail store, department store, eating and drinking establishment, wholesale establishment, warehouse, general service, manufacturing, or industrial establishment	5,000-8,000	1 space
	8,000-20,000	2 spaces
	20,000-30,000	3 spaces
	30,000-40,000	4 spaces
	40,000-50,000	5 spaces
	50,000-60,000	6 spaces
Apartment building, hotel, motel, hospital or similar institution, places of public assembly	8,000-20,000	1 space
	20,000-70,000	2 spaces
	70,000-120,000	3 spaces
	Each additional 50,000	1 space
Office, manufacturing, industrial	5,000 and above	As appropriate for type of use
Funeral home or mortuary	N/A	1 berth for each chapel

2. Joint Use—Where more than one use occupies a single structure, off-street-loading space shall be computed by assuming that the entire building is occupied by the use for which the greatest number of spaces is required.
3. Modification Permitted—The number of required loading spaces for buildings containing less than 10,000 square feet may be reduced or eliminated under the following circumstances.
  - a. When the character of a particular use makes loading and unloading facilities unnecessary
  - b. Where community loading facilities are available.
  - c. Where providing loading space is impractical.

## C. Location.

1. Off-street-loading spaces shall be located on the same lot as the building or use served.
2. They shall be situated on the lot served so as to minimize their visibility from public roads and adjacent residential areas.

## D. Design Standards.

1. Loading-Space Dimensions.
  - a. Other Than Funeral Homes.
    - (1) Width—12.0 feet.
    - (2) Depth—40.0 feet.
    - (3) Vertical Clearance—14.5 feet.
  - b. Funeral Homes.
    - (1) Width—10.0 feet.
    - (2) Depth—25.0 feet.
    - (3) Vertical Clearance—8.0 feet.
2. Entrances and Exits—The location and design of entrances and exits shall be in accord with applicable State traffic regulations and standards.
3. Surface Material—Off-street-loading areas shall be surfaced with erosion-resistant material.
4. Drainage—Off-street -loading areas shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
5. Maintenance—Off-street-loading areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.
6. Screening—See § 10-3.

## Article 7. Signs

### § 7-1. Applicability and Purposes

- A. Applicability—These sign regulations apply within every existing and future zoning district in the Town. A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with this Land Use and Development Code.
- B. Purposes.
  - 1. Encourage the effective use of signs as a means of communication in the Town.
  - 2. Avoid visual clutter and competition among sign displays in their demand for public attention.
  - 3. Promote the safety and convenience of pedestrians and motorists.
  - 4. Minimize the adverse effects of signs on nearby public and private property.

### § 7-2. Regulations Applying to All Signs

- A. Sign Area Measurement—The sign area is the entire portion of the sign that can be enclosed within a single 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.
  - 1. Supports—The structure that supports a sign is not included in measuring the sign area unless the structure is designated and used as an integral part of the display. A support having a perimeter larger than 4 feet at the widest point is an integral part of the display.
  - 2. Multiple Sections—The area of a sign that consists of more than 1 section includes the space between the sections plus the measurement of the sections of the sign.
  - 3. Multiple Faces—The area of a sign with more than 1 face or plane is measured as follows.
    - a. General—All sides of a sign that can be seen at any one time from any vantage point outside the property line of the site where the sign is located are included in the computation of sign area.
    - b. Parallel Faces.
      - (1) A parallel sign is one whose faces or sides are equidistant from one another at all points.
      - (2) When the faces of a parallel sign are separated from each other by fewer than 2 feet or are double faced or back to back, the larger of the parallel faces is used in the computation of sign area.
      - (3) When the faces are more than 2 feet apart, the sum of both faces and sides is used in the computation of sign area.
    - c. “V” Shaped—The area of a 2-sided sign constructed in the form of a “V” is calculated by the same method as parallel faces if the angle of the “V” is less than 30 degrees and the distance between the sides does not exceed 5 feet at any point. If the angle is equal to or greater than 30 degrees or the distance between the sides is greater than 5 feet, the sum of all the planes will be used in the computation of the sign area, unless the applicant demonstrates that only 1 side of the sign will be visible from any single vantage point.
    - d. 3-Dimensional—Where 3-dimensional signs are used, the area of the sign equals the total surface area of the sides that can be seen from a single vantage point outside the property lines of the site where the sign is located.
  - 4. Non-Display Sides of Signs—In order for the sign back or non-display side of a sign to be excluded from consideration as sign area, it must be a single, neutral color, if the back or non-display side is visible from outside the property lines of the property where the sign is located.
- B. Sign Placement.
  - 1. Setbacks—Setbacks are measured from the portion of the sign nearest the property line.
  - 2. Height—Height is measured from the portion of the sign that is vertically the farthest from the ground.

**C. Sign Illumination.****1. Definitions:**

- a. Illumination: A source of artificial or reflected light, either directly from a source of light or indirectly from an artificial source.
- b. External Illumination: Artificial light, located away from the sign, which lights the sign, the source of which may not be visible to persons viewing the sign from any street, sidewalk or adjacent property.

**2. Prevention of Glare.**

- a. Definition—See Article 16.
  - b. Prevention Requirement—Signs 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. Near a Residence—Any sign on a lot or parcel within 150 feet of a residential use may be illuminated only during the hours the entity is open for public business, unless the applicant demonstrates that the sign is located so that it will not have an adverse impact on the residence.

**§ 7-3. Signs Permitted in All Zones**

- A. Flags on Flagpoles—No flagpole, on which a flag is displayed, shall be higher than 50 feet.

**§ 7-4. Reserved.**



**§ 7-5. Permanent Signs**

- A. Definition—A permanent sign is a sign intended to be displayed for an indefinite period of time and constructed in a manner and of materials that will withstand long-term exposure to the elements.
- B. Signs in the R-1 and R-2 Zones, and Dwelling Units in the TC Zone.

Sign Type	Standard	Regulation
<b>Freestanding Sign</b> Not wholly or partially attached to a building <i><b>Supported</b></i> —Attached to pole, column, frame, or brace as its means for support <i><b>Ground</b></i> —Erected on the ground; bottom edge is within 12 inches of the ground, support structure is integral part of sign	Number Allowed	1 per lot
	Maximum Area	2 square feet
	Maximum Height	4 feet
	Minimum Height	None
	Placement	5 feet from property line
	Illumination	Not Permitted
	Permit Needed	No
<b>Wall Sign</b> Parallel to the wall of the building to which it is attached and not extending more than 12 inches from the building	Number Allowed	1 per lot
	Maximum Area	2 square feet
	Maximum Height	N/A
	Minimum Height	N/A
	Placement	N/A
	Illumination	Not Permitted
	Permit Needed	No
<b>Entrance Sign for Residential Subdivisions</b> — Erected at entrance to residential subdivision — Identifies location of the subdivision — Must be either a freestanding-ground or a wall sign	Number Allowed	2 for each entrance
	Maximum Area	32 square feet per sign
	Maximum Height	10 feet
	Placement	At entrance to a residential subdivision
	Illumination	Allowed; source of lighting shall be hidden from sight by screening
	Permit Needed	Yes
<b>Entrance Sign for Public Facilities and Places of Assembly</b> — Examples include places of worship, schools, libraries, museums, hospitals — Identifies location of the facility for its users — Must be either a freestanding-ground or a wall sign	Number Allowed	2 at each entrance
	Maximum Area	40 square feet per sign
	Maximum Height	12 feet
	Placement	5 feet from property line at an entrance to building or driveway
	Illumination	Internal illumination only; sign must have dark background with white letters
	Permit Needed	Yes

## C. Signs for Other Than Dwelling Units in the TC Zone.

The following signs are permitted in the TC Zone for nonresidential uses:

Sign Type	Standard	Regulation
<b>Freestanding Sign</b> Not wholly or partially attached to a building <i>Supported</i> —Attached to pole, column, frame, or brace as its means for support <i>Ground</i> —Erected on the ground; bottom edge is within 12 inches of the ground, support structure is integral part of sign		<b>NOT PERMITTED IN TC ZONE</b>
<b>Wall Sign</b> Parallel to the wall of the building to which it is attached	Number Allowed	1 per building per business
	Maximum Total Area per building	15% of square footage of wall on which the sign is to be placed or 50 square feet whichever is less
	Maximum Height	May not extend above roof line or be placed on roof
	Minimum Height	N/A
	Placement	Not more than 12 inches from wall including supporting structure
	Illumination	Allowed: shall be externally lit with light source located above the sign; or internally lit with back-lit letters
	Permit Needed	Yes
<b>Projecting Sign</b> A building mounted, double sided sign with two faces generally perpendicular to the building wall, not including canopy signs.	Number Allowed	1 per building
	Maximum Area	6 square feet per sign face
	Placement	The sign shall not project more than three feet from the face of the building and no closer than five feet to the curblane or shoulder of a public right-of-way The lowest edge of the sign shall be at least 7 feet above the finished grade
	Illumination	May be externally lit, with light source located above the sign
<b>Identification Sign</b> — Erected at entrance to a building or development — Identifies location of the building or development — Existing freestanding-ground signs are permitted. New identification signs must be a wall sign	Number Allowed	1 per building
	Maximum Area	15 square feet
	Maximum Height	N/A
	Placement	Wall Sign      Same as for wall signs
	Illumination	Allowed; May be externally lit, with light source located above the sign
	Permit Needed	Yes
<b>Window Sign</b> Any sign that is applied, painted, or affixed to a window, or placed inside a window, within three (3) feet of the glass, facing the outside of the building, and easily seen from the outside. Not including customary displays of merchandise or objects.	Maximum Area	15% of the total window area
	Illumination	No
<b>Canopy Sign</b>	Number Allowed	Not limited per business

Sign Type	Standard	Regulation
A part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area	Maximum Area	5% of square footage of surface on which the sign is to be placed
	Maximum Height	N/A
	Placement	N/A
	Illumination	From back of sign only
	Permit Needed	Yes

1. Changeable Copy Signs.

a. Definitions:

- (1) Changeable copy sign: A sign or portion of a sign with characters, letters, or illustrations that can be changed or rearranged either automatically through electronic means, or manually through placement of letters or symbols on a panel mounted on a track system.
- (2) Digital display: A sign display made up of internally illuminated components capable of changing the message periodically, including but not limited to LCD, LED or plasma displays.
- (3) Message Center Sign: A type of illuminated, changeable copy sign that uses changing lights to form alphanumeric symbols and text, and where the rate of change is electronically programmed and can be modified, such as a gas price display.

b. Regulations.

- (1) Message center signs may be incorporated into a sign face when the changeable component of the sign face occupies less than 70 percent of the total area of that sign face.
- (2) Message center signs shall be integrated into the sign face and shall be enclosed by a border or similar enclosure so as to form one sign panel.
- (3) The changeable copy sign area text message and/or graphics shall not change any more than one time in any given 30-second period.
- (4) Message center signs shall be permitted in the TC district and institutional uses in the residential districts.
- (5) Message center signs shall have a maximum illumination of 5,000 nits between dawn and dusk, and a maximum of 250 nits at night.
- (6) Digital displays shall not be permitted in the any district in the town.

## D. Signs in the Commercial (C) and Industrial (I) Zones.

Sign Type	Standard	Regulation
<b>Freestanding Sign</b> Not wholly or partially attached to a building <i><b>Supported</b></i> —Attached to pole, column, frame, or brace as its means for support <i><b>Ground</b></i> —Erected on the ground; bottom edge is within 12 inches of the ground, support structure is integral part of sign	Number Allowed	1 per lot
	Maximum Area	48 square feet
	Maximum Height	16 feet
	Minimum Height	N/A
	Placement	10 feet from property line
	Illumination	Allowed
	Permit Needed	Yes
<b>Wall Sign</b> Parallel to the wall of the building to which it is attached	Number Allowed	1 per building per business
	Maximum Area	15% of square footage of wall on which the sign is to be placed or 50 square feet whichever is less
	Maximum Height	May not extend above roof line or be placed on roof
	Minimum Height	N/A
	Placement	Not more than 12 inches from wall including supporting structure
	Illumination	Allowed
	Permit Needed	Yes
<b>Identification Sign</b> — Erected at entrance to a building or development — Identifies location of the building or development — Must be either a freestanding-ground or a wall sign	Number Allowed	1 per building
	Maximum Area	15 square feet
	Maximum Height	N/A
	Placement	Ground Sign—Same as for freestanding signs Wall Sign—Same as for wall signs
	Illumination	Allowed
	Permit Needed	Yes
<b>Canopy Sign</b> A part of attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area	Number Allowed	1 per building per business
	Maximum Area	5% of square footage of surface on which the sign is to be placed
	Maximum Height	N/A
	Placement	N/A
	Illumination	From back of sign only
	Permit Needed	Yes

**§ 7-6. Temporary Signs.**

- A. Definition—A temporary sign is a sign displayed on private property, usually made of non-permanent material such as canvass, cardboard, paper, or wood that is not permanently attached to the ground or a structure and intended to be displayed for a short period of time.
- B. A temporary sign may be displayed up to a maximum of sixty (60) consecutive days, two (2) times per year.
- C. In addition to the temporary signs permitted in subsection (E), one temporary sign not to exceed four (4) square feet may be placed on a property from the time the property is being offered for sale, either through a licensed real estate agent or by the owner, through the date the property is conveyed to the new owner.
- D. In addition to the temporary signs permitted in subsections (C) and (E) herein, sixty (60) days prior to and ten (10) days following an election involving federal, state, or local offices or referendum issues for the voting district in which a property is located, one or more additional temporary signs not to exceed four (4) square feet in size may be placed on a property, provided that the total number of additional temporary signs authorized by this subsection (D) shall not exceed the total number of offices up for election and referendum issues on the ballot for the election district in which the property is located.

**E. Requirements by Zone**

<b>Requirement</b>	<b>R-1, R-2, and TC Zones</b>	<b>C and I Zones</b>
Number Allowed	6	2
Maximum Area	6 square feet per sign	Each Side—25 square feet Total Sign Area—50 square feet
Maximum Height	4 feet	6 feet
Placement	5 feet from property line	10 feet from property line
Illumination	Not Permitted	Not Permitted
Permit Needed	No	No

**§ 7-7. Prohibited Signs**

- A. General.
  - 1. 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. 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 6 months or more.
  - 2. Animated Sign—A sign, or any part of a sign, that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
  - 3. Attached to the Property of Others—A sign affixed to a structure or property such as a fence, wall, antenna, another sign, a tree or other vegetation, or any public structure, such as a utility pole, without permission of the owner.
  - 4. Communication-Interference Sign—A sign having any lighting or other control mechanism that causes interference with any communications system.
  - 5. Flashing Sign—A sign that contains or is illuminated by flashing, revolving, intermittent lights, or lights that change intensity.
  - 6. Obscene Sign—A sign that contains obscene statements, words, or depictions that are construed to offend public morals or decency.

7. Off-Site Sign (Billboard)—A sign directing attention to a business, commodity, service, or entertainment conducted, sold, or ordered at a location other than the premises on which the sign is located.
8. Noise-Emitting Sign—A sign that produces noise or sounds capable of being heard regardless of whether such sounds are understandable.
9. Roof Sign—A sign painted on the roof of a building or structure, supported by poles, uprights, or braces extending from, or attached to, the roof of a building, or projecting above the roof of a building.
10. Signs emitting odor or visible smoke, vapor, or particles.
11. Signs Interfering with Traffic Safety—A sign that meets any of the following criteria:
  - a. Is shaped like a traffic sign or signal, or uses wording similar to traffic signals, or interfere with traffic safety.
  - b. Is placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, and pedestrians.
  - c. Interferes, in any way, with placement or function of any traffic-control device.
  - d. Makes use of the words “stop,” “look,” “drive-in,” “danger,” or any other work, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse vehicular traffic.
12. Signs in the Public Right-of-Way—A sign located in a public right-of-way except one that has been so placed by a governmental agency or utility company in the performance of its official public duties.
13. Unsafe Sign—A sign that creates a safety hazard due to structural or electrical conditions or inadequate maintenance.
14. Wind-Activated Sign—Any banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device that moves in the wind or is either set in motion or powered by wind.
15. Signs containing digital displays

#### **§ 7-8. 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 must comply with applicable provisions governing Prohibited Signs.
- B. List of Exempt Signs.
  1. Measuring 2-Square Feet or Fewer.
    - 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 to applicable government regulations.
    - c. Warning Signs—A sign warning the public about trespass, danger, or safety considerations.
  2. Regardless of Size.
    - a. 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.
    - b. Required by Law—A sign whose display is required by law or regulation.
    - c. 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, such as a cornerstone, memorial, plaque, or historical marker.
    - d. 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.

- e. Holidays—A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday.
- f. Adornments and Decoration—Any adornments or seasonal decoration.
- g. Historic Signs—A sign noting the location of a structure listed on a local, state, county, or national register of historic places.

**§ 7-9. Nonconforming Signs**

See § 14-5.

**§ 7-10. Administration**

Permits Required—See § 15-1

## **Article 8. Environmental Protection Regulations**

### **§ 8-1. Purposes**

- A. Identify environmentally sensitive areas in the Town.
- B. Impose additional land-development standards and practices in these environmentally sensitive areas.

### **§ 8-2. Flood-Prone Areas.**

See Ordinance 27-14, Flood Damage Reduction Ordinance

### **§ 8-3. Wetlands**

- A. Purpose—Provide standards for protecting wetlands in development projects.
- B. Definition of Wetlands:
  - 1. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions; or
  - 2. Areas that are defined and delineated in accordance with the Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, as amended; or
  - 3. Areas that are further defined and delineated by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, or the Delaware Department of Natural Resources and Environmental Control.
- C. Official Boundaries—The official map for wetlands is prepared by the Delaware Department of Natural Resources and Environmental Control, Division of Water Resources, Wetlands and Subaqueous Lands Section.
- D. Wetland-Protection Regulations.
  - 1. Wetland Regulations.
    - a. Permitted Activities—Development is not permitted in wetlands.
    - b. Exceptions.
      - (1) Utility and access crossings within wetlands may be allowed where no other recourse is available.
        - a) Proposed crossings must be authorized by the Town and meet the requirements of the Town Code, Army Corps of Engineers regulations, and DNREC.
        - b) Any work in wetland buffer areas shall meet the requirements of the Town Code, Army Corps of Engineers regulations, and DNREC.
      - (2) Pre-Existing Farming Operations—Farming operations existing prior to the adoption of this Land Use and Development Code may continue. The expansion of these farming activities shall be limited to those areas which do not require removal of vegetation, or other substantial alteration of, or to, the wetland area.
      - (3) Those activities which are or have been approved by the Army Corps of Engineers in conjunction with DNREC, Division of Water Resources, Wetlands and Subaqueous Lands Section.
      - (4) Existing approved buildings within the wetland area may be repaired, provided that the repaired structure does not extend any further into the wetland than the original foundation.
  - 2. Wetland Buffer Regulations.
    - a. Purpose—To provide an area of non-disturbance surrounding wetland resources so that the wetland may provide for water quality and quantity improvements, habitat-related issues, and for all the other natural services which a wetland may provide.
    - b. Definition—Wetland buffer: A naturally vegetated upland area adjacent to the edge of tidal and non-tidal wetlands which measures 75 feet from the edge of the wetland.



