

Jermaine D. Hatton, Mayor
John Ness, Councilman
Lorraine Gorman, Councilwoman
Cindy Cook, Councilwoman
Rudolph Sutton, Jr., Councilman



Dawson Green, Town Manager
Cathy Beaver, Town Clerk
Owen Hyne, Town Engineer
Fred Townsend, III, Town Attorney

Introduced by: Mayor Jermaine Hatton
Introduction on: February 17, 2016

ORDINANCE NO. 16-03

AN ACT TO AMEND CHAPTER 66 OF THE CODE OF ORDINANCES OF THE TOWN OF TOWNSEND IN ORDER TO ESTABLISH A PLANNING COMMISSION AND REVISE THE PROCEDURES FOR AMENDING THE ZONING AND UNIFIED DEVELOPMENT CODE (CHAPTER 66) AND ZONING MAP

WHEREAS, Title 22, Section 305 of the *Delaware Code* authorizes that municipal zoning "... regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed;" and;

WHEREAS, pursuant to Title 22, Section 301 and 701 of the *Delaware Code*, the Town Council desires to establish a Planning Commission and revise the procedures for amending the *Zoning and Unified Development Code* and zoning map; and,

WHEREAS, pursuant to Section 66-129 (UDC 2002, § 907) of the *Zoning and Unified Development Code*, the Zoning Committee reviewed this Ordinance, and made a recommendation on it to the Town Council; and,

WHEREAS, pursuant to Section 401 of the Town Charter, this Ordinance was introduced in writing on February 17, 2016; and,

WHEREAS, pursuant to Section 401 of the Town Charter and Section 66-98 (UDC 2002, § 904C) of the *Zoning and Unified Development Code*, a fair summary of this Ordinance and notice of a public hearing appeared in the *Middletown Transcript* on March 17, 2016; and,

WHEREAS, on April 6, 2016, the Town Council held a public hearing at which all interested citizens and parties were given an opportunity to be heard; and

WHEREAS, on April 6, 2016, the Town Council took action by majority voice vote pursuant to Section 401 of the Town Charter.

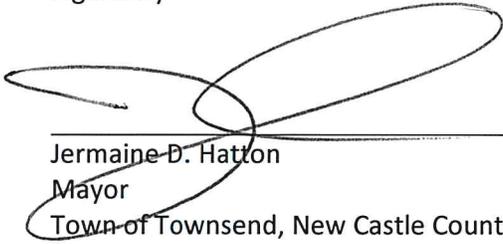
AND, BE IT FURTHER ORDAINED that, pursuant to Title 10, Section 8126 of the *Delaware Code* (Statute of Repose), notice of the action taken by this Ordinance shall be published in a newspaper of general circulation in the Town.

NOW, THEREFORE BE IT ENACTED AND ORDAINED that the revisions set forth in the attachment hereto shall be made part of Chapter 66 of the Code of Ordinances of Townsend.

AND, BE IT FURTHER ORDAINED that this Ordinance shall take effect upon adoption.

Introduction	February 17, 2016
Publication of Fair Summary	March 17, 2016
Public Hearing	April 6, 2016
Final Reading	April 6, 2016
Adoption	April 6, 2016

Signed By



Jermaine D. Hatton
Mayor
Town of Townsend, New Castle County, Delaware

SUMMARY

This Ordinance replaces the zoning committee with a Planning Commission in accordance with state law. It also revamps the procedure for amending the text of the *Zoning and Unified Development Code* and the zoning map.

CHANGE # 1. REPEAL “DIVISION 4 ZONING COMMITTEE” AND REPLACE WITH THE FOLLOWING

DIVISION 3. PLANNING COMMISSION

Section 66-129. Established.

Pursuant to Title 22, Sections 306 and 701(a) of the *Delaware Code*, a Planning Commission is hereby established.

Section 66-130. Organization.

- A. Members—The Planning Commission shall consist of no fewer than 5 and no more than 9 members pursuant to Title 22, Section 701 of the *Delaware Code*.
- B. Qualifications.
 - 1. Members shall be residents of, business owners in, or property owners in the Town.
 - 2. No voting member shall be a candidate for, a candidate-elect to, or incumbent in any elected political office, a Town employee, or a member of the Board of Adjustment at the time of appointment and throughout the term of office.
 - 3. All members shall meet the following qualifications:
 - a. Have knowledge of and experience with the problems of rural and urban development; and
 - b. Be familiar with the comprehensive plan, the *Zoning and Unified Development Code*, and other development-related laws, regulations, and policies.
- C. Term of Office.
 - 1. The term of office for Planning Commissioners shall be 3 years.
 - 2. Initial Appointments—Members shall be appointed for terms of such length and shall be so arranged that the term of at least 1 member shall expire each year and their successors shall be appointed for terms of 3 years each.
- D. Appointments—Pursuant to Title 22, Section 701 of the *Delaware Code*, the Mayor shall appoint members of the Planning Commission subject to confirmation by a majority of the Town Council.
- E. Chairperson and Secretary—Pursuant to Title 22, Section 701 of the *Delaware Code*, members shall elect annually a chairperson and a secretary from among themselves.
- F. Vacancies—Pursuant to Title 22, Section 701 of the *Delaware Code*, 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.
- G. Removal—Pursuant to Title 22, Section 701 of the *Delaware Code*, the Town Council may remove a member for cause by majority vote after a hearing.

Section 66-131. Powers and Duties.

