



Code Review (CR) Committee Meeting
9/11/2026 @ 1:00 pm
VIA Conference Call & Town Hall
141 Main St, Townsend, DE 19734

1:00 p.m. CR Committee Meeting

- I. Call to Order:
- II. Opening Ceremonies
 - a. Roll Call:
 - b. Pledge of Allegiance:
 - c. Recognition of Visitors:
 - d. Announcements:
- III. Citizens Comments & Participation
- IV. Adoption of Agenda.
- V. Approval/Rejection of Meeting Minutes.
 - a. **ACTION ITEM:** Approval/Rejection of CR Committee Meeting Minutes from October 3rd, 2025, meeting.
 - b. **ACTION ITEM:** Approval/Rejection of CR Committee Meeting Minutes from October 30th, 2025, meeting.
- VI. **ACTION ITEM:** Discussion and review of possible solicitation limitations.
- VII. **ACTION ITEM:** Discussion and review of property buffers.
- VIII. **ACTION ITEM:** Discussion and review of Planning Commission recommended Chapter 24 Code Edits.
- IX. Ongoing Business Updates.
- X. Discussion of future agenda items.
- XI. Discussion regarding next meeting dates.
- XII. Adjournment.

Committee Meetings will be held both in person and in a virtual format.

Those wishing to attend virtually may dial **1(301)715-8592**. When directed, provide following meeting ID **827- 6421-7575#** and then the following password **361631#** to enter the meeting. If you choose to access the meeting online click the following link:
<https://us02web.zoom.us/j/82764217575?pwd=aHI4RDhTZ0xjME1HV0ZOcHRxSHZ3QT09>

Residents will be able to view documents posted to the meeting tab on the Town website at <https://townsend.delaware.gov> or by joining the meeting via computer.

No Solicitation Registry Sign- Up

The Town of Townsend is establishing a **No Solicitation Registry** to help protect residents from unwanted door-to-door commercial solicitation and peddling. Individuals or businesses engaged in door-to-door sales will be required to comply with Town regulations and may not solicit at addresses listed on the Registry. This program is intended to promote residents' privacy, safety, and well-being while maintaining legally protected rights of free speech and expression.

To add your address to the No Solicitation Registry, please complete the information below. Once registered, your address will be included on the Town's official list of properties where commercial solicitation is prohibited.

* Required

1. Property Owners Names: *

2. Property Address: *

3. Phone:

4. Email:

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Microsoft Forms

Chapter 7 – Solicitors and Peddlers

Section 7.01 – Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings indicated:

Peddler means any person who travels from place to place, house to house, street to street, or from a temporary location within the Town for the purpose of selling, offering for sale, delivering, or taking orders for goods, wares, merchandise, food, services, or other items for immediate or future delivery. The term includes transient merchants, itinerant vendors, and similar businesses operating without a permanent place of business within the Town.

Solicitor means any person who goes from door to door, business to business, or place to place within the Town for the purpose of requesting donations, contributions, subscriptions, memberships, sales, orders, or promoting goods, services, causes, organizations, or commercial activities.

Solicitation means the act of approaching or contacting occupants of residences or businesses in person for the purpose of selling, offering goods or services, requesting donations, seeking contributions, obtaining signatures, promoting an organization, or otherwise attempting to persuade another person to purchase, contribute, or participate in any activity.

Section 7.02 – Exemptions

The provisions of this chapter shall not apply to:

- Solicitations, sales, or distributions made by a charitable organization recognized as tax exempt under the Internal Revenue Code, a religious organization recognized as such under the laws of the State of Delaware, or an organization authorized by any school within the Appoquinimink School District.
- An attempt to enlist support for or against a particular religion, political party, candidate, cause or issue.
- Federal, State, County, or Town employees acting within the scope of their official duties.
- Utility companies or contractors performing authorized utility work.
- Persons delivering newspapers, mail, parcels, or previously ordered goods.
- Children participating in school-sponsored, scout-sponsored, or recognized youth organization fundraising activities.