- c. Applicability—The Wetland Buffer Regulations contained in this Section apply to the 75-foot area extending from the edge of all tidal and non-tidal wetlands as delineated in the maps prepared by DNREC or in subsequent Wetland Delineation Reports as based on site evaluations.
- d. Permitted Activities—The following activities shall be permitted, provided that the conditions described herein are met.
  - (1) Normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food and fiber, or upland soil and water conservation practices; construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches; construction or maintenance of farm roads or forest roads constructed and maintained in accordance with best management practices to assure that flow and circulation patterns and chemical and biological characteristics of freshwater wetlands are not impaired and that any adverse effect on the aquatic environment will be minimized;
  - (2) Normal harvesting of forest products in accordance with a forest management plan approved by the State Forester provided that no forest harvest shall encroach closer to the edge of the wetlands than 25 feet.
  - (3) Utilities—The replacement of existing utilities or installation of new and accessory utilities will be permitted within the wetland buffer. Following the placement of utilities, the disturbed land area shall be stabilized and reseeded.
  - (4) Water-Dependent Facility Access.
    - a) Purpose- to provide allowances for property owners with waterfront property and the corresponding rights of use to access those water-dependent facilities located on their property without needing a variance from this section to do so.
    - b) Definitions.
      - [1] Access—A walkway or path which enables the property owner to access a water-dependent facility.
      - [2] Water-Dependent facility—Those structures associated with industrial, maritime, recreational, educational or fisheries activities requiring a location at or near the shoreline. An activity is water-dependent if it cannot exist outside this area and is dependent on the water by the intrinsic nature of its operation
    - c) Applicability—This Subsection governing water-dependent facility access shall apply only to those properties which have an approved water-dependent facility as granted by DNREC, pursuant to Title 7 Section 7504 of the *Delaware Administrative Code*.
    - d) Provisions—In such cases where disturbance of a wetland or its buffer is necessary in order to access an approved water-dependent facility, the disturbance shall be permitted. However, the amount of disturbance shall be limited to that which is the minimum reasonably necessary to gain the appropriate access. In no case shall the disturbance exceed 10 feet in width for a linear access point.
    - e) The use of permeable pavers and other pervious systems shall be favored for these projects.
  - (5) Educational Opportunities.
    - a) Purpose—To increase the opportunities of the public to observe and engage with the natural environment in a manner that increases knowledge of these natural systems.
    - b) Applicability—This Subsection on educational opportunities shall apply to those projects which are publicly funded or operated for an educational purpose.
    - c) Provisions—Any opportunity to integrate an educational or public access-type project shall be permitted to occur in the wetland buffer. Disturbance shall be limited to the minimum amount necessary to accomplish the purposes of the project and in no case shall the disturbance exceed 20,000 square feet.

- e. Prohibited Activities.
  - (1) Mining or excavation, except existing operations of either, and dredging, except such dredging as may be permitted by state law and which includes maintenance dredging of tax ditches.
  - (2) Deposit or Landfills of Refuse or Solid or Liquid Waste, Except Manure—Acceptable fill permitted by the United States Army Corps of Engineers may be used for stream bank erosion control.
  - (3) Alteration of the streambed and bank of a waterway, except for best management practices to reduce stream erosion and maintenance of stream crossings for agricultural purposes or for other agricultural-related practices consistent with historical activities, such as maintenance of tax ditches.
  - (4) Removal of trees, except when such removal is undertaken in consultation with a licensed forest professional and which is performed for the health of the area. A forest management plan, approved by the State Forester, must be submitted prior to engaging in removal.
  - (5) Removal of Invasive Species.
    - a) Definition of Invasive Species—Species that are non-native (or alien) to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health, including, but not limited to plant species referenced by the Delaware Invasive Species Council (DISC) or the Department of Natural Resources and Environmental Control (DNREC) as “invasive” or on an “invasive watchlist”.
    - b) Regulations—Removing invasive species shall not require a forest management plan. All buffers that are comprised of nonnative species shall be maintained to minimize nonnative species and to encourage colonization from native noninvasive species. Planting of native woody species is encouraged in these buffers.
  - (6) Activities in the wetlands buffers shall not adversely affect the quality or quantity of surface or subsurface flow to the wetland so as to adversely affect its water quality and protection of fish, plant or wildlife habitat value.
- f. Prior Approvals and Submitted Projects—The following types of projects are not subject to the regulations of this Section governing wetlands.
  - (1) Those projects receiving preliminary site plan or subdivision approval prior to the effective date of this regulation.
  - (2) Those projects which have submitted a site plan or preliminary plan prior to the effective date of this regulation.
  - (3) Those projects which have been approved by other agencies including, but not limited to, the Army Corps of Engineers, the Department of Natural Resources and Environmental Control prior to the effective date of this regulation.
- g. When a property, lot, parcel, or tract, not subject to the requirements of this Section, becomes the subject of an application that proposes to subdivide, change a use, expand a use, or develop in any way, it shall become subject to the standards contained herein.

E. Development-Plan Requirement.

- 1. Required Submissions.
  - a. All Development Plan applications shall include a Wetlands Delineation Report.
  - b. When development activities are proposed within wetland areas or their associated buffers, a Wetlands Mitigation Plan shall be included in the Development Plan application.
- 2. Wetlands Delineation Report.
  - a. The report shall depict the locations of both state and federal wetlands by legal description with bearings and distances and with each flag point numbered, signed, and dated.

- b. The report shall utilize the on-site method or process for identifying wetlands as described in the *Corps of Engineers Wetlands Delineation Manual*, "Technical Report Y-87-1, 1987 as amended.
  - c. The report shall be prepared by a person with professional experience and knowledge in wetlands identification and shall analyze a site for the existence and extent of wetlands.
  - d. The associated wetland buffers shall be shown on the development plans and the Wetland Report and indicated as an area of non-disturbance.
  - e. Building lots containing wetlands shall be identified with a notation stating "Construction activities within these sites may require a permit from the United States Army Corps of Engineers or the State of Delaware."
  - f. If a tract proposed for development contains no wetlands, the plan shall include a statement affirming this from an experienced, qualified professional.
3. Wetlands Mitigation Plan.
- a. Definition: Wetland Mitigation Plan—Activities carried out in order to compensate for wetlands, buffers, or state open-waters loss or disturbance caused by regulated activities.
  - b. Before commencing wetland mitigation measures, an applicant shall obtain a permit from the United States Army Corps of Engineers.
  - c. Permits from the State may also be required.
  - d. Acceptable Types of Mitigation.
    - (1) Creation—Wetland mitigation using creation techniques must be provided at a 1:1 ratio based on the area of wetland disturbed. Buffer impacts shall also be mitigated in the same fashion.
    - (2) Restoration—Wetland restoration shall be acceptable but must be provided at a 3:1 ratio. Buffer impacts shall also be mitigated in the same fashion.
    - (3) Preservation—Wetland preservation shall be acceptable but must be provided at a 3:1 ratio. Buffer impacts shall also be mitigated in the same fashion.
  - e. Plan Content and Approval.
    - (1) A mitigation plan must be approved by the Town in consultation with DNREC, Division of Water Resources, Wetlands and Subaqueous Lands Section prior to any disturbance.
    - (2) These plans shall include all requirements and suggestions indicated in the document "Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals" as developed by the Army Corps of Engineers et al. and published in March 2004.

**§ 8-4. Water Resources Protection Areas****A. Purpose and Intent.**

1. Ensure that land use activities are conducted in such a way as to minimize the impact on, and reduce the risk of contamination to, excellent groundwater recharge areas and wellhead protection areas which are the source for public drinking water in the Town.
2. Satisfy the requirements of the Delaware Source Water Protection Law 2001 in Title 7 Chapter 60 of the *Delaware Code*, Subchapter VI Source Water Protection, Section 6082 (b) and (f).

**B. Definitions—**The definitions contained in this Subsection pertain to water resources protection areas.

**ABOVEGROUND STORAGE TANK (AST)**—A single containment vessel greater than 250 gallons as defined in the Delaware regulations Governing Aboveground Storage Tanks. ASTs with a storage capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesels, heating fuel or kerosene are subject to the design, construction, operations, and maintenance requirements of the Delaware AST regulations.

**BEST MANAGEMENT PRACTICES**—Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control nonpoint source pollutants yet are compatible with the productive use of the resource to which they are applied; used in both urban and agricultural areas.

**CONTAMINATION**—Any physical, chemical, biological, or radiological substance that enters the hydrologic cycle through human action and may cause a deleterious effect on ground water resources.

**EXCELLENT GROUNDWATER RECHARGE AREAS**—Those areas with high percentage of sand and gravel that have “excellent” potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004. Excellent Groundwater Recharge Areas are delineated on the excellent groundwater recharge area maps described in Section B. 1) of this ordinance.

**GREEN TECHNOLOGY BEST MANAGEMENT PRACTICES (BMP’S)**—Those practices that achieve stormwater management objectives by applying the principles of filtration, infiltration and storage most often associated with natural vegetation and undisturbed soils while minimizing a reliance on structural components. They may also be constructed using an imported soil medium and planted with vegetation designed to promote the natural hydrologic process. These practices include, but are not limited to, vegetative filtration, riparian buffer plantings, bio-retention areas, vegetative flow conveyance, as well as recharge and surface storage in undisturbed natural areas.

**GROUND WATER**—The water contained in interconnected pores located below the water table in an unconfined aquifer or located in a confined aquifer.

**HAZARDOUS WASTE**—A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible, illness, or pose a substantial present or potential a hazard to human health or the environment when improperly treated, stored, transported, or disposed of, otherwise managed. Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the Delaware Regulations Governing Hazardous Waste.

**INFILTRATION**—The passage or movement of water through the soil profile.

**IMPERVIOUS COVER**—The sum of parking lots, roads, buildings, sidewalks, or other surfaces through which rainwater cannot pass or infiltrate the soil.

**LAND DISTURBING ACTIVITY**—A land change or construction activity for residential, commercial, industrial, and institutional land uses.

**LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)**—A rating system developed and administered by the U.S. Green Building Council based in Washington D.C. It is designed to promote design and construction practices that increase profitability while reducing the negative environmental impacts of buildings and improving occupant health and well-being. The LEED rating system offers four certification levels for new construction which includes Certified, Silver, Gold, and Platinum, corresponds to the number of credits accrued in five green design categories: sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. LEED standards cover new commercial construction, major renovation projects, interiors projects, and existing building operations.

**PUBLIC WATER SUPPLY WELL**—Any well from which the water is used to serve a community water system by section 22.146 (Public Water Systems) in the Delaware State Regulations Governing Public Drinking Water Systems.

**PUBLIC DRINKING WATER SYSTEM**—A community, non-community, or non-transient non-community water system, which provides piped water to the public for human consumption. The system must have at least 15 service connections or regularly serve at least 25 individuals daily for at least 60 days.

**RUNOFF**—That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on land or impervious surfaces.

**SANITARY LANDFILL**—A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

**STORMWATER**—Water runoff from the surface of land resulting from precipitation or snow or ice melts.

**STORMWATER MANAGEMENT**—(1) For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff, which may be caused by land disturbing activities or activities upon the land; and, (2) For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities upon the land.

**UNDERGROUND STORAGE TANK (UST)**—One or a combination of Tanks including underground Pipes, the volume of which is 10% or more below ground, as defined in the Delaware Regulations Governing Underground Storage Tank Systems, dated March 12, 1995. The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

**WATER QUALITY**—Those characteristics of stormwater runoff from an impervious surface or a land disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

**WATER QUANTITY**—(1) Those characteristics of stormwater runoff that relate to the volume of stormwater runoff to downstream-gradient areas resulting from land disturbing activities; (2) Those characteristics of stormwater that relate to the volume of stormwater that infiltrates the land surface and enters the underlying aquifer.

**WELLHEAD PROTECTION AREAS**—Surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are likely to reach such well, or well field.

C. Source Water Protection Area Boundaries.

1. Official Boundaries—The official boundaries for Water Resources Protection Areas are as follows.
  - a. Wellheads—Prepared by DNREC, Division of Water Resources, Water Supply Section.
  - b. Excellent Recharge Areas—Delaware Geological Survey, Digital Ground-Water Recharge Potential Map for Kent and Sussex Counties, 2002 or as subsequently amended.
2. Identification on Development Plans Required.
  - a. Development plans depicting development or land disturbance shall delineate the locations of Source Water Protection Areas. If a tract proposed for development contains no Source Water Protection Areas, the plan shall include a statement affirming this.
  - b. When there appears to be a conflict between official boundary maps and actual site conditions, the applicant may engage the services of a Professional Geologist to prepare a report intended to determine more accurately the precise boundary of the Source Water Protection Area. This Report shall include all of the following.
    - (1) A detailed topographic layout of the subdivision and/or area to be developed prepared by a Delaware-registered professional land surveyor, professional engineer, or professional geologist.
    - (2) Evidence derived from a site-specific investigation that may include aquifer testing, test borings, test pits, observation wells, groundwater elevations, and topography surveys as appropriate for the types of source water protections area that clearly demonstrate that the area in question does not meet the definition of a Source Water Protection Area as defined.
  - c. Any challenges to the delineation of the excellent groundwater recharge potential areas must follow the methods used in the Delaware Geological Survey Publication: *Report of Investigations No. 66, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware*. The challenge must be approved by DGS and DNREC SWAPP.

D. Applicability.

1. The regulations contained in this Section are in addition to other applicable regulations in this Land Use and Development Code.
2. All public drinking water well systems constructed after the effective date of this ordinance are required to comply with this ordinance in addition to other applicable ordinances, regulations, and standards.
3. Dimensional Regulations governing properties within Source Water Protection Areas shall apply in all instances except where uses are specifically prohibited by this Section and except pertaining to impervious cover. Where issues of impervious cover are concerned, the provisions this Section shall prevail.

E. Exemptions—The following are exempt from the requirements of this Section.

1. Recorded subdivisions
2. Revisions to recorded subdivision plans that do not result in the creation of additional lots
3. Conditional use applications not requiring development-plan review
4. Improvements to existing residential lots, including additions to existing one-family dwellings, the placement of sheds, and fences; and

F. Environmental Assessment Report.

1. Definition of Environmental Assessment Report—Documents detailing the post-development recharge rates and quality and which compares them to the predevelopment recharge for both water quality and quantity computed on an annual basis.
2. When Required—Whenever land proposed for development contains Source Water Protection Areas.
3. Elements—The Environmental Assessment Report shall include all of the following elements.
  - a. Site description of proposed development within the water resource protection area.
  - b. Climatic water balance comparing pre-development and post-development recharge potential for both water quantity and quality.
  - c. Analysis of the results of subsurface exploration including borings, test pits, and infiltration tests.
  - d. Demonstration that the design of ground-water-recharge facilities will assure water quality as well as water quantity.
  - e. Construction and maintenance considerations.
  - f. Recommended ground-water monitoring plan.
  - g. Water-management agreement between the applicant and the Town providing for monitoring and maintenance of the recharge system. The applicant shall abide by the Ground Water Management Agreement as written in the DNREC Supplement to the *Source Water Protection Guidance Manual for the Local Governments of Delaware: Ground-Water Recharge Design Methodology* dated May 2005 or as later revised.

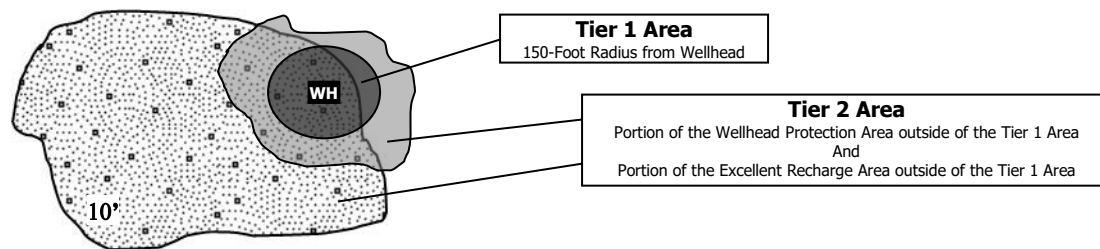
G. Standards for Source Water Protection Areas.