- A. Preparation of a comprehensive plan for the Town as directed in Title 22, Section 702(a) of the *Delaware Code*.
- B. Other duties set forth in state law and this *Zoning and Unified Development Code*.
- C. Plans, studies, reviews, and recommendations on land use and development matters as requested or assigned by the Town Council.

Section 66-132. Conduct of Meetings.

The Planning Commission shall adopt rules of procedure for the conduct of meetings.

**CHANGE # 2. REPEAL “DIVISION 3 AMENDMENTS” AND REPLACE WITH THE FOLLOWING
DIVISION 4. AMENDMENTS**

Section 66-133. Types of Amendments.

- A. Text Amendment—Addition, supplement, change, or modification to the text of this *Zoning and Unified Development Code*.
- B. Zoning Map Amendment—An addition, supplement, change, or modification to the zoning map.
 - 1. Comprehensive Rezoning—Rezoning following the adoption of a Comprehensive Plan or Plan Amendment pursuant to Title 22, Section 702(c) of the *Delaware Code*.
 - 2. Local Rezoning—Change(s) in zoning district(s) for one or more parcels outside of the comprehensive rezoning process.

Section 66-134. Who May Initiate.

- A. Text Amendment—An application for a text amendment may be initiated by the Town Council or at the request of the Planning Commission.
- B. Comprehensive Rezoning—The Town Council shall initiate a comprehensive rezoning following adoption of a Comprehensive Plan or Plan Amendment.
- C. Local Rezoning—An application for a local rezoning may be initiated by the Town Council, at the request of the Planning Commission, or by the owner of the property proposed for a zoning change.

Section 66-135. Application Submission.

Each application for a local rezoning or text amendment shall be submitted to the Town.

Section 66-136. Town Council Public Hearing.

- A. Town Council to Hold Hearing—Pursuant to Title 22, Section 304 of the *Delaware Code*, the Town Council shall hold a public hearing on each proposed amendment to the text of this *Zoning and Unified Development Code* or the zoning map.
 - B. Conduct of Public Hearing—All interested parties and citizens shall be given an opportunity to be heard, but presentation times may be limited as directed by the Town Council.
 - C. Review Criteria.
 - 1. Text Amendment.
 - a. The relationship of the proposed change to the general purpose and intent of this *Zoning and Unified Development Code* and the Comprehensive Plan.
 - b. Reasons why the existing zoning text should be changed.
 - 2. Comprehensive Rezoning—Whether every parcel of land in the Town shall be placed in a zoning classification that is in accordance with the uses of land provided for the current Comprehensive Plan pursuant to Title 22, Section 702(c) of the *Delaware Code*.
 - 3. Local Rezoning.
 - a. 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.
 - b. Whether the proposed zoning classification is in accordance with the land uses provided for in the Comprehensive Plan pursuant to Title 22, Section 702(c) of the *Delaware Code*.
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Section 66-137. Public Notice Provisions.

A. Text Amendment.

1. Newspaper Notice—The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - a. The location, date, and time of the public hearing.
 - b. Information on where full details of the application may be obtained, including hours of availability and phone number.
2. Town Hall Posted Notice—Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.

B. Comprehensive Rezoning.

1. Newspaper Notice—The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - a. The location, date, and time of the public hearing.
 - b. Information on where full details of the rezoning may be obtained, including hours of availability and phone number.
2. Mailed Notice—The Town shall send notice by regular mail to the last known address of each property owner whose zoning district is proposed to be changed at least 15 calendar days prior to the public hearing.
3. Town Hall Posted Notice—Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.

C. Local Rezoning.

1. Newspaper Notice—The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - a. Type of application.
 - b. Short description of the proposed action.
 - c. Description of the parcel and the approximate street location or address.
 - d. Location, date, and time of the public hearing.
 - e. Information on where full details of the application may be obtained, including hours of availability, and phone number.
 2. Notice to Owner/Applicant—The Town shall notify by regular mail the owner and/or applicant of the time and place of the public hearing.
 3. Notice to Nearby Property Owners—The Town shall send by regular mail a copy of the public hearing notice to the last known address of all property owners within a 100-foot radius of the property measured at each property line at least 15 calendar days prior to the public hearing. The notice shall contain the same information as in the newspaper notice.
 4. Town Hall Posted Notice—Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.
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Section 66-138. Adoption.

- A. Ordinance Required to Adopt—All amendments to the text of this *Zoning and Unified Development Code* by Ordinance shall be made by ordinance.
- B. Text Amendments—A simple majority of the Town Council shall be required to adopt amendments to the text of this *Zoning and Unified Development Code*.
- C. Amendments to the Zoning Map.
 - 1. In General—A simple majority of the Town Council shall be required to adopt amendments to the zoning map.
 - 2. When Protested—Pursuant to Title 22, Section 305 of the *Delaware Code*, when a protest against changes to the zoning map is signed by the owners of 20% or more, either of the area of the lots included in such proposed change or of those immediately adjacent thereto extending 100 feet therefrom or of those directly opposite thereto extending 100 feet back from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of 3/4 of all the Town Council members.

Section 66-139. Notice of Adoption

Following the adoption or denial of an amendment to the text of this *Zoning and Unified 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 of the *Delaware Code*.

Section 66-140. Limitation on Reapplication.

Whenever a petition requesting an amendment, supplement, or change to the text of this *Zoning and Unified Development Code* or a change to the zoning map has been denied by the Town Council, such petition, or one substantially similar, shall not be reconsidered sooner than one (1) year after the previous denial.