- Religious organizations, charitable organizations, nonprofit organizations, and political candidates or campaigns engaged in constitutionally protected activities, provided they comply with posted "No Solicitation" notices and the Town's No Solicitation Registry.
- Persons responding to a specific invitation or appointment made by the resident or business owner.
- Any activity otherwise protected by the United States Constitution or the Constitution of the State of Delaware.

Nothing in this section shall exempt any person from complying with the hours of operation or the No Solicitation Registry established by this chapter.

Section 7.03 – License Required

- No person shall act as a solicitor or peddler within the Town without first obtaining a Business or Contractor License issued by the Town, unless exempt under this chapter.
- Licenses shall be valid for one (1) year unless sooner suspended or revoked.
- The Town may establish application procedures, background check requirements, identification requirements, insurance requirements, and license fees by resolution.
- License holders shall display their Company Names and or logo's while conducting solicitation or peddling activities.

Section 7.04 – Hours of Operation

It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting with the Town limits between the hours of **7:00pm and 9:00am**, except by specific appointment with or invitation from the prospective customer. In addition, it shall be unlawful at all times at residences displaying a "No Soliciting", "No Trespassing" or similar notice OR residences listed on the No Solicitation Registry.

Section 7.05 – Conduct of Solicitors and Peddlers

It shall be unlawful for any solicitor or peddler to:

- Enter upon private property after being asked to leave.
- Use abusive, threatening, intimidating, or deceptive practices.
- Misrepresent the purpose of the solicitation or their identity.
- Obstruct streets, sidewalks, or public rights-of-way.
- Continue solicitation after the occupant has indicated they are not interested.

- Solicit at any residence listed on the Town's No Solicitation Registry.

Section 7.06 – No Solicitation Registry

- The Town shall maintain a No Solicitation Registry for residents wishing to prohibit door-to-door solicitation.
- Residents may register their address by submitting a request on a form provided by the Town.
- The Town shall make the registry available to licensed solicitors and peddlers, who shall be responsible for reviewing the registry prior to conducting solicitation activities.
- A licensed solicitor or peddler shall not solicit at any address appearing on the registry.
- Registration shall remain effective until revoked by the property owner or occupant.
- The Town may establish administrative procedures for maintaining the registry.

Section 7.07 – Revocation or Suspension of License

The Town Manager may suspend or revoke a Business/Contractor License for any of the following reasons:

1. Fraud or misrepresentation in obtaining the license.
2. Violation of any provision of this chapter.
3. Providing false or misleading information during solicitation.
4. Conviction of a crime involving fraud, theft, violence, or moral turpitude that is reasonably related to the licensed activity.
5. Conduct constituting a threat to the public health, safety, or welfare.
6. Failure to comply with the No Solicitation Registry.

Prior to revocation, the license holder shall receive up to three written notices of the violation and an opportunity to respond, unless immediate suspension is necessary to protect the public.

The decision of the Town Manager may be appealed to the Town Council by filing a written appeal within ten (10) business days.

Section 7.08 – Penalties

- A. Any person violating any provision of this chapter shall be subject to the following:
 - a. Any and all penalties outlined in the Town's Fee Schedule for each occurrence of violation.

- b. Suspension or revocation of any Business/Contractor License issued by the Town.
- B. Each separate violation and each day a violation continues shall constitute a separate offense.
- C. The Town may seek injunctive relief or any other remedy available under Delaware law.

Section 7.09– Enforcement

The Town Manager, Code Enforcement Officer, Police Department, or any duly authorized Town official may enforce the provisions of this chapter and issue citations for violations.

Section 7.10 – Severability

If any provision of this chapter is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the remaining provisions, which shall continue in full force and effect.

Chapter 40 of the *New Castle County Code*

Unified Development Code

New Castle County, Delaware



Adopted on December 31, 1997
As amended through March 10, 2026

County Executive Marcus Henry

ARTICLE 1. TITLE AND APPLICABILITY

Division 40.01.000. Title, purpose and intent.