1. Tier 1 Areas—See Figure 5.
  - a. Definition of Tier 1 Areas—Surface area extending in a 150-foot radius around the wellhead.
  - b. Regulations Governing Tier 1 Areas.
    - (1) Impervious cover shall be prohibited except for buildings, pumps, water storage tanks, generators and related appurtenances, and access associated with the well and related treatment and distribution facilities.
    - (2) Natural runoff into Tier 1 Areas shall be allowed, but all new stormwater runoff shall be diverted around Tier 1 Areas.
  - c. Prohibited Uses—The following uses are prohibited in Tier 1 Areas.
    - (1) On-site wastewater treatment and disposal systems.
    - (2) Underground and aboveground storage tank systems subject to the registration requirements of DNREC.
    - (3) Junk, scrap, and salvage yards.
    - (4) Mines and gravel pits.
    - (5) Hazardous Waste Treatment, Storage and Disposal Facilities, as defined in 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste*
    - (6) Sanitary and Industrial Landfills, as defined in 7 DE Admin. Code 1201, *Delaware Regulations Governing Solid Waste*.
2. Tier 2 Areas—See Figure 5.
  - a. Definition—Tier 2 Areas include the following.
    - (1) Surface area of a wellhead protection area outside of the Tier 1 Area, i.e. the area between the 150-foot radius around the wellhead and the boundary of the wellhead protection area.
    - (2) For an excellent recharge area having a wellhead protection area within its boundary, the surface area between the Tier 1 Area boundary and the boundary of the excellent recharge area.
    - (3) For an excellent recharge area not having a wellhead protection area within its boundary, the entire excellent recharge area.
  - b. Regulations Governing Tier 2 Areas.
    - (1) New development in Tier 2 Areas shall not exceed 20% impervious cover.
    - (2) New development may exceed the 20% gross impervious cover threshold up to 50% gross impervious cover provided that EITHER of the following methods is utilized. The Environmental Assessment required pursuant to § 8-4.F must describe how the chosen method will ensure compliance with the maximum allowable impervious cover.
      - a) Method 1—Where stormwater shall be:  
Treated according to Green Technology Best Management Practices;  
AND  
Directed to recharge facilities designed per the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised.  
OR
      - b) Method 2—The project is LEED-certified (Leadership in Energy and Environmental Design) in the sustainable sites category.
    - (3) Roof Drains—For all new construction, additions and substantial improvements, structures shall be required to discharge roof drains into recharge facilities designed per the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised. No discharge by roof drains to impervious surfaces except for residential dwellings is permitted in excellent groundwater recharge areas.



- (4) Stormwater Treatment—Stormwater from new development shall be treated using the Green Technology Best Management Practices designed in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations* dated October 11, 2006 or as later revised.
  - c. Prohibited Uses—The following uses are prohibited in Tier 2 Areas.
    - (1) On-site wastewater treatment and disposal systems.
    - (2) Underground storage tank systems subject to the registration requirements of DNREC—except those that are required for home heating fuel use. These tanks must meet all applicable federal, state, and local regulations concerning their use and maintenance.
    - (3) Chemical processing and storage facilities.
    - (4) Junk, scrap, and salvage yards.
    - (5) Mines and gravel pits.
    - (6) Hazardous Waste Treatment, Storage and Disposal Facilities, as defined in 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste*.
    - (7) Sanitary and Industrial Landfills, as defined in 7 DE Admin. Code 1201, *Delaware Regulations Governing Solid Waste*
3. New Developments in More Than One Source-Water Protection Area—For developments located partially in either a Tier 1 or Tier 2 Area, the more restrictive regulations shall apply.
  - a. The portion of a new development in a Tier 1 Area shall be subject to the regulations governing Tier 1 Areas.
  - b. The portion of a new development in a Tier 2 Area shall comply with the regulations governing Tier 2 Areas.
  - c. The portion of a new development outside of either a Tier 1 or Tier 2 Area shall not be subject to the provisions of this Section.
4. Existing Developments—Existing, developed land located in either a Tier 1 or Tier 2 Area shall be treated as nonconforming uses.

**Figure 4. Source Water Protection Areas**





## **Article 9. Drainage and Erosion Control**

### **§ 9-1. 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 only be built upon 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. This shall in no way be construed as to prohibit or regulate infiltration-type stormwater facilities located on individual lots such as bio-retention devices or rain gardens.
  - 2. Surface water shall 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.
  - 4. No property shall be developed, redeveloped, or maintained in such a way that the development or activity unreasonably hampers, collects, channels, or otherwise discharges or alters the natural flow of water thereby causing damage to any adjacent property.
- C. Inspections and Violations—The Town of Wyoming reserves the right to inspect any violation of drainage conditions.

### **§ 9-2. Permanent Stormwater Management**

- A. Requirement.
  - 1. All new or redevelopment shall comply with the State of Delaware's Stormwater Management Regulations as put forth in Section 5101 Sediment and Stormwater Regulations of Title 7 of the State of Delaware Administrative Code effective as of January 23, 1991 or as amended.
- B. Design, Construction, and Review.
  - 1. Prior to the issuance of a building permit, final plat, or other land development record, the applicant shall obtain all permits required by State and Federal governments for the control of stormwater runoff. Copies of these plans and the associated permits shall be attached to all land development submissions.
  - 2. The Town of Wyoming reserves the right to require any modifications to stormwater management facilities that it deems necessary to provide increased protection for the region's natural resources, provided that the Town supports the increased requirements with an appropriate rationale.
  - 3. Stormwater management facilities shall not be located within any protected natural resource area or its associated buffer.
  - 4. Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface water runoff as a result of such development.
  - 5. 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 causing substantial damage to the higher adjacent property.
  - 6. 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 and at such volumes so as to cause substantial damage to the lower adjacent property.
- C. Inspections and Violations—The Town of Wyoming reserves the right to inspect any violation of drainage conditions.

**§ 9-3. Erosion and Sediment Control**

- A. Requirement—Development plans shall include adequate provision for controlling temporary flooding, soil erosion, and sediment deposits during and after construction.
- 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. Topsoil
    - a. No topsoil shall be removed from a site or used as spoil.
    - b. Top soil moved during the course of construction shall be redistributed so as to provide at least 6 inches of cover to all areas of the subdivision and stabilized by seeding and planting.
- C. Inspections and Violations.
  - 1. The Kent County Conservation District is the agency responsible for the review, approval, and inspection of sediment and erosion control facilities.
  - 2. Inspections and Violations—The Town of Wyoming reserves the right to inspect any violation of drainage conditions.

**Article 10. Landscaping, Screening, and Shade****§ 10-1. Screening**

- A. Purposes for Screening Requirements.
  - 1. Shield neighboring properties from the adverse effects of that development.
  - 2. Protect developments from the negative impacts of adjacent uses, such as streets or railroads.
- B. Screening Requirements.
  - 1. When Required. Screening is required for approval of site plans, development plans, and subdivision plats that satisfy any of the following conditions.
    - a. When the development is of a higher intensity than the existing uses on the adjoining lot.
    - b. When a lot is occupied by a multi-family development or a manufactured-home park.
    - c. When any non-residential use abuts a residential district.
    - d. When an off-street parking area for 10 or more automobiles is located closer than 50 feet to a lot in a residential district or to any lot upon which there is a dwelling as a permitted use under this Land Use and Development Code, and where the parking area is not entirely screened visually from such lot by an intervening building or structure.
    - e. For any loading area consisting of 1 or more loading spaces, loading docks or vehicular lanes leading to loading spaces or loading docks.
  - 2. Location—Along the property line or lines where the condition specified in subsection B(1) above triggers the screening requirement.
  - 3. Screen Materials.
    - a. The screen shall consist of a continuous, visual barrier composed of fencing and/or green plants and trees arranged to form both a high- and a low-level screen.
      - (1) High Level—The high-level portion of the screen shall consist of one of the following.
        - a) A 6-foot solid wall or fence, provided that if the fence or wall is facing a residential property or residentially zoned land that it is also planted with a minimum average of one shrub per 10 linear feet or one large deciduous tree per 30 linear feet on the residential facing side.
        - b) A compact evergreen hedge or foliage, at least 4-feet-high when planted that achieves the same visual impact as a solid wall or fence.
      - (2) Low Level—The low-level portion of the screen shall consist of evergreen shrubs planted at an initial height of not less than 2 feet and spaced at intervals of not more than 5 feet on center.
    - b. Width of Screen—15 feet.
  - 4. The Planning and Zoning Committee may approve an alternative landscape plan provided that it meets the intents and purposes for screening and landscaping.

**§ 10-2. Landscaping****A. Residential Developments**

1. Intent—Provide landscaping, screening, stormwater management, and shade in residential developments.
2. When Required—For all residential development plans.
3. Standards.
  - a. Design should be simple and easy to maintain and shall consist of a variety of plant materials. Ornamental and evergreen tree plantings may be incorporated in the design but the primary plant types shall consist of species native to Delaware. No one species shall make up more than 30% of the plantings of the development.
  - b. Protection and Retention of Large Trees
    - (1) Large Tree Defined—An existing tree having a diameter of 18 inches or more.
    - (2) Every development shall retain all large trees unless the retention of such trees would unreasonably burden the development.
    - (3) No excavation or subsurface disturbance may be undertaken within the drip line of any large trees, and no impervious surface may be located within 12.5 feet, measured from the center of the trunk, of any large trees, unless compliance with this subsection would unreasonably burden the development. A drip line is 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.
    - (4) Each tree that is not retained shall be replaced in accordance with the standards of this Subsection.
  - c. Trees shall be planted at a rate of 1 tree per 3,000 square feet of land area developed. It is recommended that a variety of native tree species be used within a land development to avoid a monoculture and its inherent problems. (See: [Native Tree Species of Delaware](#))
  - d. Deciduous Trees—Deciduous trees shall be of a high canopy variety. Trees shall be 2 to 2 ½ caliper at the time of planting.
  - e. Evergreen Trees—Evergreen tree plantings shall be at least 4 feet in height at the time of planting and shall comprise less than 10% of the trees proposed for non-screening purposes.
  - f. Parking lots for recreational and nonresidential uses within a residential development shall meet the requirements of Section 10-4.C.
  - g. Replacement Guarantee—A one-year full-price replacement guarantee shall be provided by the applicant and noted on the record plan for all required new tree plantings. The maintenance bond required by § 11-12 shall cover all landscaping improvements.
  - h. Performance Bond—The Town shall require applicants to provide a performance bond or other guarantee for the cost of required landscaping equal to 125% of the landscape plan. Where a performance bond is required, a cost estimate shall be provided by a certified landscape architect or the town engineer.
4. The Planning and Zoning Committee may approve an alternative landscape provided that it meets the intents and purposes for screening and landscaping.

**B. Parking Areas.**

1. Intent—Reduce the visual impact of parking areas, reduce heat island effects, and minimize glare of vehicle lights between properties.
2. Perimeter landscaping of parking area—Subject to screening requirements in § 10-3.
3. Along public road frontages – A buffer strip of 15 feet in width shall be located between the parking area and a public street frontage. Such buffer strip shall be planted with a combination of evergreen and deciduous shrubs a minimum of 36 inches in height to block the trespass of vehicle lights into the street and neighboring properties.
4. Interior Parking Area Landscaping.
  - a. Applicability—Interior parking lot landscaping provisions apply to any non-residential development.
  - b. Requirements.

- (1) One (1) landscaped island shall be required for each 10 spaces, or fraction thereof, in a single row. Each landscaped island shall be a minimum of 8 feet by 18 feet (144 square feet).
  - (2) For a double row of parking with 10 spaces each (20 spaces total), the landscaped island shall be a minimum of 8 feet by 36 feet.
  - (3) One landscaped island shall be provided at the end of each row, regardless of the number of spaces, and along all collector aisles.
  - (4) For double rows of parking, a planting strip of at least six feet wide shall separate the parking rows.
  - (5) For each 144 square feet of landscape island, one (1) native deciduous tree with ground plantings shall be provided.
  - (6) Landscape islands and planting beds within a parking lot shall be surfaced with groundcovers and/or dwarf shrubs and shall not be grassed.
  - (7) Interior parking lot landscaping shall be provided in addition to required landscaped buffers.
  - (8) Landscaping materials shall be set back so as not to interfere with safe pedestrian access and movement as determined necessary by the Planning and Zoning Committee.
5. The Planning and Zoning Committee may approve an alternative landscape plan provided that it meets the intent and purposes for screening and landscaping.

### § 10-3. Shade

#### A. Trees Along Dedicated Streets.

1. Municipal Streets—On streets to be maintained by the Town, the developer shall plant or retain trees within 5 feet of the right of way. .
  - a. One (1) deciduous tree, whose trunk will be at least 12 inches in diameter when fully mature, shall be placed every 30 feet.
  - b. The trees to be planted shall be of a native species that can generally be expected to thrive in the area and have a columnar or vase shape. Trees shall be 2 to 2 ½ caliper when planted.
  - c. The trees shall have a root system that will not damage adjacent sidewalks, underground infrastructure, or the streets themselves.
  - d. The trees shall be located so that they will not interfere with utilities or sight easements or obscure street lights.
2. Other Streets and Roadways—Trees shall be planted or retained in accordance with the specifications of the government or entity that will own, or be responsible for, maintaining the street or roadway.

#### B. RESERVED





**Article 11. Subdivision and Land Development****§ 11-1. Applicability**

- A. Applicability—The provisions of this Article govern the preparation of site plans, development plans, and subdivision plats. It applies to all development plans whether or not they result in the subdivision of land.
- B. Relationship to Subdivision and Land Development Ordinance of Kent County, Delaware.—It is intended that the provisions of this Land Use and Development Code concerning subdivision closely parallel those of the County, in order to avoid confusion among subdividers and provide an orderly pattern of development.

**§ 11-2. General Requirements**

- A. Conformance to Applicable Rules and Regulations—In addition to the requirements established in this Land Use and Development Code, 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. The provisions of this Land Use and Development Code, building and housing codes, and all other applicable laws of the County, State, and Federal governments
  - 2. The municipal comprehensive plan
  - 3. Standards and regulations adopted by any Town boards, committees, or commissions
  - 4. Rules, regulations, and standards of applicable County, State, or Federal agencies
- B. Self-Imposed Restrictions—If the owner or applicant places restrictions on any land included in a subdivision that are different from, stricter than, or in addition to those required by this Land Use and Development Code, the Planning and Zoning Committee may require that such restrictions be indicated on the Subdivision Plan and/or that restrictive covenants be recorded with the Recorder of Deeds. The owner or applicant shall grant the Town the right to enforce the restrictive covenants.
- C. Subdivision Name—911 Addressing Coordination
  - 1. Names for proposed subdivisions shall follow policies of the Mapping/911 Addressing Division of the Kent County Department of Planning Services.
  - 2. The Kent County Department of Planning Services shall approve proposed subdivision names prior to the recording of any plat or the approval of any development plan.
- D. 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 monumented in the field. These monuments should be placed not more than 1,400 feet apart in any straight line, 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.
  - 4. Monuments shall be set with their top level no more than 12 inches above the finished grade of the surrounding ground, except that monuments placed within the lines of existing or proposed sidewalks shall be so located, preferably beneath the sidewalks, such that their tops will not be affected by lateral movement of the sidewalk. Where monuments are located beneath a sidewalk, proper access shall be provided for their use.
- E. Character of Land—Land that the Planning and Zoning Committee 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.

**§ 11-3. Adequate Public Facilities**

- A. No preliminary development plan shall be approved unless the Planning and Zoning Committee determines that public facilities are or will be adequate to support and service the area of the proposed subdivision.
- B. The applicant shall provide all information requested by the Planning and Zoning Committee for evaluation of the adequacy of public facilities.

- C. The following services shall be examined for adequacy.
  - 1. Roads and sidewalks.
  - 2. Sewer service.
  - 3. Water service.
  - 4. Other public services as applicable to the size and type of development.

#### **§ 11-4. Site-Layout Standards**

- A. Individual lots, buildings, streets, and parking areas shall be designed to minimize alteration of the natural site features and drainage patterns to be preserved.
- B. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
- C. Individual lots, buildings and units shall be arranged and situated to relate to surrounding properties, to improve the view from the buildings, and to lessen the land area devoted to motor vehicle access.
- D. Individual lots, buildings, units and parking areas shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site.
- E. All residential structures within a subdivision shall front on and gain access from an interior subdivision street, parking area or court. In no instance shall a residential structure in a subdivision be accessible from a county or state highway.
- F. All portions of a tract being subdivided shall be taken up in lots, streets, public lands or other proposed uses so that remnants and landlocked areas shall not be created.

#### **§ 11-5. Lot and Block Design**

- A. Block Design.
  - 1. Spacing—Streets shall be spaced so that blocks meet the development standards of this Land Use and Development Code and minimize the number of intersections with existing or proposed State-maintained roads.
  - 2. Proposed streets shall connect to the existing street network where feasible.
  - 3. Shape—The lengths, widths, and shapes of blocks shall be appropriate for the character of the Town, the surrounding neighborhood, and the proposed development.
- 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. Lot Access—Every lot shall abut and have access to a public street.
  - 3. Lot Dimensions.
    - a. General—Lot dimensions shall comply with the minimum size, width, depth, and other applicable development 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 Land Use and Development Code.
    - 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. Non-Residential—The depth and width of properties proposed for non-residential uses shall be sufficient to provide parking, loading, landscaping, other facilities specified in this Land Use and Development Code, and other applicable requirements.
    - g. Double the Minimum Area—Where lots are more than double the required minimum area, the Planning and Zoning Committee may require that these lots be arranged to permit further subdivision and the opening of future streets.
  - 4. 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.

5. 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.
6. Drainage.
  - a. Lots shall be laid out so as to provide positive drainage away from all buildings.
  - b. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area in which the subdivision is located.
  - c. Drainage systems shall be designed to avoid concentration of water runoff from adjacent lots onto any single lot.

#### **§ 11-6. Easements**

- A. 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 5-foot-wide easements along all lot lines for a total easement width of at least 10 feet along a lot line common to 2 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 a subdivision shall be at least 10 feet wide on the interior side of the boundary.
- B. Required to Accommodate Waterways and Drainage Ways—Where a proposed subdivision is traversed by any stream, waterway, or drainage way, the applicant shall make adequate provision for the proper drainage of surface water, including the provision of easements, along such waterways and drainage ways.
- C. Utility Easements.
  1. Private Rights-of-Way—The Planning and Zoning Committee may permit utility easements in private rights-of-way or in joint-use recreation areas if the design considerations of the proposed subdivision warrant such easements.
  2. Public Rights-of-Way—Franchise and utility construction permits shall be obtained from the Delaware Department of Transportation for utilities within public rights-of-way.
- D. Permanent Obstructions Prohibited—No building, structure, or other permanent obstruction shall be placed on any easement.

#### **§ 11-7. Public-Facility Reservations**

- A. Purpose—The purpose of this section is to provide an opportunity for the reservation of lands within developing areas which represent important and strategic locations for the distribution of essential public goods and services such as potential educational institutions, emergency services, and recreational facilities.
- B. Public Facilities—Where public facilities are shown or proposed in the Comprehensive Plan, or in any other plan or study adopted by the Town Council, and are located in whole or in part in a proposed subdivision or land-development plan, the Town may require dedication or reservation of the area required in lieu of or in combination with the requirements of § 10-1.B.
- C. The following are illustrative of the types of public facilities that may be considered for reservation or dedication by this section.
  1. Public utilities.
  2. Public buildings.
  3. Public parks.
  4. Public educational institutions.
  5. Public trails.
  6. Public recreation facilities and playgrounds.

#### **§ 11-8. Recreation and Open Space Required**

- A. Requirement.
  1. For every development or subdivision of five residential lots or more, one of the following shall take place:

- a. Land shall be dedicated for open space, parks, playgrounds, or other recreational purposes in locations designated on the comprehensive plan or where such dedications are appropriate.
    - b. A cash payment in lieu of land dedication shall be deposited with the Town. The funds collected pursuant to this Subsection shall be placed in a separate account earmarked for open space development.
  2. The land or fees received in accordance with this Requirement shall be used to provide open space, park, and recreational facilities to serve the subdivision for which the land was dedicated or the fee was collected. The location of the land and the amount of fees shall bear a reasonable relationship to the use of the park or recreation facilities by the future residents of the subdivision.
- B. Useable Open Space
  1. A minimum of 20% of the land in a development shall be dedicated to recreation and open space, including active and passive recreation areas and natural open space. Useable open space shall not be further subdivided.
  2. Land counted toward the minimum Useable Open Space shall be of suitable size, dimension, topography, and general character to meet the following criteria:
    - a. The land shall not be encumbered with any structure, except those associated with recreational facilities as part of an approved land development plan.
    - b. It is not devoted to use as a retention pond, roadway, parking area, or impervious surfaces, other than a sidewalk or trail.
    - c. Uses permitted in the Useable Open Space shall be limited to the following:
      - (1) Woodland, meadow
      - (2) Agricultural uses such as orchards, field crops, or nursery, or stables
      - (3) Passive park or outdoor recreation area, not including golf courses
      - (4) Neighborhood open space uses, such as greens, picnic areas, community gardens, and similar low impact passive recreational uses, and excluding rifle and archery ranges, off-road motorized vehicle courses and uses of similar character or impact.
      - (5) Active recreation areas, such as swimming pool, pickleball and basketball courts, sports fields, and playgrounds
      - (6) Underground utility rights of way.
      - (7) No more than 25% of the land shall be within a wetland, floodplain or floodway.
      - (8) Retention ponds shall not count toward useable open space.
  3. The following elements shall be considered in the design of recreation and open space:
    - a. Accessibility: Useable open space shall be directly accessible to the largest practicable number of lots within the subdivision. Lots not directly adjoining lots shall be provided with safe and convenient access.
    - b. Pedestrian orientation: Usable open space shall be pedestrian oriented and designed with connections to other existing and planned trails and recreation areas.
    - c. Usable open space shall provide a diversity of amenities suitable to many and abilities.
    - d. Equipment, structures, and play fields shall not be located within 30 feet of any residential lot line or public right of way.
    - e. Landscaping and screening as required in this ordinance.
  4. The land proposed for dedication shall be shown and marked on the subdivision plat as "Dedicated for Park and Recreation Purposes."
- C. Cash in Lieu of Land Dedication.
  1. When land to be dedicated is either insufficient to satisfy the requirements or not suitable for open space, parks, or recreation uses, a cash payment may be made in lieu of land dedication.
  2. Cash payment in lieu of land dedication shall be calculated as follows.
    - a. The total amount of cash-in-lieu of active recreation open space shall be equivalent to the appraised pre-improvement value of the land area required.

- b. The appraised pre-improvement value shall be based upon an appraisal of the subject property completed at the applicant's expense within six months prior to the date of request for consideration of cash in lieu of recreation area.
- c. If the Town and/or the applicant do not agree on the land value estimate established by the appraisal, a new appraisal shall be performed by an independent third-party professional real estate appraiser at the applicant's expense. This appraisal shall be awarded on a competitive bid basis to the qualified, certified appraiser that submits the lowest bid. The Town shall manage the bid process.
- 3. The Town shall use the fee to provide open space, park, or recreation facilities that will be available to and generally benefit the residents of the subdivision for which the fee is collected.
- D. Other Recreation Dedications.
  - 1. The provisions of this Section are minimum standards.
  - 2. A developer may set aside additional land and/or provide additional facilities for park or recreational use.

### **§ 11-9. Maintenance and ownership of Recreation and Open Space**

- A. Not to be Dedicated to Town.
  - 1. The recreation facilities and open space to be dedicated under this Article shall not be dedicated to the Town.
  - 2. They shall remain under the ownership and control of the developer, his/her successor, a homeowners' association, or similar legal third party entity.
- B. Homeowner Associations and Deed Restrictions.
  - 1. As part of the condition of final approval, provision shall be made for the establishment of a homeowners' association or similar legal entity that meets at least the following criteria:
    - a. Clear legal authority to maintain and exercise control over common areas and recreational facilities.
    - b. Power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of the common areas and facilities.
    - c. Provision for start-up funding.
  - 2. Responsibilities. The homeowners' association shall be responsible for all maintenance, insurance, taxes, fees, and other burdens customary to the ownership of real property and all improvements and construction thereon, including but not limited to all recreation amenities, walkways, storm water facilities, ponds, landscaping, and other facilities not owned or accepted by the Town.
    - a. The homeowners' association documents and deed restrictions will give the Town the authority to require the homeowners' association to perform routine maintenance and minor/major repairs as necessary to keep the common property held by the homeowners' association in good condition and eliminate any health or safety issues. If the homeowners' association does not respond to the town citation within 14 calendar days, the Town shall have the right to perform the work itself and assess each property owner of the homeowners' association or the homeowners' association itself a fee to recover its cost. This money may be recovered during the normal real estate tax process as a special assessment to the lot owners or the homeowners' association.
  - 3. *Deed restrictions.* Restrictive covenants shall provide that they may not be amended without written approval from the Town that the amendment is in compliance with the Town Code. Restrictive covenants shall provide that in the event the association fails to maintain the common areas, common facilities, and open areas according to the standards of the Town, in accordance with the recorded plan, and in accordance with the requirements of recorded restrictions, the Town, following reasonable notice may:
    - a. Demand that the deficiency of maintenance be corrected; or
    - b. Enter the common area to maintain same. The cost of such maintenance shall be charged to the association or to each property owner of the association, pro rata; or

- c. Enforce collection of all assessments owing to the homeowners' association from the members thereof in accordance with the provisions of the Homeowners' Association Agreement, to the same extent as the homeowners' association.
- C. Closed-Circuit TV Inspections.
  - 1. Prior to the Town accepting any alley, street, highway or right-of-way, all storm water and sewer system lines proposed for dedication to the Town shall be inspected by closed-circuit TV inspection or equivalent technology. The inspection shall be accompanied with an audio description of location based on catch basin and/or pipe numbers, which correspond to the numbering system shown on the drawings. Crossroad culvert pipes, which can be visually inspected, shall be exempt from this requirement.
  - 2. The town shall not accept the storm water and/or sewer system lines, and no bond shall be released, until the Town has reviewed the inspection findings and determined that the improvements were completed in accordance with the Town Code. The inspection requirements are as follows:
    - a. Inspections shall be performed by the Camden-Wyoming Sewer & Water Authority.
    - b. Forty-eight (48) hours' notice shall be given to the Town so that the Town's inspector may be present.
    - c. A type written inspection report documenting the condition of the system shall be submitted with the video and audio tapes.
    - d. All defects shall be repaired and a subsequent inspection shall be performed pursuant to the requirements herein.
    - e. All storm water and sewer system lines shall be mandrel tested using a "GO-NO-GO Mandrel". The tests shall be performed no sooner than 60 days after the installation of the pipe under the supervision of the Town's inspector.
    - f. Storm water and sewer system lines shall be inspected and accepted by the Town as an interconnected network and not on a pipe-by-pipe basis.
    - g. All pipes shall be empty of water prior to video and mandrel inspections.
    - h. The Developer/Contractor and Owner shall be responsible for all costs associated with these inspections and any necessary repairs.
- D. When a development plan includes common open space, the applicant shall submit legal documents to the Town Council for review and approval. These documents shall specify ownership of the open space; method of maintenance; responsibility for maintenance; transfer of ownership from the developer to the maintenance organization; taxes and insurance; compulsory membership or compulsory assessment provisions; guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Town Council; and any other specifications deemed necessary by the Town Council.

#### **§ 11-10. Plans and Profiles**

- A. Approval Required Prior to Start of Construction—Plans, profiles, and specifications for the required improvements shall be prepared by the applicant and submitted for approval 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 of each street.
  - 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 shall be approved by the Town.
  - 4. Construction and specification plans of proposed storm drains shall be approved by the Kent Conservation District.

5. 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 Delaware State Fire-Prevention Regulations.
6. Plans and specifications for any forested buffer strips, if required.

**§ 11-11. Inspections and Fees**

**A. Inspections, As-Built Drawings Required.**

1. All construction work on improvements required in this Land Use and Development Code shall be subject to inspection and approval by the Town Engineer, and/or other authorized individuals, during and upon completion of such construction work.
2. Upon the completion of each improvement, the applicant shall provide the Town with an accurate and detailed description of location and the completion date of the improvement as it was actually constructed.

**B. Fees for Inspections.**

1. The Town Council shall establish a schedule of fees to be paid by the applicant in order to reimburse the Town for the cost of inspecting all construction work on improvements required in this Land Use and Development Code.
2. Reimbursed costs shall be only those actually incurred in inspecting work over which the Town has authority to establish design standards and/or need to ensure that future maintenance can be accomplished adequately.

**C. Closed-Circuit TV Inspections**

1. Prior to the Town accepting any alley, street, highway or right-of-way, all storm water and sewer system lines proposed for dedication to the town shall be inspected by closed circuit tv inspection or equivalent technology. The inspection shall be recorded with an audio description of location based on catch basin and/or pipe numbers, which correspond to the numbering system shown on the drawings. Crossroad culvert pipes, which can be visually inspected, can be exempted from this requirement.
2. The Town shall not accept the storm water and/or sewer system lines, and no bond shall be released, until the Town has reviewed the inspection findings and determined that the improvements were completed in accordance with the Town Code. The inspection requirements are as follows:
  - a. Inspections shall be performed by the Camden-Wyoming Sewer and Water Authority.
  - b. Forty-eight (48) hours' notice shall be given to the Town so that the Town's inspector may be present.
  - c. A type-written inspection report documenting the condition of the system shall be submitted with the video and audio tapes.
  - d. All defects shall be repaired and a subsequent inspection shall be performed pursuant to the requirements herein.
  - e. All storm water and sewer system lines shall be mandrel tested using a "GO-NO-GO" mandrel. The tests shall be performed no sooner than sixty (60) days after the installation of the pipe under the supervision of the Town's inspector.
  - f. Storm water and sewer system lines shall be inspected and accepted by the town as an interconnected network and not on a pipe-by-pipe basis.
  - g. All pipes shall be empty of water prior to any video or mandrel inspections.
  - h. The Developer/Contractor and Owner shall be responsible for all costs associated with these inspections and any necessary repairs.

**§ 11-12. Bonds and Guaranty; Acceptance of Improvements**

**A. Performance and Payment Bond or Guaranty Required.**

1. As a condition of approval of improvement plans, the Town Council shall require the applicant to post a performance and payment bond or other guaranty for any improvements required by the application of this Land Use and Development Code in an amount sufficient to construct the improvements and in a form acceptable to the Town Attorney.



2. 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 improvements, landscaping, or other improvements deemed necessary by the Town.
  3. No construction permits shall be issued until the performance and payment bonds or other guarantee is in place, which bond or guaranty shall not be released until the improvements have been accepted by the Town in accordance with the requirements of subsection C.
- B. Additional Bonds or Guarantees Authorized—Where a public agency other than the Town 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.
- C. Acceptance of Improvements. Prior to the Town accepting improvements, the following conditions shall be satisfied:
1. Inspections: All improvements shall be inspected pursuant to § 11-11 and found by the Township Engineer to have been completed in conformance with the development standards adopted by the Town.
  2. Deed and bill of sale. At such time as the Town is prepared to accept ownership and responsibility for the improvements, appropriate deeds and/or bills of sale are prepared, in form acceptable to the Town and executed by the owner and delivered to the Town. The owners shall be responsible for the costs associated with the preparation and recordation of these documents at their sole expense.
  3. Maintenance bond. A maintenance bond, in form acceptable to the Town, is provided that guarantees the proper repair or replacement of any accepted improvements necessitated by defective materials, design, or workmanship. The maintenance bond shall be in the amount of 10% of the actual cost of installing/constructing the bonded improvements and shall continue in full force and effect for one year from the date of the Town's acceptance of the improvements. The maintenance bond shall guaranty the proper repair or replacement of any accepted improvements necessitated by defective materials, design, or workmanship.
  4. Release of liens. A release of liens in proper form shall be provided by the owner or developer evidencing the release of liens of all persons furnishing labor or materials for the improvements.

#### **§ 11-13. Minor Subdivisions.**

- A. A plot for a minor subdivision can be submitted to the Town's Planning and Zoning Committee for administrative review and approval if the following conditions are met:
1. The lots to be adjusted are recorded lots in the Office of the Recorder of Deeds for Kent County.
  2. No more than three lots will be created, including the existing lots, with no more than a total of three existing or proposed individual dwelling units.
  3. All lots involved will comply with this Land Use and Development Code and the official Zoning Map.
  4. The adjusted lot lines will not interfere with any existing utilities that are contained within any easement area.
  5. A six-foot drainage and utility easement shall be recorded on all side and rear property lines that do not currently have recorded easements.
  6. All lots shall front on an existing street.
- B. Submission to the Town shall include the following:
1. Completed application form
  2. The number of prints of the minor subdivision plot required by the Town.
  3. Plot review fee per the Town's fee schedule.
- C. The Planning and Zoning Committee shall review the minor subdivision for compliance with this Land use and Development Code and any other applicable laws or regulations and issue a written

- approval or disapproval of the plot. If the plot is not approved, the Town shall inform the applicant, in writing, of the reasons for the denial.
- D. Upon receipt of the Town's approval, the applicant shall, within 60 calendar days, furnish four sets of prints of the plot for the Town's approval signature by the Mayor. The plot shall contain the following notation, "The revised plot has been approved by the Town of Wyoming pursuant to the Wyoming Land Use and Development Code." The plot shall also state that the revised plot shall be considered an amendment to any previously recorded plot.
  - E. The Town shall retain one set of the signed and approved plot, and all others shall be returned to the applicant. The applicant shall record the minor subdivision plot in the Office of the Recorder of Deeds in and for Kent County within thirty (30) calendar days of the date of the approval signatures. All costs associated with recordation of the plot will be at the expense of the applicant. The applicant shall provide the Town with a recorded copy of the final approved plot.
  - F. If the applicant fails to record the approved plot within this time period, the Town's approval of said plot shall be null and void, unless an extension of time is granted in writing by the Town after receipt of a written request by the applicant to do so.
  - G. Any subsequent, additional subdivision, major or minor, which increases the total number of lots that were approved as a minor subdivision to more than three (3), shall immediately classify that most recent and all previous subdivisions as a major subdivision, and the subdivision procedures under the Land Use and Development Code shall apply.

**Article 12. Streets, Sidewalks, Curbs, and Gutters****§ 12-1. Roads and Streets**

- A. Access to Public Street Required.
  - 1. Every lot shall have access to a dedicated public street in a manner that affords a reasonable means of ingress and egress for emergency vehicles and for those who desire access to the property for its intended use.
  - 2. There shall be no private streets or alleys platted in any subdivision.
- B. Street Names.
  - 1. All new streets shall be named.
  - 2. 911 Addressing Coordination.
    - a. Names for proposed streets shall follow policies of the Mapping/911 Addressing Division of the Kent County Department of Planning Services.
    - b. The Kent County Department of Planning Services shall approve proposed street names prior to the recording of any plat or the approval of any development plan.
  - 3. The developer shall be responsible for the placement of all new street signs.
- C. Grading and Improvement Plan.
  - 1. Roads shall be graded and improved in conformance with the construction standards of the Town.
  - 2. The Town may engage the services of a qualified professional to review and recommend approval of grading and improvement plans.
- D. Access to State-Maintained Roads—Where a subdivision borders on or contains an existing or proposed State-maintained road, the Department of Transportation shall determine how access shall be provided from the subdivision to the State-maintained road.
- E. Driveway and Other Entrances to Streets—Driveway entrances and other openings onto streets shall be designed so that:
  - 1. Vehicles can enter and exit from individual properties without posing substantial danger to themselves, pedestrians, or vehicles traveling on abutting streets.
  - 2. Interference with the flow of traffic on surrounding streets is minimized.
- F. Street System Layout.
  - 1. General.
    - a. 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.
    - b. Fire lanes shall be provided in all areas deemed necessary by the State Fire Marshal.
  - 2. Coordination with Surrounding Streets and Communities (Connectivity).
    - a. The street system of every property proposed for development shall be coordinated with existing, proposed, and anticipated streets outside of the of the subject property.
    - b. Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Planning and Zoning Committee determines that any of the following conditions exist.
      - (1) Topography or other physical condition prevents continuation.
      - (2) Connection would encourage the use of such streets by substantial through traffic.
    - c. Access to Adjacent Tracts.
      - (1) Street rights-of-way shall be extended and streets shall be constructed to the boundary lines of the subject property.
      - (2) Temporary turnarounds or cul-de-sacs shall be provided within the subject property at the ends of the collector streets via temporary easements or other means approved by the Planning & Zoning Committee. The Town may limit the number of these turnarounds in order to achieve good design and to provide safe, convenient, and logical street patterns.
- G. Construction Standards—All streets shall be constructed to State standards.
- H. Right-of-way and paving widths.
  - 1. Streets. The minimum width of the right-of-way and the paving, measured from the edge of the paving and not including the width of the curb, shall not be less than (i) the

existing street that the proposed street is a continuation of, or (ii) the following dimensions, whichever is greater:

Street type required	Right-of-way	Paving
Arterial	80-100'	44'
Collector	60-80'	36'
Boulevard	70-80'	18' each way
Residential	50'	32'
Alley	20'	16'

2. Cul-De-Sac. A cul-de-sac will not be approved when a through street design is practicable. The width of right-of-way and paving shall be based upon the number of lots to be developed and fronting on the street.