This Chapter shall be known as the "New Castle County Unified Development Code" or "UDC," hereinafter referred to as "this Chapter."

(Ord. No. 97-172, § 3(ch. 13, div. 01.000), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.01.010. Purpose.

The purpose of this Chapter is to establish standards, procedures, and minimum requirements, consistent with the Comprehensive Development Plan, which regulate and control the planning and subdivision of lands; the use, bulk, design, and location of land and buildings; the creation and administration of zoning districts; and the general development of real estate in the unincorporated areas of New Castle County, Delaware.

(Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.01.015. Intent.

This Chapter is intended to protect the interests of both current and future County residents and neighbors from the potential adverse impacts of land uses. At the same time, this Chapter is intended to respect landowners' rights to the beneficial use of their property. The regulations contained in this Chapter were designed to encourage greater flexibility and more development options while minimizing development impact on current property owners and the environment. This Chapter is intended to promote and protect the health, safety, prosperity, convenience, general welfare and quality of life for all present and future citizens of the County. County Council finds that all of the provisions of this Chapter substantially advance and are rationally related to, legitimate government interests (i.e., the protection and preservation of the public health, safety, prosperity, general welfare and quality of life). The legislative intent as expressed in the ordinance adopting this Chapter shall also be considered as part of the purpose and intent of this Chapter.

- A. *Land use patterns and community character.* This Chapter will preserve life styles of an area, visual aspects, image and historical/cultural area by:
1. Establishing rational land use and growth patterns and encouraging the most appropriate use of individual pieces of land consistent with the Comprehensive Development Plan;
 2. Dividing the County into districts of distinct community character according to the use of land and buildings, the intensity of such use (including bulk and height), and the surrounding open space;
 3. Prohibiting uses, buildings, or structures that are incompatible with the character of established zoning districts and providing suitable transitions between different community character areas to minimize the amount of incompatible land use and adverse impacts on property value;
 4. Facilitating the creation of a convenient, attractive, functional, and harmonious community;
 5. Regulating the location and use of buildings, structures, and land for trade, industry, residences, and other uses;
 6. Providing protection from noise, glare, odor, or vibration through buffers and other regulations;
 7. Securing adequate natural light, clean air, privacy, convenient and safe access to property, and a safe environment;
 8. Protecting against undue concentration of population and overcrowding of land and/or buildings by regulating and limiting the height, bulk, and scale of buildings;

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ARTICLE 1. TITLE AND APPLICABILITY

9. Encouraging high-quality, attractive, and marketable development for the present and future population and businesses; and
 10. Providing an adequate supply of affordable housing for County residents.
- B. *Natural and cultural resources.* In an effort to protect the natural resource base of the County and to assure long-term economic viability and welfare of the County, this Chapter is intended to:
1. Control density, open space, and regulate the disturbance of natural features to:
 - a. Protect the watershed and surface water resources for safe and secure drinking water upon which the County's population depends;
 - b. Protect life and property by avoiding or lessening the hazards of flooding, stormwater accumulation, runoff, or destabilization of soils by district or performance standards;
 - c. Avoid or lessen soil erosion hazards; and
 - d. Preserve and protect areas with limited development potential due to topography, hydrology, soils, or other natural conditions as habitats for wildlife.
 2. Preserve agricultural economy and land resources;
 3. Protect against the destruction of, or encroachment upon, archeological, historic, and architectural sites or areas, and ensuring the protection of these resources; and
 4. Prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base, and the destruction or impairment of the important functions of floodplains, all of which adversely affect the public health, safety and general welfare; and to ensure the prospective compliance with Section 60.3(d) of the National Flood Insurance Program.
- C. *Economic development.* In order to provide for desirable growth and employment opportunities, this Chapter is intended to:
1. Encourage development of an economically stable and healthy community; and
 2. Encourage and assist in the facilitation, attraction, and retention of economic activities that provide desirable employment, expand the tax base, and serve to meet the goals of the Comprehensive Development Plan.
- D. *Public infrastructure.* In order to provide and maintain public facilities and services that keep pace with the demands of new development, this Chapter is intended to:
1. Ensure the provision of adequate public facilities including transportation, public utilities, and public services by providing that development does not exceed the carrying capacity of these facilities or systems, or requiring impact fees to offset the cost of the improvements;
 2. Ensure safe and convenient traffic control and movement including a reduction or prevention of congestion of public streets, convenience of access, multiple modes of transportation, and an interconnected and well planned street system;
 3. Reduce the danger and congestion of traffic on roads and highways by limiting both the number of friction points, such as intersections and driveways, and minimizing other hazards;
 4. Protect residential streets from degradation by nonresidential traffic;
 5. Establish and regulate building or set back lines along streets, roads, boulevards, avenues, lanes, alleys, other rights-of-way, property lines and drainage facilities to ensure adequate and safe facilities;
 6. Promote economy in governmental expenditures;