No. of lots	Right-of-way	Paving	Radius turn around	
			Right-of-way	Paving
10 but not more than 20	50'	32'	50'	40'
9 or less	50'	24'	50'	40'

3. Where the installation of a turn-around would cause undue hardship in land planning, a "T" shaped turn-around designed in accordance with DelDOT's "Rules and Regulations for Subdivision Streets" may be approved.

**§ 12-2. Sidewalks****A. Requirements.**

1. Every land-use application shall provide for sidewalks - unless the subject property is served by a type of street for which sidewalks are generally not provided.
2. Sidewalks shall be at least 5-feet wide.
3. Sidewalks shall be provided on both sides of every subdivision street except where it is proven to be unfeasible.
4. Sidewalks shall connect to existing sidewalks and/or be designed to facilitate easy connection to future development.
5. Sidewalks shall be dedicated as part of the right-of-way of all streets.
6. Sidewalks shall be separated from the edge of road, pavement, driveways, and site entrances by a grass strip or landscape area of at least three feet in width.

**B. Construction Standards—All sidewalks shall be constructed to State standards.****§ 12-3. Curbs and Gutters****A. Requirement—Curbs and gutters -shall be required in every subdivision for the purposes of drainage, safety, and the delineation or protection of pavement edges.****B. Construction Standards—Curbs and gutters shall be constructed to State standards.**



**Article 13. Utilities****§ 13-1. General Requirements**

- A. Connections Required.
  - 1. Provision shall be made for each lot and principal use in the Town to be connected to utility services.
  - 2. Developers/subdividers shall provide required utilities at their expense and dedicate them to the Town, County, or other entity as applicable.
- B. Location.
  - 1. All utility facilities shall be located underground.
  - 2. Existing Facilities—Existing utility facilities, located aboveground, shall be removed and placed underground except those located on public roads and rights-of-way.
  - 3. Connections—The applicant shall install underground service connections to the street property line of each platted lot at his/her expense.
- C. Easements.
  - 1. Easements shall be provided for public and private utilities.
  - 2. Easements shall be at least 10 feet wide.
  - 3. The applicant or developer and the applicable utility companies shall coordinate the establishment of utility easements established in adjoining properties.

**§ 13-2. Water Facilities**

- A. Requirement.
  - 1. Each lot and each principal use in the Town shall be connected to the Town's water supply and distribution system.
  - 2. Every subdivision shall be provided with a water supply-and-distribution system that is connected to Town's water supply-and-distribution system.
- B. Design and Construction Standards.
  - 1. Water facilities, including fire hydrants, shall be designed and constructed in accordance with standards and specifications established by the Town, the County, the Office of Drinking Water of the State Department of Natural Resources and Environmental Control, or the State Fire Marshal as applicable.
  - 2. Required water-supply systems shall be constructed without cost to the Town and shall become a part of the Town system upon satisfactory completion of the work.

**§ 13-3. Sanitary Sewer Facilities**

- A. Requirement.
  - 1. Each lot and each principal use in the Town shall be connected to the Town's sanitary-sewer collection-and-disposal system.
  - 2. Every subdivision shall be provided with a sanitary-sewer system connected to the Town's municipal-sewage system.
- B. Design and Construction Standards.
  - 1. Sanitary-sewer facilities shall be designed and constructed in accordance with standards and specifications established by the Town, the County, or the State Department of Natural Resources and Environmental Control as applicable.
  - 2. Required sewage facilities shall be constructed without cost to the Town and shall become a part of the Town system upon satisfactory completion of the work.

**§ 13-4. Lighting**

- A. Requirement—All public streets, all sidewalks, and other common areas or facilities shall be sufficiently illuminated to ensure the security of property and the safety of persons utilizing such streets, sidewalks, and other common areas or facilities.
- B. Design and Construction Standards.
  - 1. Publicly Maintained—Lights to be maintained by the Town’s electricity provider shall be constructed and sited in accordance with the standards of the provider.
  - 2. Prevention of Glare and Light Pollution—Lighting on every lot or parcel shall use an enclosed lamp design or shall be indirect from a shielded source in a manner that prevents glare from beyond the property line. All lights shall use a full cutoff design with a zero uplight rating.
  - 3. Near a Residence—Lighting on a lot or parcel within 150 feet of a residential use may be illuminated only during the hours the entity is open for public business, unless the applicant demonstrates that such lighting is located so that it will not have an adverse impact on the residence.
  - 4. The color temperature of any LED light fixture should be a maximum of 3300 kelvin.
  - 5. Pedestrian street lights:
    - a. Street lights shall be staggered along both sides of the street at regular intervals and result in an average of 0.5 footcandles on the sidewalk.
    - b. Applicants shall submit the rationale, including manufacturers specifications, for the spacing of lamp posts.
    - c. Pedestrian oriented lampposts shall have a maximum height of 18 feet.

**§ 13-5. Other Utilities**

- A. General Requirement—Provision shall be made for each lot and principal use in the Town 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 Town, County, or the Delaware Department of Transportation. 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 14. Nonconforming Situations****§ 14-1. Definition and Intent**

- A. Definition—Nonconforming situations are existing structures, lots, signs, and uses of land that were lawful before this Land Use and Development Code was adopted or amended but would be prohibited, regulated, or restricted under the provisions of this Land Use and Development Code.
- B. Intent—Nonconforming situations may continue until they are removed, but their survival is not encouraged.

**§ 14-2. Nonconforming Lots**

- A. Definition—A nonconforming lot is a lot of record, whose area and/or width were lawful before this Land Use and Development Code was adopted, revised or amended, that does not meet the lot area and/or lot width standards of this Land Use and Development Code
- B. Regulation—A nonconforming lot, as defined in Subsection A, may be developed without a variance, including customary accessory structures, as long as it complies with other applicable dimensional regulations other than lot area and/or lot width.

**§ 14-3. Nonconforming Buildings and Structures**

- A. Definition—A nonconforming building or structure is a building or structure whose dimensional and density characteristics were lawful before this Land Use and Development Code was adopted, revised, or amended, that does not meet the standards contained in Article 5.
- B. Continued Existence—A nonconforming structure may be continued under the following conditions.
  - 1. Normal repair and maintenance is permitted.
  - 2. A nonconforming building or 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 buildings or structures may not be used as grounds for addition of other structures or uses that do not conform to the standards of zoning district.
  - 4. If a nonconforming building or 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. General Provision.
    - a. When a nonconforming building or structure or a nonconforming portion of a building or structure is destroyed by more than 75% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated.
    - b. Any subsequent building or structure shall conform to the dimensional provisions of this Land Use and Development Code.
  - 2. Exception—Any building or structure may be restored to its configuration at the time of destruction if the destruction is the result of a natural or extraordinary disaster, including, but not limited to, earthquake, fire, flood, tornado, or wind.

**§ 14-4. Nonconforming Uses**

- A. Definition—A nonconforming use is a use or activity that was lawful before this Land Use and Development Code was adopted, revised or amended, that is not permitted under the Use Regulations of this Land Use and Development Code.
- 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 may not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the date when this Land Use and Development Code is adopted or amended.
  - 2. The use may not be relocated or partially relocated from its location on the date when this Land Use and Development Code is adopted or amended, unless it is placed in a zoning district that allows such use.
  - 3. The use may be extended to any parts of a structure arranged or designed for such use on the date when this Land Use and Development Code is adopted or amended, as long as the nonconforming use is not extended to land outside of the structure.

4. Structures may not be enlarged or erected to accommodate the expansion of a nonconforming use.
- C. Termination of Legal Nonconforming Status.
  1. When a nonconforming use of land ceases for any reason for a period of more than 1 year, its legal, nonconforming status is terminated.
  2. Any subsequent use of such land shall conform to provisions of this Land Use and Development Code.

**§ 14-5. Nonconforming Signs**

- A. Definition—A nonconforming sign is a sign whose characteristics were lawful before this Land Use and Development Code, was adopted, revised, or amended, that does not meet the current standards of this Land Use and Development Code.
- 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 Land Use and Development Code.
- C. Termination of Legal Nonconforming Status.
  1. When a nonconforming sign is destroyed, by any means, or is removed, its legal, nonconforming status is terminated.
  2. Any subsequent sign shall conform to provisions of this Land Use and Development Code.

## **Article 15. Procedures and Administration**

### **§ 15-1. Zoning Certificate**

- A. Purpose—Ensure that buildings and proposed uses of buildings and structures comply with the provisions of this Land Use and Development Code prior to the issuance of any Building Permit, Business License, or Landlord License.
- B. When Required.
  - 1. Whenever a building or structure is erected, moved, added to, structurally altered.
  - 2. Whenever there is a change in use of any building or structure.
  - 3. Following Development-Plan Approval as called for in this Land Use and Development Code.
  - 4. Prior to the recording of plats.
  - 5. Prior to the erection of any sign for which a permit is required as set forth in Article 7.
  - 6. Prior to any construction of development activity on land wholly or partially within flood-prone land set forth in § 8-2.C.3, § 8-2.C.4, and § 8-2.C.5.
- C. Application Submission.
  - 1. Applications shall be submitted to the Administrator.
  - 2. The Administrator may provide forms to facilitate application processing and review.
- D. Application Review and Approval.
  - 1. At its next regular meeting following receipt of a complete application, the Planning and Zoning Committee shall review each building permit application to ensure compliance with the provisions of this Land Use and Development Code.
  - 2. In order to facilitate timely processing, the Planning and Zoning Committee may designate a member to review and approve building permit applications on behalf of the Planning and Zoning Committee outside of the regular meeting process.
  - 3. No building permit shall be issued until a Zoning Certificate has been issued by the Planning and Zoning Committee.
  - 4. The Planning and Zoning Committee may attach conditions to approval of Zoning Certificates.

### **§ 15-2. Outside Technical Expertise**

- A. When the Town expects that outside technical support is needed to consider, examine, review, and make reports and recommendations on any type of application contained in, review of, or interpretation of this Land Use and Development Code, the applicant shall make a cash deposit to cover the estimated amount of such outside technical support at the time an application is submitted.
- B. If the deposit exceeds the costs incurred by the Town, the remaining amount shall be refunded to the applicant. If the deposit is less than the costs incurred by the Town, the applicant shall pay the deficiency prior to final plan approval.

### **§ 15-3. Development Plan Approval**

- A. General Provisions.
  - 1. Definition of a Development Plan—A plan for the development of 1 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 Town can make an informed decision.
  - 2. Purposes.
    - a. Guide the growth and development of the Town in accordance with the comprehensive plan and this Land Use and Development Code.
    - b. Set up procedures for the submission, review, and approval of development plans.
    - c. Encourage an orderly layout of land uses.
    - d. Ensure that existing or planned public facilities have, or will have, sufficient capacity to service proposed developments.

- e. Minimize and manage the impact of development on air, water, and other natural resources
- f. Provide for open space especially in new developments.
- 3. When Required, Exception.
  - a. Development Plan Approval Required.
    - (1) Prior to the development of any property.
    - (2) Prior to the recording of any subdivision plat.
    - (3) As a pre-requisite to the issuance of a Zoning Certificate.
  - b. Exception—When a proposed development is for a single-family home on a single, recorded lot where the owner of such a lot does not own, or have control over, adjoining, vacant land.
- c. Exception – When a proposed development is for a minor subdivision as defined by this Land Use and Development Code.
- 4. Plan Submission.
  - a. Development Plans shall be submitted to the Administrator.
  - b. Each applicant for development-plan approval shall submit 8 paper copies and 1 digital copy of the plans, drawings, and supporting materials.
  - c. The Administrator may provide forms to facilitate application processing.
  - d. The Administrator shall refer the plans, drawings, and supporting materials to the Planning and Zoning Committee.
- 5. Duration, Revocation, and Extensions.

Item	Concept Plan	Preliminary Development Plan	Final Development Plan	Record Plat
Duration of plan approvals beginning at approval or recording date	N/A	18 Months	12 Months	2 Years
Number/Duration of Extensions Permitted <i>Provided that the applicant can demonstrate that delays were beyond his/her control</i>	N/A	1 Extension 6 Months	1 Extension 6 Months	None

- 6. Phased Developments
  - a. Definitions—For purposes of this Subsection, the following definitions shall apply.
    - (1) Good Cause—Facts which reasonably demonstrate that the owner/developer has been delayed from starting construction by events or causes largely beyond his reasonable control, coupled with a showing that the owner/developer has made substantial efforts and expenditures in a good faith attempt to begin construction.
    - (2) Commencement of Construction—Completion of at least 10% of the site improvements within 1 year after the date of final approval by the Town, pursuant to any and all required permits. The following costs will not be considered in determining the 10% threshold: land purchase and financing costs; engineering and legal expenses/fees paid; review, filing, and recordation fees; and construction costs for buildings, including permit fees.
  - b. The Town may approve a Development Plan that calls for construction of a project in phases.
  - c. A phasing plan shall be submitted that is for the entire development project and shall establish a timetable for the construction of each phase of the project.
  - d. Effect of Changes in Land Use and Development Code—Provided that the developer complies with the approved timetable, all phases of the Development Plan shall be subject to and governed by the land use and development standards in effect at the time of obtaining final approval of the entire Development Plan and by the conditions accompanying that final approval. In such circumstances, each phase may, at the option of the subdivider, be treated

as a separate subdivision for purposes applying the standards of this Land Use and Development Code (e.g. subdivision improvements construction agreement, completion and maintenance bonds, completion and dedication of public improvements).

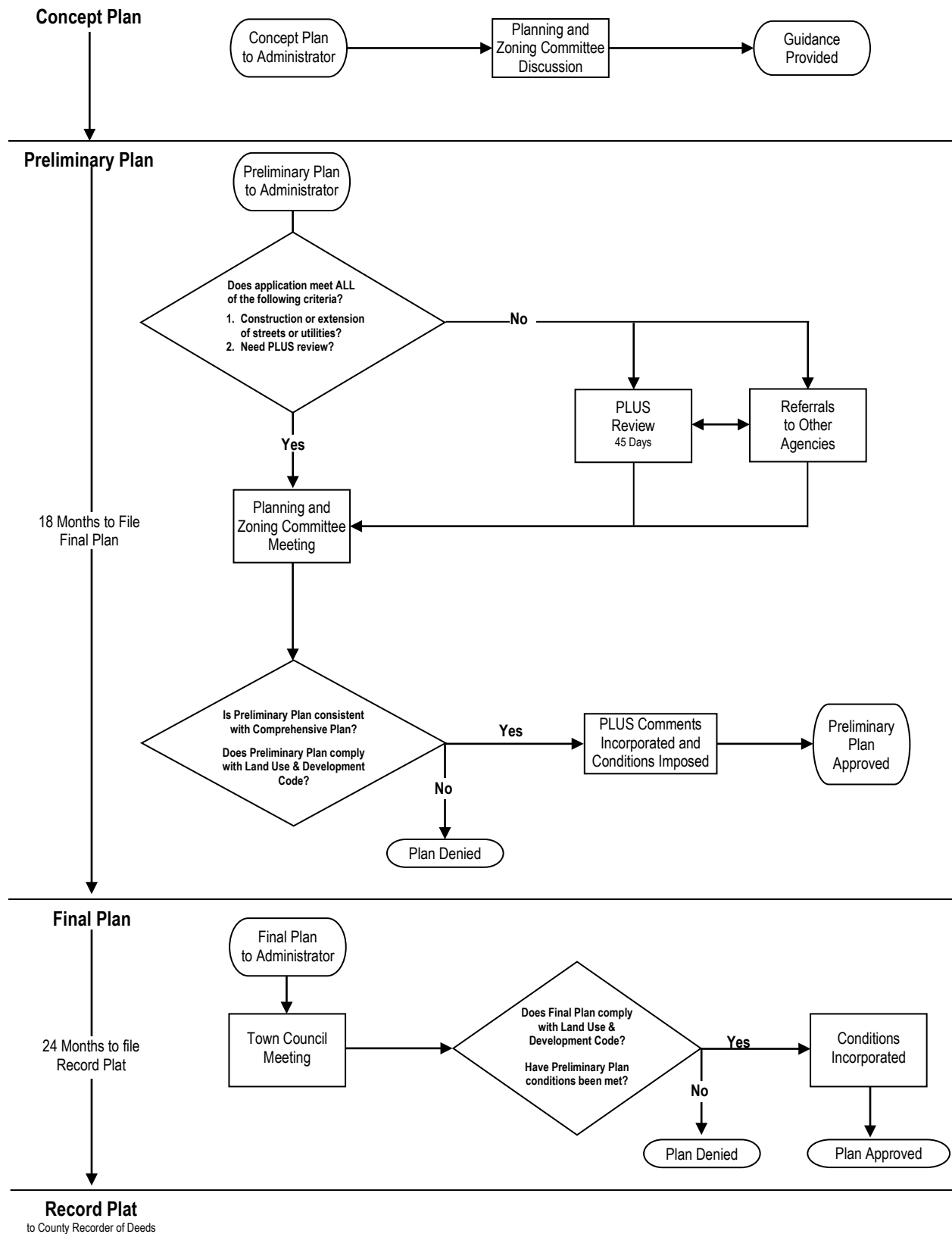
- e. Failure to Meet Phasing Plan Provisions—If a developer fails to obtain approval of a timetable for phased development, or, having obtained such approval, fails to comply with the approved timetable, where construction has not commenced (as defined above) in at least 1 phase before the expiration of 3 years from the date of final Development Plan approval for the entire subdivision or within 1 year of the date that construction was scheduled to commence in a particular phase under the approved timetable, approval for such phases(s) shall lapse and become void.
  - f. Extension Authorized—Prior to the expiration of an applicable time limit, a developer may apply in writing to the Town for an extension of time to begin construction, and/or a modification of the approved timetable. The Town shall grant such extension request for good cause.
  - g. Advancing to Subsequent Development Phases—In order to begin construction of improvements in a subsequent phase of an approved phased development plan, at least 70% of all improvements shall have been completed and approved by the Town in all prior phases project.
- B. Development Plan Approval Process.
- 1. Concept Plan.
    - a. Definition—A concept plan is an informal drawing of a development plan of sufficient accuracy to be used for discussion only.
    - b. Prior to submitting a Preliminary Development Plan, a concept plan shall be submitted to the Planning and Zoning Committee to be used as the basis for discussion and to receive direction on preparation of the preliminary plan, but not for approval or disapproval.
  - 2. Preliminary Development Plan.
    - a. Definition—A preliminary development plan is a detailed map showing the proposed layout of a subdivision, site, parcel, tract, land, property, or residential planned community submitted for preliminary approval.
    - b. Planning and Zoning Committee Responsibility—The Planning and Zoning Committee shall review and take action on each Preliminary Development Plan.
    - c. Compliance with PLUS—No development plan, subject to review pursuant to the Preliminary Land Use Service (PLUS) authorized in Title 29, Chapter 92 of the *Delaware Code* and/or the provisions of a Memorandum of Understanding between the Town and the Office of State Planning Coordination, shall receive preliminary approval until the Office of State Planning Coordination has provided written comments to the Town.
    - d. Referrals to Other Agencies—Each Preliminary Development Plan shall be referred to the following agencies and departments.
      - (1) Kent Conservation District.
      - (2) Camden-Wyoming Sewer and Water Authority.
      - (3) Delaware Department of Transportation.
      - (4) Kent County 911 Addressing.
      - (5) State Fire Marshal's Office.
      - (6) Delmarva Power.
      - (7) Natural Gas Provider.
      - (8) Delaware Department of Natural Resources and Environmental Control.
      - (9) Army Corps of Engineers.
      - (10) Town Engineer.
      - (11) Other agencies as needed.
    - e. Review and Approval.
      - (1) Before taking action on a Preliminary Development Plan, the Planning and Zoning Committee shall allow sufficient time for Planning and Zoning Committee, the Office of State Planning Coordination, departments, and agencies to comment on the plan.

- (2) The Planning and Zoning Committee may approve a Preliminary Development Plan with conditions.
  - (3) The applicant is responsible for demonstrating, to the satisfaction of the Planning and Zoning Committee, compliance with conditions as a prerequisite to sending a Preliminary Plan to the Town Council for Final Development Plan approval.
- 3. Final Development Plan.
  - a. Definition—A final development plan is a detailed map showing the layout of a subdivision, site, parcel, tract, land, property, or residential planned community submitted for final approval and that incorporates the conditions on which approval of the Preliminary Development Plan was based.
  - b. Town Council Responsibility.
    - (1) The Town Council shall review and take action on each Preliminary Plan following approval by the Planning and Zoning Committee.
    - (2) Approval by the Planning and Zoning Committee shall mean compliance with conditions placed on the plan by the Planning and Zoning Committee.
- 4. Record Plats.
  - a. Definition—A record plat is a map depicting the details of a subdivision plan that needs to be recorded with the County Recorder of Deeds.
  - b. Approval of Record Plat Required—The Recorder of Deeds shall not record any plat of a subdivision to be located within the Town unless the plat has been approved by the Town pursuant to this Land Use and Development Code.
  - c. Land Transfers, Building Permits, Occupancy Certificates—Until and unless a record plat has been approved pursuant to this Land Use and Development Code and recorded by the Recorder of Deeds, none of the following actions shall take place.
    - (1) No parcel of land in a subdivision shall be transferred, sold, or offered for sale.
    - (2) No building permit shall be issued for any structure.
    - (3) No certificate of occupancy shall be issued for the use of any land.
  - d. Responsibility Following Record-Plat Approval.
    - (1) The applicant is responsible for submitting a record plat to the County Recorder of Deeds for recordation.
    - (2) Following recordation, the applicant shall return at least 1 paper copy and a digital copy to the Administrator.

C. Required Information—The following table sets forth the information required for the review of development plans.

<b>Blank = No requirement</b> <b>G = General information</b> <b>R = Complete data or information required</b> <b>Information shall be delineated to at least 200 feet outside boundaries of subject property unless otherwise noted</b>	Concept Plan	Preliminary Plan	Final Plan	Record Plat
<b>Basic Plan Information</b>				
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of border lines at a scale no greater than 100 feet to 1 inch	R	R	R	R
Name and address of owner and applicant	R	R	R	R
Development plan name	R		R	R
Vicinity map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, etc. within 500 feet of subject property at a scale not greater than 2,000 feet per inch		R	R	R
North arrow and scale	R	R	R	R
Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect involved in preparation of plan		R	R	R
Title block denoting type of application, tax map sheet, county, municipality, block and lot, and street location		R	R	R
Signature blocks for approvals		R	R	R
Dates of original submission and each revision	R	R	R	R
Area of subject property to nearest hundredth of an acre	R	R	R	R
Location and description of all permanent survey markers			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		G	R	R
<b>Site Layout Information</b>				
Existing zoning and proposed (if applicable) zoning	G	R	R	R
Proposed uses for subject property including dwelling types, retail establishments, etc.	G	R	R	R
Required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space in tabular format	G	R	R	R
Size and location of existing and proposed structures with setbacks dimensioned	G	R	R	R
Proposed lot lines and areas of lots in square feet	G	R	R	R
Elevations and dimensions for all structures	G	R	R	R
Parking and Loading Plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions	G	R	R	R
Circulation Plan including vehicular and pedestrian circulation patterns	G	R	R	R
Signage plan that includes location, character, size, and height of proposed signs	G	R	R	R
Open Space and Recreation Plan	G	R	R	R
Landscape Plan	G	R	R	R
<b>Environmental Elements and Utilities</b>				
Floodplain Delineation and Management Plan	G	R	R	R
Wetlands Delineation and Management Plan	G	R	R	R
Water Resources Protection Areas (Wellheads, Class A and Excellent Recharge Areas) Environmental Assessment Report	G	R	R	R
Drainage and Stormwater Management plans	G	R	R	R
Existing and proposed contour intervals based on topographic survey, USGS data, or other statewide approved data source at one-foot intervals	G	R	R	R
Erosion and Sediment Control Plan	G	R	R	R
Grading Plan	G	R	R	R
<b>Utilities and Other Infrastructure</b>				
Water supply and distribution plan	G	R	R	R
Sewage collection and treatment plan	G	R	R	R
Additional utilities and infrastructure including gas, communications, and electricity	G	R	R	R
<b>Other</b>				
Construction phases including the boundaries and approximate completion date of each phase	G	R	R	R
Copies of and a summary of deed restrictions for the new the subdivision, 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 Planning and Zoning Committee		G	R	R
List of regulatory approvals need including, but not limited to, environmental permits, conditional use approvals, special exceptions, variances, rezoning	G	R	R	R
Any additional information needed for staff and officials involved in plan review to make an informed decision or recommendation	R	R	R	R



**Figure 5. Development-Plan Review Process**

**§ 15-4. Administrative Reviews and Variances****A. Application and Review Process.****1. Application Submission.**

- a. Applications for administrative review and variances shall be filed in the office of the Board of Adjustment. The Administrator may provide forms to facilitate application processing.
- b. Applications shall be made in writing and shall provide the following information.
  - (1) Information about the owner and applicant.
  - (2) Statement of the type of relief, permission, or review requested.
  - (3) Information about the property for which the application or review is being made
  - (4) Information to support the application.
    - a) Information about the property for which the application or review is requested; or
    - b) Identification of the provisions of this Land Use and Development Code, with which the application must comply, and statements as to how the application complies with those provisions.
  - (5) Plans or drawings that support or clarify the relief or permission requested.
  - (6) For variances in flood-prone areas—See § 8-2.G.
  - (7) Other information requested by the Board of Adjustment during the review process

**2. Planning and Zoning Committee Review—**The Planning and Zoning Committee shall review each application for administrative review or variance at a regular or special meeting and forward a recommendation to the Board of Adjustment as soon as practicable after receiving a complete application. An application shall be considered complete when it contains all the information set forth in § 15-5.B.1.**3. Burden of Proof on Applicant—**An applicant for an administrative review, a variance, or a special exception shall have the burden of presenting the information needed by the Board of Adjustment to make a determination.**4. Board of Adjustment Hearing—**Pursuant to Title 22, § 326 of the *Delaware Code*, 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.**a. Scheduling—**The Board of Adjustment shall hold a public hearing on each application for administrative review or variance scheduled so as to allow sufficient time for the Planning and Zoning Committee to submit its recommendation.**b. Public Notice.****(1) Contents—**The public notice shall specify the time, place, and nature of the hearing.**(2) How Given—**At least 7 days prior to the public hearing, the following notices shall be in place.**a) Publication—**A notice shall be published in a newspaper of general circulation.**b) Town Hall—**Notice shall be posted at Town Hall.**c) Parties in Interest—**Pursuant to Title 22, § 326 of the *Delaware Code*, due notice to the parties in interest shall be given.**c. Public Hearing.****(1) The hearing shall take place no fewer than 7 days following the giving of public notice pursuant to § 15-4.A.4.b.****(2) The Board of Adjustment's hearing shall be conducted, and applications shall be acted on as specified in § 2-2.B of this Land Use and Development Code.****(3) The Board of Adjustment may attach conditions to approvals of applications.**

5. Relationship to Development-Plan Review.
  - a. Approval of an application by the Board of Adjustment does not supersede or obviate the need for complying with any Development-Plan Review standards or requirements.
  - b. The Board of Adjustment may condition approvals on satisfactory compliance with applicable Development-Plan Review standards.
6. Duration, Revocation, and Extension.
  - a. The duration of an approved application is 12 months from its approval date.
  - b. If a landowner, developer, agent, representative, or designee fails to make substantial progress in developing the land within 12 months, the application is automatically revoked.
  - c. The Board of Adjustment may grant only one (1), 6-month extension and only if an applicant can demonstrate that delays were beyond his/her control.
7. Reapplications and Appeals.
  - a. Limitation on Reapplications—The Board of Adjustment shall not hear or accept an application requesting the same relief or permission for the same property for a period of 12 months from that date of a decision taking action on the application.
  - b. 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 *Delaware Code*.
- B. Administrative Review.
  1. Purpose—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 Land Use and Development Code.
  2. Who May Appeal—Pursuant to Title 22, Section 324 of the *Delaware Code*, appeals to the Board of Adjustment may be made by any person aggrieved, or by any officer, department, board, or bureau of the Town affected by any decision of the Administrator.
  3. Procedure—In order for the Board of Adjustment to conduct an administrative review,
    - a. The Administrator shall issue a written interpretation, requirement, decision, or determination. The Administrator’s written product shall include information about the applicant’s/property owner’s situation, request, inquiry, etc. and references to pertinent sections of this Land Use and Development Code to support the interpretation, requirement, decision, or determination.
    - b. The Administrator shall make every effort to present the written product to the applicant including, but not limited to, return-receipt mailing.
    - c. The applicant shall file a written request for Administrative Review within 30 days after receiving written notice of the Administrator’s action.
  4. Stay of Proceedings—Pursuant to Title 22, Section 325 of the *Delaware Code*, 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. Variances.**

1. **Definition**—A variance is relief from the strict application of the provisions of this Land Use and Development Code when, owing to special conditions or exceptional situations, a literal interpretation of this Land Use and Development Code will result in exceptional practical difficulties to the property owner.
2. **Required Findings**—Pursuant to Title 22, Section 327(a)(3) of the *Delaware Code*, the Board of Adjustment shall determine whether each variance application meets the following criteria.
  - a. The variance relates to a specific parcel of land, and the hardship is not shared generally by other properties in the same zoning district and vicinity.
  - b. The variance can be granted without substantial detriment to the public good.
  - c. The benefits from granting the variance would substantially outweigh any detriment.
  - d. Approval of the variance would not substantially impair the intent and purposes of the comprehensive plan or this Land Use and Development Code.
3. **Additional Considerations**—The Board of Adjustment shall also consider the following factors in reaching its decision on each variance application sometime referred to as the *Kwik Check* Factors.
  - a. Nature of the zone where the property lies.
  - b. Character of the immediate vicinity.
  - c. Whether the restrictions, if lifted, would affect neighboring properties and uses.
  - d. Whether the restriction would tend to create a hardship on owner in relation to normal improvements.
4. **Special Standards Governing Variances in Flood-Prone Areas**—See § 8-2.G.
5. **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 Land Use and Development Code.
  - b. **Nonconforming Situations Not Grounds for Variance**—Nonconforming lots, structures, uses, or signs shall not be considered grounds for granting variances.

**§ 15-5. Conditional-Use Permits**

- A. **Definition**—Conditional-use permits are for uses that are generally desirable for the general convenience and welfare, but, because of their nature, require additional review to assess their impact on neighboring properties and the entire Town.
- B. **Application, Review, and Approval Process.**
  1. **Application Submission.**
    - a. Applications for conditional use permits shall be submitted to the Administrator.
    - b. Applications shall be made in writing and shall provide the following information.
      - (1) Information about the owner and applicant.
      - (2) Statement of the type of relief, permission, or review requested.
      - (3) A statement describing the property for which the application or review is being made and a map showing its location.
      - (4) A statement identifying the requirements of this Land Use and Development Code affecting the application.
      - (5) A statement as to how the applicant's proposal complies with pertinent requirements.
      - (6) Plans or drawings that support or clarify the relief or permission requested.
    - c. The Planning and Zoning Committee or the Town Council may request any additional information needed to make an informed decision.
  2. **Planning and Zoning Committee Review**—The Planning and Zoning Committee shall review each Conditional-Use application at a regular or special meeting and forward a recommendation to the Town Council as soon as practicable after receiving an application that provides all of the information set forth in § 15-5.B.1.b.

3. Burden of Proof on Applicant—An applicant for a conditional use permit shall have the burden of presenting the information needed by the Town Council to make a determination.
- C. Required Findings—The Town Council, after receiving the Planning and Zoning Committee’s recommendation, shall determine whether each Conditional-Use application meets the following conditions.
  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. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Land Use and Development Code.
  8. Meets all other Additional Requirements for Certain Conditional Uses.
- D. Town Council Approval.
  1. The Town Council shall review and take action on each conditional-use application at a regular or special meeting scheduled so as to allow sufficient time for the Planning and Zoning Committee to submit its recommendation.
  2. The Town Council may attach conditions to approvals of applications.
  3. Approval of an application by the Town Council does not supersede or obviate the need for complying with any Development-Plan Review standards or requirements.
  4. The Town Council may condition approvals on satisfactory compliance with applicable Development-Plan Review standards and/or may request that the Planning and Zoning Committee conduct Development-Plan Review in conjunction with its recommendation on an application.
  5. RESERVED.
- E. Duration, Revocation, Extensions, Expiration.
  1. Duration—The duration of an approved conditional-use application is 1 year following its approval date.
  2. Revocation—If the applicant, owner, or agent fails to make substantial progress in developing or construction on the property within 1 year of the approval date, the conditional use approval is automatically revoked.
  3. Extensions—The Town Council may grant one, 6-month extension for good cause especially when an applicant can demonstrate that delays were beyond his/her control.
  4. Expiration—Conditional-use approvals expire when the property is not used for the purposes of the conditional use for a period of six (6) consecutive months.
  5. The Town Council has the power to revoke a conditional use approval if the applicant or occupant of the property fails to meet any of the conditions of approval. A property owner or occupant shall have 15 calendar days from the date of the revocation notice to file a written appeal requesting a hearing before the Board of Adjustment.
  6. The Town Council may cause as a condition of approval that a notice of the conditional use approval, including the terms thereof and the grounds for expiration or revocation of the approval, be recorded with the Kent County Recorder of Deeds.
- F. Additional Requirements for Certain Conditional Uses—The following requirements are in addition to the Required Findings in § 15-5.C for the conditional uses listed below.
  1. Communications Towers.
    - a. Bulk Standards.

- (1) Setback from all lot lines—Equal to the height of the tower.
  - (2) Distance from other uses.
    - a) From overhead transmission lines—2 times the height of the tower.
    - b) From Residential Zones and institutional uses such as churches, educational institutions, daycare centers—2 times the height of the tower plus 200 feet.
  - b. Lighting—Except as required by the Federal Aviation Administration or other federal or state agencies, a tower may not have artificial or strobe lighting at night.
  - c. An application to erect a communications tower shall include the following information.
    - (1) Description of the tower including technical information regarding its design.
    - (2) A site and landscape plan.
    - (3) Documentation of the tower's structural integrity.
    - (4) Proof of ownership of or owner's written authorization to use the property on which the tower is proposed to be located.
    - (5) Statement of intent on whether space will be made available for other communications service providers.
    - (6) Written statement showing that there are no existing towers or other elevated structures that can provide the antenna platform and/or that co-location is infeasible or impractical.
    - (7) Written evidence of how the proposed tower complies with other laws and regulations governing communications towers particularly those of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA).
    - (8) Other information needed for the Town Council to review the application.
2. Conversion of a Single-Family Dwelling Unit into Multiple Dwelling Units.
  - a. Intent—To allow additional dwelling units in structures that are too large to be in demand for use as single-family dwellings, to accommodate 2 or more dwelling units.
  - b. Area Regulations.
    - (1) Net Lot Area per Dwelling Unit—2,000 square feet.
    - (2) Minimum Area per Family—600 square feet.
    - (3) Off Street Parking—2 per dwelling unit.
    - (4) Outside stairways and fire escapes shall not be located on any building wall facing a public street.
  - c. Exterior Features—Alterations to the exterior features of dwellings proposed for conversion shall be subject to review and approval of each application for conversion of a 1-family dwelling unit into multiple dwelling units.
3. Day Care Facilities.
  - a. Applicability—Day Care Center, Family Day Care Home, and Large-Family Day Care Home
  - b. The applicant shall demonstrate compliance with applicable state regulations.
4. Home-Based Businesses.
  - a. Definition—A home based business is 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
  - b. Applicability—The provisions of § 15-5.F.4 shall not apply to the following uses and activities. However, these uses and activities shall be subject to all other applicable standards of this Land Use and Development Code.
    - (1) Babysitting services defined as the occasional care of children.
    - (2) Garage sales, yard sales, occasional direct-sales event where items, such as cosmetics, kitchen accessories, jewelry, etc., are sold.
    - (3) Day Care. See § 15-5.F.3.
  - c. Permitted Home-Based Businesses.
    - (1) Offices for professionals, including architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate

- agents, accountants, editors, publishers, journalists, psychologists, contract managers, graphic designers, construction contractors, landscape designers, surveyors, cleaning services personnel, salespersons, manufacturers' representatives, and travel agents, and similar uses.
- (2) Personal services, including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering, and chauffeuring services, and similar uses.
  - (3) Instructional services, including music, dance, art and craft classes, tutoring, and similar uses.
  - (4) Studios for artists, sculptors, musicians, photographers, and authors, and similar uses
  - (5) Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking, and similar uses.
  - (6) Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines, and similar uses.
- d. Prohibited Home-Based Businesses.
- (1) Kennels, stables, veterinary clinics and hospitals.
  - (2) Medical clinics, dental clinics, hospitals.
  - (3) Restaurants, bars, and night clubs.
  - (4) Funeral homes and undertaking establishments.
  - (5) "Adult" uses.
- e. Operational Standards.
- (1) General—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) Operating Hours.
    - a) Customer and client visits to the home-based business are limited to the hours from 7:00 A.M. to 9:00 P.M.
    - b) These operational standards recognize that some home-based businesses occasionally rely on client/customer visits that last beyond 9:00 P.M. Examples of such home-based businesses include babysitting services, instructional services, and direct-sales events.
  - (3) Employees.
    - a) On-Premise Employees—A home-based business shall have not more than 1 non-resident employee on the premises at any 1 time.
    - b) Off-Premise Employees—The number of non-resident employees, working at locations other than the home-based business (i.e., off-premise), is not limited.
  - (4) Equipment—The operation of the home-based business, including equipment used therein, shall not:
    - a) Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines.
    - b) Generate noise that violates any Town 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.
  - (5) Outdoor Storage Prohibited—Materials utilized in the home-based business shall be stored inside of the building or structure used for the home-based business.