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7. Promote and encourage basic public utilities and services which meet the needs of the County's citizens and provide for public safety and services that ensure the health of residents and businesses;
 8. Provide adequate infrastructure to accommodate existing, committed and future development;
 9. Provide open spaces for a healthy community, conservation, and recreation, including regional parks, playgrounds and athletic fields and facilities; and
 10. Expedite the provision of adequate police, fire protection, disaster evacuation, civil defense and emergency management, schools, airports, and other public requirements.
- E. *Growth management.* In order to provide and plan for orderly growth and development, this Chapter is intended to:
1. Discourage haphazard, premature, uneconomical, or scattered land development and promote the best utilization of land;
 2. Ensure that the citizens and taxpayers of the County will not have to bear the cost resulting from premature, uneconomical, or inefficient development or use of land; and
 3. Encourage the cost effective provision of utilities by regulating or phasing development to prevent premature development that creates land use, health, or economic problems for the County.
- F. *Affordable housing.* This Chapter is intended to:
1. Ensure that there is adequate affordable housing;
 2. Provide options for special housing types that provide affordable housing that are consistent with the character of the area; and
 3. Provide for bonuses to developers willing to provide affordable housing.
- G. *Justifiable expectations.* The enactment of this Chapter is intended to:
1. Protect and enhance the value of land and buildings for landowners and the public tax base;
 2. Balance the impact of the regulations contained in this Chapter by permitting clustering and a greater variety of uses to offset restrictions;
 3. Require that land be developed only with the installation of adequate and necessary physical improvements;
 4. Protect landowners from adverse impacts of adjoining developments and abating nuisances by regulating the compatibility of proximate uses using quantifiable performance standards;
 5. Protect and respect the justifiable reliance of existing residents and businesses on the continuation of existing, established, and planned land use patterns; and
 6. Maintain a desirable quality of life for residents.

(Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.01.100. Applicability.

Except as provided in Section 40.01.120 and 9 *Del. C.* § 2610 (b) and (c) (Nonconforming uses of land or buildings), all development within the County and all land use applications made to the County shall comply with the provisions of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, div. 01.100), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.01.110. Types of development.

- A. *The use of any building, structure, land, or water.* Every use shall comply with this Chapter. Every new or expanded use shall require a zoning permit and certificate of occupancy for the construction, modification, use, or occupancy of any lot, parcel, building, or structure as specified in this Chapter.
- B. *Any disturbance of land, soil, vegetation, or waterways.* Altering land for development or other purposes shall conform to the standards contained in this Chapter and shall require a permit prior to commencing any work.
- C. *Any division of land or land development whether for sale or lease.* Whether by metes and bounds, subdivision, or land development, all development designs and layouts shall comply with all regulations contained in this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 01.110), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 01.110), 9-22-1998)

Sec. 40.01.120. Exemptions from applicability and exceptions.

Unless otherwise provided in an Article of this Chapter, the following land uses and land use applications shall be exempt from the application of this Chapter and shall be processed and reviewed under all applicable former Code provisions.

- A. Any land use application submitted to the Department on or before July 1, 1997 (or for which a hardship exception was granted as provided for in Ordinance 97-064) and that has not expired, and any land use application not subject to Ordinance 97-064 submitted to the Department prior to the adoption of this Chapter that has not expired, except as follows:
 - 1. The payment of any impact fee provided for in this Chapter shall be imposed at the time of certificate of occupancy unless a vested rights exception was granted by the Department or the Board of Adjustment.
 - 2. The sunset provisions of Section 40.01.130 shall apply to all major subdivision and major land development plans; except that:
 - a. Any major subdivision or major land development plan that was unbuildable immediately prior to the adoption of this Chapter for any reason, (including, without limitation, zoning changes after plan approval and the expiration of any period of protection under former Code provisions); and,
 - b. Any resubdivision plan and any minor subdivision or minor land development plan that was approved in reliance upon a major subdivision or major land development plan that was unbuildable immediately prior to the adoption of this Chapter, shall remain unbuildable and shall remain exempt from the application of this Chapter.
 - 3. The landowner provides a written waiver to the Department requesting that the provisions of this Chapter be applied; except as noted in Subsection 40.01.120.A.2.
- B. Land disturbances of less than one thousand (1,000) square feet and not involving any building or structure, bufferyard, resource, or conservation area, are exempt from the regulations contained in this Chapter.
- C. Nonconforming situations resulting from the adoption of this Chapter as may be exempted pursuant to Article 8 or 9 *Del. C.* § 2601(b) and (c) (Exempting agricultural uses).

(Ord. No. 97-172, § 3(ch. 13, § 01.120), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 01.120), 9-22-1998; Ord. No. 01-085, § 1, 11-13-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.01.121. Reserved.

Editor's note(s)—Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed § 40.01.121 in its entirety.

Formerly, said section pertained to impact fees and vested rights and derived from Ord. No. 97-172, § 3(ch.

13, § 01.120), adopted Dec. 31, 1997; as amended. See the Unified Development Code Comparative Table for a detailed analysis of amendments.

Sec. 40.01.130. Sunseting of recorded subdivision or land development plans.

- A. Plans recorded after adoption of these regulations. Construction of development or improvements shown on a recorded major land development plan shall commence within five (5) years of the date of recordation of the original record plan for the land development.
- B. Plans recorded before the adoption of these regulations. Construction of development or improvements shown on a recorded major land development plan shall commence within five (5) years from December 31, 1997; except that, as provided in Section 40.01.120, any approved record plan for:
 - 1. Any major land development plan that was unbuildable immediately prior to the adoption of this Chapter for any reason (including, without limitation, zoning changes after plan approval and the expiration of any period of protection under former Code provisions); and,
 - 2. Any resubdivision plan and any minor subdivision or minor land development plan that was approved in reliance upon a major subdivision or major land development plan that was unbuildable immediately prior to the adoption of this Chapter, shall remain unbuildable and shall remain exempt from, and not eligible for protection under, this sunseting provision.
- C. The applicant shall bear the burden of providing evidence to the Department establishing that construction had commenced within the five (5) year period.
- D. If construction has not commenced within five (5) years, the record plan shall be resubmitted and reviewed by the Department to determine if the conditions of approval of the original record major land development plan have changed or have been altered by the subsequent adoption of, or amendments to, this Chapter. The resubmission must occur prior to the five (5)-year deadline for commencement of construction. Plans recorded prior to July 1, 2014 shall have until July 1, 2019 to resubmit for review. Plans not resubmitted in the required timeframe will expire and any subsequent plan for the subject property must comply with the zoning and subdivision regulations in effect at the time of application. The Department shall either:
 - 1. Reapprove the record plan, and give written notice to the owner of reapproval. Such approval shall allow the issuance of building permits subject to the provisions of the original record major subdivision or land development plan and/or any recorded resubdivision plans. The owner shall then have five (5) years from the date of such notice of reapproval to obtain building permits and commence construction. If construction has not commenced within five (5) years, the record plan shall expire.
 - 2. Disapprove the record plan and give written notice to the owner of the specific areas of noncompliance. The modifications necessary to bring the plan into compliance with this Chapter shall be incorporated into a revised exploratory plan and resubmitted. Upon approval of a revised exploratory plan, a new major land development plan may be submitted for approval. The new plan approved and recorded pursuant to this Section shall have the effect of superseding the original record major land development plan. The owner shall then have five (5) years from the date of notice made pursuant to this subsection to obtain building permits and commence construction. If construction has not commenced within five (5) years, the record plan shall expire.
 - 3. If a rezoning of the property occurred simultaneously with the approval of the preliminary or exploratory plan and the Department has determined that a new revised exploratory plan is required, the zoning of the property shall revert to the previous zoning district. The processing of the revised exploratory plan shall require full compliance with the then-current rezoning procedures. Exception: Historic overlay rezoning shall not revert to the previous zoning designation and shall remain in place notwithstanding the sunseting provisions of this Section.