5. Veterinary Clinics and Hospitals.
  - a. Applicability—This Subsection applies to the following.
    - (1) Animal Hospital—A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.
    - (2) Animal Clinic—A place where animals are given medical care on an outpatient basis and where such examination and treatment generally require a stay of less than 24 hours
  - b. No open pens, runs, kennels or cages shall be located within 100 feet of land that is used or zoned residential.
  - c. The Town Council may limit the number of animals that can be cared for at any one time.
6. Country Club.
  - a. Definition—A country club is a recreational facility, usually restricted to members and their guests, which generally includes a clubhouse, dining and eating establishments, and recreational facilities such as golf course(s), tennis courts, and swimming pools.
  - b. All buildings shall be set back at least 120 feet from all property lines.
7. Golf Course.
  - a. Definition—A golf course is a tract of land laid out for at least 9 holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shops, and practice facilities.
  - b. Minimum Lot Sizes.
    - (1) Regulation—150 acres.
    - (2) Executive—40-75 acres.
    - (3) Par 3—30 acres.
  - c. All buildings shall be set back at least 120 feet from all property lines.
8. Kennel, Non-Commercial.
  - a. Definition—See Definitions in this Land Use and Development Code.
  - b. Minimum Lot Size—1 acre.
9. Boardinghouse
  - a. A boarding house shall only be permitted in a single family detached dwelling.
  - b. A maximum of three boarders shall be permitted in any one dwelling unit.
  - c. The owner shall reside in the same or an immediately adjacent building.
  - d. The structure must be in conformance with the Delaware State Housing Code.

#### § 15-6. Text and Map Amendments

- A. General—Pursuant to Title 22, Sections 304 and 702(c) of the *Delaware Code*, the Town Council may amend, supplement, change, or modify the number, shape, area, boundaries of the zoning districts (Rezoning or Zoning Map Amendment), or may amend, supplement, change, or modify the text of the regulations (Text Amendment) contained in this Land Use and Development Code.
- B. Types of Amendments.
  1. Text Amendment—Addition, supplement, change, or modification to the text of this Land Use and Development Code.
  2. Zoning Map Amendments.
    - a. Comprehensive Rezoning—Rezoning of the entire municipality following the adoption of a comprehensive plan pursuant to Title 22 Section 702(c) of the *Delaware Code*.
    - b. Local Rezoning—Change(s) in zoning district(s) for one or more parcels outside of the comprehensive rezoning process.
- C. Planning and Zoning Committee Recommendation—The Planning and Zoning Committee shall review each text and map amendment application at a regular or special meeting and forward a recommendation to the Town Council pursuant to Title 22, Section 708 of the *Delaware Code*.
- D. Public Hearing.
  1. Town Council to Hold Hearing.



- a. Pursuant to Title 22, Section 304 of the *Delaware Code*, the Town Council shall hold a public hearing on each ordinance proposing an amendment to the text of this Land Use and Development Code or the Zoning Map.
    - b. The Town Council shall set a public hearing date that allows sufficient time for the Planning and Zoning Committee to submit its recommendation pursuant to Title 22, Section 708 of the *Delaware Code*.
  2. Public Notice—As provided for in Title 22, Section 304 of the *Delaware Code*,
    - a. At least 15 days' notice of the public hearing shall be published in an official newspaper of general circulation in the Town.
    - b. The notice shall provide information about the nature of the proposed amendment and announce the time and the place for the public hearing.
  3. Conduct of Public Hearing.
    - a. The Planning and Zoning Committee's recommendation shall be presented at the public hearing and made a part of the hearing record.
    - b. All interested parties and citizens shall be given an opportunity to be heard as required in Title 22, Section 304 of the *Delaware Code*.
  4. Review Criteria.
    - a. Text Amendment.
      - (1) The relationship of the proposed change to the general purpose and intent of this Ordinance and the Comprehensive Plan.
      - (2) Information as to why the existing zoning text should be changed.
    - b. Local Map Amendment.
      - (1) Facts existing in the vicinity of the proposed change and the relationship of the proposed change to the general purpose and intent of the comprehensive plan.
      - (2) Whether the proposed zoning classification is in accordance with the land uses provided for in the comprehensive plan.
    - c. Comprehensive Rezoning—Pursuant to Title 22, Section 702(c) of the *Delaware Code*, land shall be placed only in a zoning classification that is in accordance with the uses of land provided for in the comprehensive development plan.
  5. Adoption Procedure—An amendment to the text or map of this Land Use and Development Code shall be adopted by Ordinance.
  6. Notice of Adoption—Following the adoption or denial of an amendment to the text of this Land Use and Development Code or the Zoning Map, notice of such action shall be published in an official newspaper of general circulation in the Town pursuant to Title 10, Section 8126(a) of the *Delaware Code*.
- E. Limitation on Reapplication—No application for an amendment, supplement, change, modification, or repeal requesting the same relief with regard to the same property shall be received for a period of 1 year following the decision in the matter by the Town Council.

#### **§ 15-7. Violation and Penalties**

- A. The Administrator is authorized and directed to institute any appropriate action to put an end to the following violations.
  1. Where any building is erected, constructed, reconstructed, altered, repaired, or converted in a manner that violates the provisions of this Land Use and Development Code.
  2. Where any building or land is used in violation of this Land Use and Development Code.
- B. Pursuant to Section 18 of the Wyoming Town Charter, any person or corporation who shall violate any of the provisions of this Land Use and Development Code or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved by the Town shall be in violation of this Code and may be assessed a civil penalty of \$100.00 per offense. All citations for violations of this Code shall be in written form and shall indicate that a property owner or other interested party may appeal the citation

to the Board of Adjustment within 15 business days of the date the citation was mailed to the property's address and, if different, to the property owner's last known address on file with the town, which mailing shall be by both regular mail and certified mail, return receipt requested. If the appeals period expires without the violation being remediated or an appeal being filed, or if an appeal is filed and the Board of Adjustment affirms the citation and the property owner does not remediate the violation within 5 business days of the date of the Board's decision, the Town may impose civil penalties as prescribed herein. Pursuant to 25 Del. C. § 2901, civil penalties assessed for violations of the Code that are not paid within 30 days may be added to the property tax bill for the property that was the subject of the violation.

- C. Each and every day that a violation continues shall be deemed a separate offense.

**Article 16. Definitions**

**ADJACENT**—Physically touching or bordering upon; sharing a common boundary, but not overlapping; abutting; adjoining.

**AGRICULTURE**—Production, storage, keeping, harvesting, grading, packaging, processing, boarding, or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to, the following: (1) Forages and sod crops; (2) Grains and seed crops; (3) Dairy animals and dairy products; (4) Poultry and poultry products; (5) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing or any or all of such animals; (6) Bees and apiary products; (7) Fur animals; (8) Trees and forest products; (9) Fruits of all kinds, including grapes, nuts, and berries; (10) Vegetables; (11) Nursery, floral, ornamental, and greenhouse products; and (12) Lands devoted to a soil conservation or forestry management program.

**ALLEY**—A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

**ALTERATION**—Any change in or rearrangement of the supporting members of an existing building, such as bearing walls, columns, beams, girders, roof, exterior walls, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from 1 location to another.

**ANIMAL SHELTER**—A facility used to house or contain stray, homeless, abandoned or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

**APPLICANT**—A person submitting an application for development or any other permit or permission required in this Land Use and Development Code; includes, but is not limited to, a corporation, company, association, society, firm partnership, joint stock company, individual, a state, and political subdivisions of a state or any agency or instrumentality thereof.

**ARCHITECT**—An individual licensed to practice the profession of architecture by the State of Delaware.

**AUTOMOBILE**—A self-propelled, free-moving vehicle, with not more than 2 axles, usually used to transport passengers and licensed by the appropriate state agency as a passenger vehicle.

**AUTOMOBILE SALES**—Use of land and buildings for the display, sale, rental, or lease of new or used automobiles, light trucks, vans, trailers, recreation vehicles or sport utility (SUVs).

**AUTOMOBILE SERVICE STATION**—Building, land, or premises used for the retail dispensing or sales of vehicular fuels, servicing and repair of motor vehicles and, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

**BASEMENT**—A space having less than half of its height below ground.

**BED AND BREAKFAST**—A lodging place with no more than 4 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.

**BEST MANAGEMENT PRACTICES (BMPS)**—Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control nonpoint source pollutants yet are compatible with the productive use of the resource to which they are applied. These are used in both urban and agricultural areas.

**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. See Figure 8.

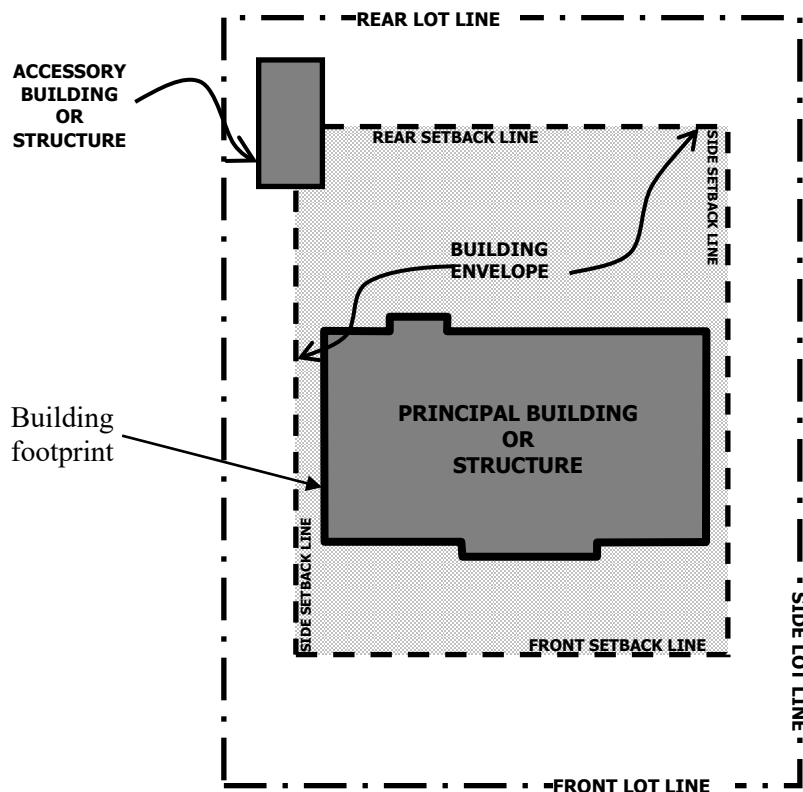
**BOARDING HOUSE** - A dwelling unit in which one or more rooms are rented or are designed or intended to be rented, but such rooms do not have bath and kitchen facilities and do not constitute separate dwelling units.

**BUILDING**—Any structure (See “Structure” in this Article) 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 principal building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use. See Figure 7.

**BUILDING, PRINCIPAL**—A structure in which is located the primary use of the lot on which it is located. See Figure 7.

**Figure 6. Principal and Accessory Buildings and Structures**



**BUILDING FOOTPRINT**- The land area covered by a principal building and any accessory buildings, including steps, porches, and decks, but not including heat pumps, heaters, or air-conditioning units as long as such equipment is immediately adjacent to the principal building.

**BUILDING HEIGHT**—The apex (highest point) of the tin roof vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof.

**BUILDING LINE**—A line parallel to the street line touching that part of a building closest to the street.

**CEMETERY**—Property used for the interment of the dead.

**CENTERLINE**—The center line of any street, highway, or road, or any stream, lake, or other body of water shown on any official Town, County, or State records.

CLUB—A group of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render services customarily carried on by commercial businesses.

COMPREHENSIVE PLAN—A document in text and maps prepared and adopted by the municipality in accordance with Title 22, Section 702 of the *Delaware Code*.

CONCEPT PLAN - An informal drawing of a development plan of sufficient accuracy to be used for discussion only

CONDITIONAL USE - Uses that are generally permitted in a particular zoning district when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in this Ordinance in order to assess and mitigate their impact on neighboring properties and the Town.

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

COUNTY—Kent County, Delaware.

CONDOMINIUM—A legal form of real estate ownership—not a type of dwelling unit or building style—where a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually; and the structure, common areas, facilities and the land, on which the structure, common areas, and facilities are built, are owned by all the owners on a proportional, undivided basis.

CUL-DE-SAC—A street with a single common ingress and egress with a turnaround at the end.

DAY CARE CENTER—An establishment providing for the care, supervision, and protection of persons away from their homes.

DAY CARE CENTER, ADULT—An establishment providing health, social, and related support services for the elderly and/or functionally impaired adults in a protective setting for part of a day, including, but not limited to, those centers licensed and regulated by the State Department of Health and Social Services pursuant to Title 16, Chapter 4402 of the *Delaware Administrative Code*.

DAY CARE, CHILD—Child day care includes the following types of facilities.

FAMILY CHILD CARE HOME—A private home in which care, education, protection, supervision, and guidance is provided on a regular basis for 1 to 6 children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 103 of the *Delaware Administrative Code*.

LARGE FAMILY CHILD CARE HOME—A private home in which care, education, protection, supervision and guidance is provided on a regular basis for 7 to 12 children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 104 of the *Delaware Administrative Code*.

CHILD DAY CARE CENTER—A place that provides care, protection, supervision and guidance for 13 or more children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 101 of the *Delaware Administrative Code*.

DGS—Delaware Geological Survey.

DNREC—The Delaware Department of Natural Resources and Environmental Control.

DEVELOPMENT—Development means any of the following.

- Subdivision as defined in this Land Use and Development Code;
- The construction, reconstruction, conversion, alteration, relocation, or enlargement of any structure;
- Any mining, excavation, landfill, or land disturbance;

- Any use or extension of the use of land;
- Any action requiring “Development-Plan Approval” as provided for in this Land Use and Development Code.

**DEVELOPMENT PLAN** - A plan prepared and certified by a land surveyor registered with the State of Delaware Board of Professional Land Surveyors or by a professional engineer registered with the Delaware Association of Professional Engineers, describing how a property will appear if the proposed development application is approved, including detailed drawings of proposed improvements. The development plan shall conform to the specific requirements outlined in this chapter.

**DISTRIBUTION CENTER**—An establishment that stores and distributes goods, products, cargo, and materials, including shipment by boat, rail, air, or motor vehicle.

**DelDOT**—The Delaware Department of Transportation.

**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 that is attached to or shares a common vertical wall with 1 or more single-family dwellings.

**DWELLING, DETACHED**—A building containing 1 dwelling unit that is not attached to any other dwelling by any means, is surrounded by open space or yards, and does not have any roof, wall, or floor in common with any other dwelling unit.

**DWELLING, GARDEN APARTMENT**—One (1) or more 2- or 3-story multi-family structures, generally built at a gross density of 10-15 dwelling units per acre, with each structure containing between 8 and 20 dwelling units and including related off-street parking, open space, and recreational facilities.

**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 is built in accordance with Federal Manufactured Home Construction and Safety Standards, which became effective on June 15, 1976.

**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 the Federal Home Construction and Safety Standards became effective.

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

**DWELLING, MULTI-FAMILY**—A building containing 3 or more dwelling units, including units that are located one over the other.

**DWELLING SEMI-DETACHED**—A 1-family dwelling attached to one other 1-family dwelling by a common vertical wall, with each dwelling located on a separate lot, and often referred to as a “duplex,” or “twin.”

**DWELLING, SINGLE-FAMILY DETACHED**—See “DWELLING, DETACHED.”

**DWELLING, TOWNHOUSE**—A single-family dwelling in a row of at least 3 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 1 or more vertical common fire-resistant walls.

**DWELLING, 2-FAMILY**—A building on a single lot containing 2 dwelling units arranged either: (1) side by side, where each unit is totally separated from the other by an unpierced wall extending from ground to roof; OR (2) one on top of the other, where each unit is separated from the other by an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**DWELLING UNIT**—One (1) or more rooms, designed occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

**EASEMENT**—Authorization afforded a property owner for the use of another's property for a specified purpose.

**EDUCATIONAL INSTITUTION**—Any school 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.

**ENGINEER**—An individual licensed to practice the profession of engineering by the State of Delaware.

**EROSION**—Detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice, or gravity.

**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. The term "single-housekeeping unit" means common use of and access to all living and eating areas, bathrooms, and food-preparation and serving areas. For purposes of this Land Use and Development Code, the term "family" does not include any society, club, fraternity, sorority, association, lodge, federation, or similar organizations; or any group of individuals in group living arrangements as a result of criminal offenses.

**FILL**—Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans usually to form an embankment or raise the elevation of the land surface.

**FLOOD, 100-YEAR**—Same as "Base Flood."

**FLOODPLAIN**—Any land area susceptible to being inundated by flood waters from any source. See § 8-2.  
**FRONTAGE**—The side of a lot that abuts a street.

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

**GASOLINE STATION**—Any building, land area, premises, or portion thereof, where gasoline or other petroleum products or fuels are sold and light maintenance activities such as engine tune-ups, lubrication, incidental repairs and carburetor cleaning may be conducted. Gasoline station shall not include premises where heavy automobile maintenance activities such as engine overhaul, automobile painting, and body or fender work are conducted.

**GLARE**—A direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.

**GOVERNMENT FACILITIES AND SERVICES LOCAL**—Provided by the Town of Wyoming.

**GOVERNMENT FACILITIES AND SERVICES, NON-LOCAL**—Provided by a governmental entity other than the Town of Wyoming.

**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 4 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 2 or more non-related individuals requiring a license under Title 16, Chapter 10, Section 1003, of the *Delaware Code*, but does not include sanatoriums, rest homes, nursing homes, or boarding homes.

**INDUSTRY**—Those fields of economic activity including: forestry, fishing, hunting, and trapping; mining; construction; manufacturing; transportation; communication, electrical, gas, and sanitary services; and wholesale trade.

**JUNK**—Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition; examples of which include, but are not limited to, unregistered and inoperable vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood, and lumber.

**KENNEL, COMMERCIAL**—A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

**KENNEL, NON-COMMERCIAL**—The keeping, breeding, raising, showing, or training of 4 or more dogs or cats over the age of 6 months solely for the personal enjoyment of the owner or occupant of the property and not for a fee or compensation.

**LANDSCAPE ARCHITECT**—An individual licensed to practice the profession of landscape architecture by the State of Delaware.

**LANDSCAPE PLAN**—A plan associated with a subdivision or land development plan indicating the placement of trees, shrubs, ground cover, and affiliated structures and improvements, including specifications, species, quantities, and installation as prepared by a Delaware registered landscape architect.

**LANDSCAPING**—The design and installation of plant material such as lawns, ground cover, trees, bushes, etc., informal, informal, or natural arrangements.

**LAND SURVEYOR**—An individual licensed to practice the profession of land surveying by the State of Delaware.

**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 Figure 8.

**LOT, CORNER**—A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

**LOT, FLAG**—A lot where access to the public road is by a private right-of-way or driveway, sometimes called a pipe-stem or panhandle lot.

**LOT, INTERIOR**—A lot other than a corner lot.

**LOT, THROUGH**—A lot that fronts on either 2 parallel streets or two streets that do not intersect at the boundaries of the lot, i.e., a corner lot; also called a double-frontage lot.

**LOT DEPTH**—The average distance measured from the front lot line to the rear lot line.

**LOT FRONTAGE**—The length of front lot line measured at the street right-of-way line.

**LOT LINE**—A line of record bounding a lot that divides 1 lot from another lot, a public street, or any other public space.

**LOT LINE, FRONT**—The lot line separating a lot from a street right-of-way.

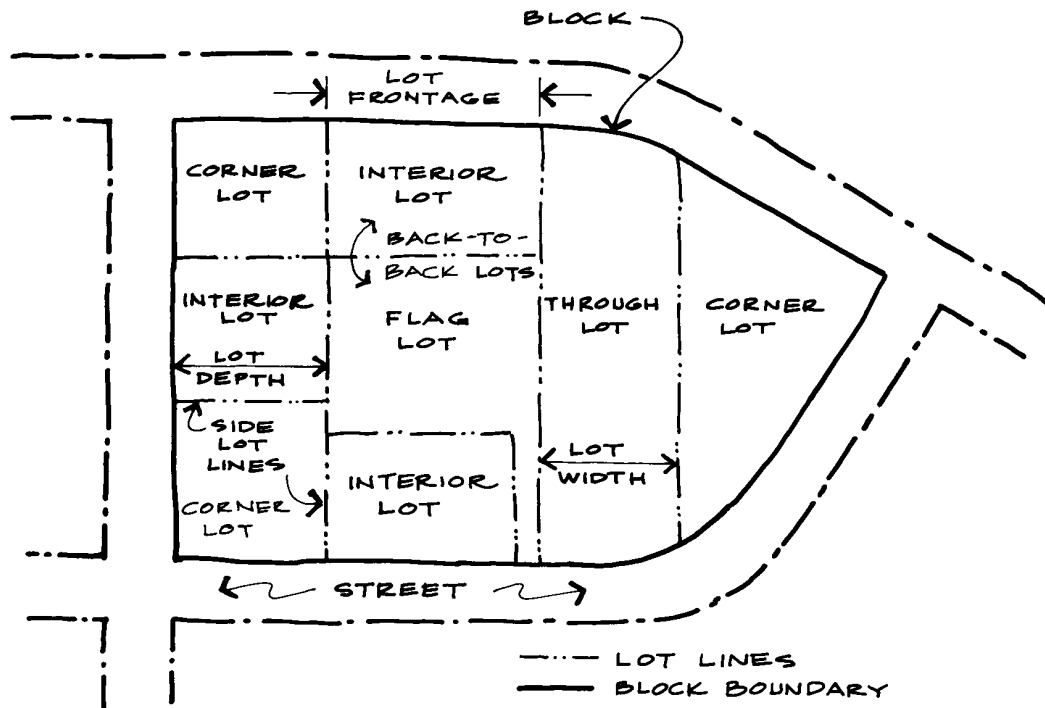


**LOT LINE, REAR**—The line opposite and most distant from the front lot line.

**LOT LINE, SIDE**—Any lot line other than a front or rear lot line.

**LOT 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.

**Figure 7. Lots**



**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 Kent County Recorder of Deeds.

**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; includes all mechanical or chemical transformations regardless of whether the new product is finished or is semi-finished as a raw material for further processing.

**MEDICAL CLINIC**—An establishment where patients are admitted for examination and treatment on an outpatient basis by 1 or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

**MOTOR VEHICLE**—A self-propelled device licensed as a motor vehicle used for transportation of people or goods over roads.

**NURSING AND CARE FACILITIES**—Residential facilities providing shelter and food to more than 1 person who:

- Because of physical and/or mental condition, require a level of care and services suitable to their needs to contribute to their health, comfort, and welfare; and

- Are not related within the second degree of consanguinity to the controlling person or persons of the facility;
- Include, but are not limited to, facilities licensed and regulated pursuant to Title 16, Chapter 11 of the *Delaware Code*, such as, nursing facilities (commonly referred to as nursing homes), assisted living facilities, intermediate care facilities for persons with mental retardation; neighborhood group homes; family care homes; and rest residential facilities.

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

OPEN SPACE -- Land area to be left unimproved or undeveloped as part of natural resource preservation, recreation, bufferyards, or other open space provisions of this chapter. Open space excludes areas in lots, street rights-of-way, and parking, unless otherwise specified.

OPEN SPACE, USEABLE – The minimum required area of land and water, or a combination thereof, within a development site that is designed and intended for the use or enjoyment of residents of a development and does not include streets, off-street parking areas, areas set aside for public facilities, retention ponds, and required setbacks and buffers.

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.

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 Town government.

PUBLIC SAFETY FACILITY—A building or structure used for the provision of public safety services, such as fire protection, emergency medical, police, homeland security, and rescue operations.

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.

RECORDER OF DEEDS—The Recorder of Deeds for Kent County, Delaware.

RECREATION, ACTIVE—Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment, and occurring at prescribed places, sites, or fields; examples of which include, but are not limited to, swimming; court games such as tennis and handball; field sports such as baseball, field hockey, track, and soccer; and playground activities.

RECREATION, PASSIVE—Activities that are less intensive or less energetic than active recreation activities, such as walking, sitting, picnicking, table games, and nature observation.

RECREATION FACILITY—A place designed and equipped for the conduct of sports and leisure-time activities.

RESTAURANT—(1) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building; (2) 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 SALES ESTABLISHMENTS**—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 the following: (1) Engages in activity to attract the general public to buy; (2) Buys, receives, and sells merchandise; (3) May process or manufacture some of its products—a jewelry store or a bakery—but processing is secondary to principal use; and (4) Generally sells to customers for personal or household use.

**RETENTION POND** – A pond, pool, or basin used for the permanent storage of water runoff.

**RIGHT-OF-WAY**—Land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use.

**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.

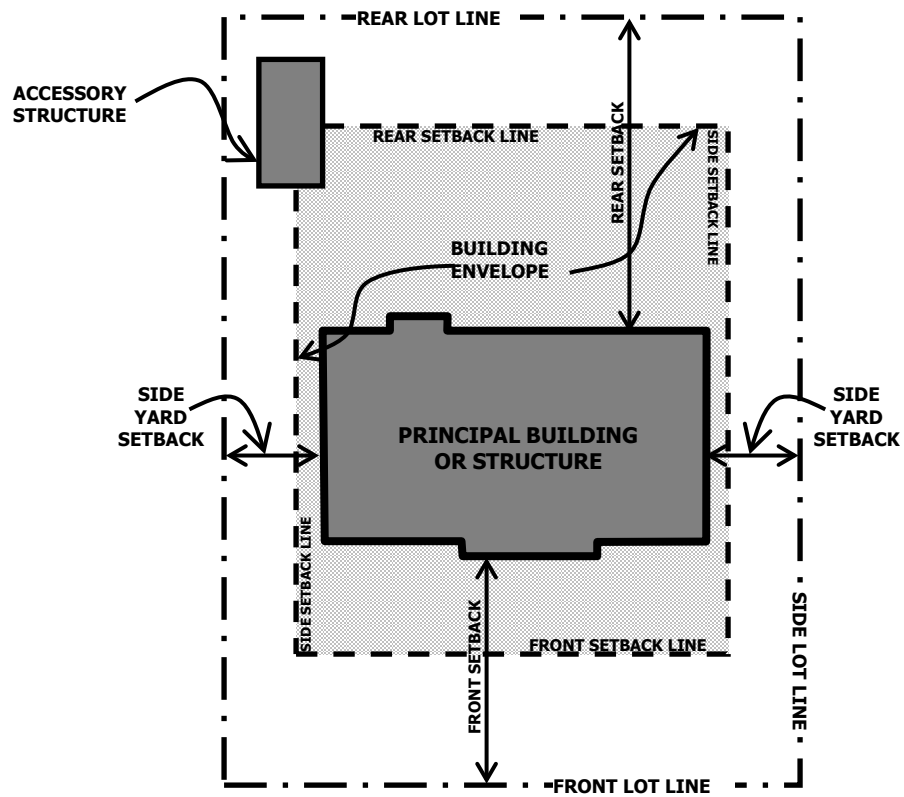
**SERVICES, BUSINESS**—Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial 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 eating and drinking places, 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 Figure 9. See also “Yard.”

**Figure 8. Setbacks**

**SMALL WIND ENERGY SYSTEM** - A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics which is intended to primarily reduce on-site consumption of utility-supplied energy.

**SOLAR ENERGY SYSTEM** – Any solar collector or other solar energy device or any structural design feature mounted on a building or on the ground, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, for water heating, or for electricity.

**STATE**—The State of Delaware.

**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 5 feet above the level from which the height of the building is measured or if it is used for business purposes other than storage.

**STREET**—Any vehicular way that: (1) is an existing State, County, or Town 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 Kent County Recorder of Deeds prior to the appointment of the Planning and Zoning Planning and Zoning Committee and the grant of power to review plats. Street includes the land between the right-of-way lines, whether improved or unimproved.

**STREET, ARTERIAL** – A major thoroughfare designed to provide vehicular access to both local and regional traffic and generally owned and maintained by DelDOT.

**STREET, BOULEVARD** – A divided collector street utilizing one-way traffic movements and divided by a minimum eight-foot-wide landscaped island.

**STREET, COLLECTOR**— A secondary street designed to connect residential streets to the arterial street system. An example of a collector street is the main entrance into a residential subdivision.

**STREET, PRIVATE**—A street that has not been accepted by the Town or the State.

**STREET, PUBLIC**—A street that has been accepted by the Town or the State.

**STREET, RESIDENTIAL**. A minor or local street designed to serve residential lots fronting on it and to connect to a collector street.

**STREET FRONTAGE**—See “Frontage.”

**STREET LINE**—The line between a lot, tract, or parcel of land and an adjacent street.

**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.

**SUBDIVISION**—“Subdivision” means any of the following.

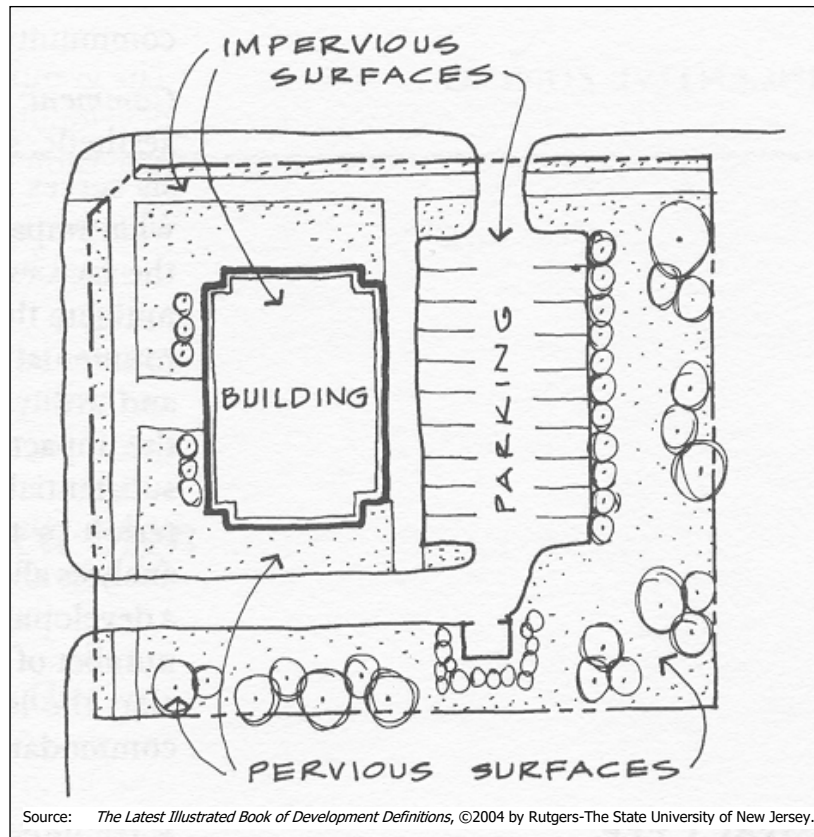
- Division or partition of any tract or parcel of land into 2 or more plots, parcels, units, lots, condominiums, tracts, sites, or interests for the purpose of offer, sale, lease, development, whether immediate or future; either on an installment plan or upon any other plans, terms, or conditions; or for any other purpose;
- Assemblage or consolidation of 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;
- Division or assemblage of land involving any of the following;
- Opening, widening, or extension of any streets or access easements;
- Extension of any electrical, sewer, water or any other utility line;
- Condominium creation or conversion.

**SUBDIVISION, MINOR**—The combination, partition, and/or lot line adjustment of three parcels or less where all such parcels are located on existing street, or on an approved street in an approved subdivision, and do not involve any new street, or road, or the extension of public utilities, including but not limited to water, sewer, and electric services.

**SURFACE, IMPERVIOUS**—A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. See Figure 10.

**SURFACE, PERVIOUS**—Any material that permits full or partial absorption of stormwater into previously unimproved land. See Figure 10.

**Figure 9. Impervious and Pervious Surface**



**SURGICAL CENTER**—A facility where outpatients come for simple surgical procedures and are not lodged overnight.

**SWIMMING POOL**—A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having depth of more than 30 inches designed, used, and maintained for swimming and bathing.

**TOWN**—"The Town of Wyoming" as exists pursuant to Section 1 of the *Wyoming Town Charter* as existing or amended subsequently.

**TOWN COUNCIL**—The mayor and 4 council members as described in Section 3.1 of the *Wyoming Town Charter* as existing or amended subsequently; i.e., the governing body of the Town.

**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—Relief from the strict application of the provisions of this Land Use and Development Code when, owing to special conditions or exceptional situations, a literal interpretation of this Land Use and Development Code will result in exceptional practical difficulties to the property owner. See § 2-2.D.2 and § 15-4.

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.

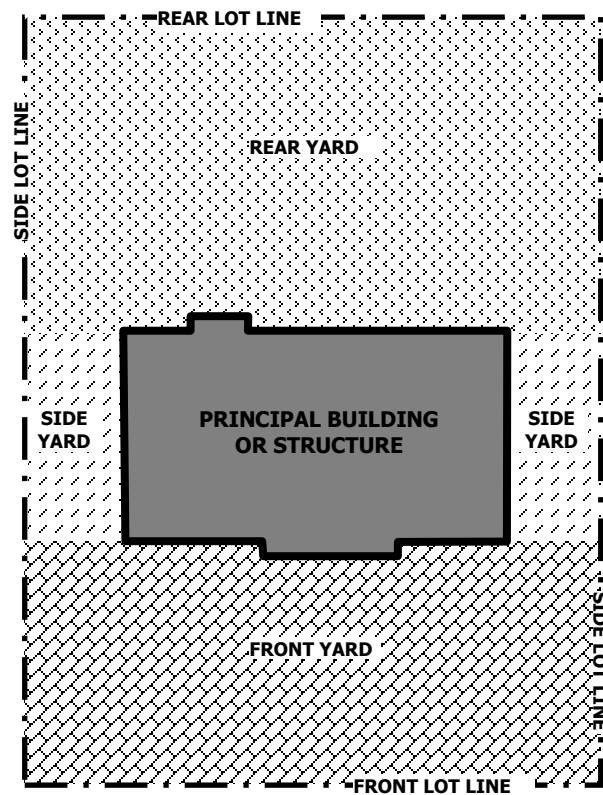
YARD—An open space that lies between the principal building or buildings and the nearest lot line. See Figure 11.

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.

See also, “Setback Line.”

**Figure 10. Front, Side, and Rear Yards**

**ZONING DISTRICT**—A specifically delineated area in the Town within which uniform regulations and requirements govern the use, placement, spacing, area, height, and bulk of land and buildings.