(Ord. No. 97-172, § 3(ch. 13, § 01.130), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 01.130), 9-22-1998; Ord. No. 01-85, § 2, 11-13-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-066, § 1, 10-13-2009; Ord. No. 18-020, § 1, 7-10-2018; Ord. No. 20-071, § 4, 10-27-2020)

Sec. 40.01.140. Reserved.

Editor's note(s)—Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed § 40.01.140 in its entirety.

Formerly, said section pertained to vested rights determinations as adopted by Ord. No. 97-172, § 3(ch. 13, § 01.140), adopted Dec. 31, 1997; as amended. See the Unified Development Code Comparative Table for a detailed analysis of amendments.

Division 40.01.150. Prior restrictive covenants.

No prior restrictive covenants that have been entered into in which New Castle County is a beneficiary shall be altered by the provisions of this Chapter. Where such covenants restrict the type of uses under former New Castle County zoning districts, those uses shall remain restricted regardless of the rezoning of the district.

(Ord. No. 98-080, § 1(ch. 13, div. 01.150), 9-22-1998)

Sec. 40.01.160. Restrictive covenants and Department discretion.

The Department may accept for processing, at its discretion, any subdivision or land development plan that conflicts with this Chapter when such conflict is related to the provisions of a restrictive covenant, the covenant is not more than five (5) years old, the covenant was a condition of a rezoning adopted before December 31, 1997, and New Castle County was a beneficiary. In addition, this Section is limited to situations where the style or type of dwelling unit that will be built was the subject of the restrictive covenant, and where the overall design and appearance of the development was the subject of the restrictive covenant. Lastly, the Department must be satisfied that under the circumstances enforcement of the covenant would be in the best interests of the citizens of the County.

(Ord. No. 98-080, § 1(ch. 13, § 01.160), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.01.170. Burden of proof.

A land use applicant shall always bear the burden of proof unless this Chapter specifically provides otherwise, and that burden of proof shall be proof by a preponderance of the evidence.

(Ord. No. 98-080, § 1(ch. 13, § 01.170), 9-22-1998)

Division 40.01.200. Right of entry.

Sec. 40.01.210. Department of Land Use right of entry.

Employees or agents of the Department who are acting in the official performance of their duties, pursuant to a land use application or any other complaint or violation, shall have the right to enter, go upon, and inspect at reasonable times any land, either public or private, outside of any municipality, and to make surveys and place and maintain necessary monuments and markers on the land, provided that any such entry shall be made with due care and regard for the protection and preservation of property.

(Ord. No. 97-172, § 3(ch. 13, § 01.210), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.01.220. Obstructing employees.

Any person who obstructs, hinders, prevents or threatens or attempts to obstruct, hinder or prevent the entry or inspection of land as provided in Section 40.01.210 shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Section 1.01.009.

(Ord. No. 97-172, § 3(ch. 13, § 01.220), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.01.300. Continuation, conflict and severability.

- A. In the event of conflict between the provisions of this Chapter and any other provisions of this Code, the provisions of this Chapter shall prevail to the extent necessary to permit the County to carry out the policies as declared herein.
- B. The provisions of this Chapter shall be severable. If any provision of this Chapter is found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Chapter shall remain valid, unless the court finds that the valid provisions of this Chapter are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that County Council would have enacted the remaining valid provisions without the void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with County Council's intent. If severability is not possible, all former applicable ordinances and resolutions, including all former New Castle County zoning maps, shall become applicable to the property or use at issue.
- C. Continuation of existing ordinances and resolutions. The sections appearing in this Chapter, so far as they are in substance the same as those of all ordinances and resolutions adopted and included in this Chapter, shall be considered as continuations thereof and not as new enactments.
- D. Continuation of existing institutions, rights and liabilities.
 - 1. The repeal of prior ordinances, resolutions, rules and regulations, provided for in the ordinance adopting this Chapter, shall not affect any act done, or any cause of action accruing or accrued or established, or any suit or proceeding had or commenced in any civil action, nor any plea, defense, bar or matter subsisting before the time when such repeal shall take effect; but the proceedings in every such case shall conform with this Chapter.
 - 2. All the provisions of ordinances, resolutions, rules and regulations repealed by the ordinance adopting this Chapter shall be deemed to have remained in force from the time when they began to take effect, so far as they may continue to apply to any department, agency, office or trust, land use, or any transaction or event or any limitation or any right or obligation or the construction of any contract already affected by such ordinances, resolutions, rules and regulations, notwithstanding the repeal of such provisions.
 - 3. No offense committed and no penalty or forfeiture incurred, under any of the ordinances, resolutions, rules and regulations repealed by the ordinance adopting this Chapter and, before the time when such repeal shall take effect, shall be affected by such repeal.
 - 4. No action or prosecution, pending on the effective date of the repeal provided in the ordinance adopting this Chapter, for any offense committed or for the recovery of any penalty or forfeiture incurred under any of the ordinances, resolutions, rules and regulations repealed by such section shall be abated or affected by such repeal, except that the proceedings in such action or prosecution shall conform with this Chapter.

(Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

ARTICLE 2. ESTABLISHMENT OF ZONING DISTRICTS

Division 40.02.000. Establishment of zoning districts.

Sec. 40.02.005. Applicability.

This Article and all County zoning maps shall apply to all lands regulated by New Castle County as permitted by State law.

(Ord. No. 97-172, § 3(ch. 13, § 02.005), 12-31-1997)

Sec. 40.02.010. Zoning districts.

The County is hereby divided into the minimum number of zoning districts necessary to achieve compatibility of uses and character within each district consistent with the spirit and intent of the Comprehensive Development Plan. The purpose of each district is described in Division 40.02.200.

(Ord. No. 97-172, § 3(ch. 13, § 02.010), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 02.010), 9-22-1998)

Division 40.02.100. Zoning map.

Zoning districts established by this Chapter are bounded and defined as provided in this Chapter and as shown on the New Castle County Zoning Maps. The New Castle County Zoning Maps and all information depicted thereon shall be considered a part of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, div. 02.100), 12-31-1997)

Sec. 40.02.110. Interpreting zoning districts.

- A. The zoning districts described in this Chapter shall apply to all property as designated on the official New Castle County Zoning Maps. The former overlay historic district is preserved and shall be considered a part of this Chapter.
- B. Reserved.
- C. Zoning district errors identified by the Department may be corrected at any time with the consent of County Council. The Department shall make a correction to the zoning map only if it is determined that one (1) of the following has occurred:
 - 1. A new zoning district was not correctly converted by the Department from a former zoning district based upon the standards in this Article.
 - 2. A mapping error was made by the Department.

County Council's consent by ordinance shall be required before the correction to the zoning map may be made by the Department. (See Article 30, Table 40.30.110)

(Ord. No. 97-172, § 3(ch. 13, § 02.110), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 02.110), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 02.110), 9-22-1998; Ord. No. 00-103, § 1, 12-12-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.02.111. District boundaries.

The following rules shall be used to determine the precise location of any zoning district boundary line shown on the zoning map:

- A. Boundaries shown as following, or approximately following, streets, alleys, or railroads shall be construed as following the centerline of such features.
- B. Boundary lines shown as following, or approximately following, lot lines, section lines, survey or other property lines, or municipal boundaries shall be construed as following such lines. Where a dimension is used on the zoning map, and no more than fifty (50) feet of a lot is cut off by a zoning line, the entire property shall be considered to be within the zoning district with the largest area.
- C. Boundaries shown as following, or approximately following, the centerline of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerline of such watercourses. In the event of a natural change in the location of such streams, rivers, or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline.
- D. Boundaries shown as separated from and parallel to, or approximately parallel to, any of the features listed in this Section shall be construed to be parallel to such features and at such distances therefrom as are shown on the zoning map.

(Ord. No. 97-172, § 3(ch. 13, § 02.111), 12-31-1997)

Sec. 40.02.120. New or unclassified land.

Any land in the County which is not shown or labeled on the zoning map or for which no conversion has been provided shall be considered zoned Suburban Reserve (SR).

(Ord. No. 97-172, § 3(ch. 13, § 02.120), 12-31-1997)

Sec. 40.02.130. Developments in more than one (1) zoning district.

Where a tract or parcel of land is located in more than one (1) zoning district as of December 31, 1997, the development may be designed as if each district were a separate parcel or designed and developed as a single project. The following rules govern developments in two (2) or more districts which are developed as a single project:

- A. A concept plan shall be required as a condition of approval to shift densities.
- B. A nonresidential use shall not intrude into a residential district.
- C. The acreage in both districts may be used to determine minimum site area as provided in Article 4.
- D. The required open space and maximum dwelling units shall be the sum of that required by separate calculations for each district as provided in Article 5.
- E. The proportion of the density of the development in the two (2) districts need not be identical to that calculated for each district. The plan for allocating development shall be submitted as an exploratory plan for the entire property. Approval shall be based on the following criteria:
 - 1. The proportion of land used for development shall be increased only in the higher intensity district, except as provided in E.2.
 - 2. Where, for aesthetic or environmental reasons, the concept plan approval may permit the development to occur in the lower density zoning district resulting in the most optimum use of the site. The developer shall submit an environmental impact assessment report showing alternative siting options as part of the concept plan approval process. The above consideration and report must demonstrate the advantages of the proposed location as opposed to siting the development as required by E.1.

- F. Where a unified development straddles a district boundary, bufferyards are not needed between the development's portions. Where the development is in two (2) separate parts or alters use or density at the boundary, then the buffer requirements (see Table 40.04.111) shall be required.
- G. Nonresidential access. All nonresidential uses shall be permitted through-access and egress through all nonresidential zoning districts.

(Ord. No. 97-172, § 3(ch. 13, § 02.130), 12-31-1997; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.02.200. Statement of purpose and intent of districts.

This Division specifies the purpose and intent of the zoning districts established by this Chapter. The major community character classes (urban, suburban transition, suburban and special) are used to organize the districts. Uses within a community character class are more similar in character than uses in a different class. All districts share the purpose of implementing the Comprehensive Development Plan.

It is County Council's intent to encourage agricultural preservation in all New Castle County zoning districts.

(Ord. No. 97-172, § 3(ch. 13, div. 02.200), 12-31-1997; Ord. No. 00-018, § 1, 6-13-2000; Ord. No. 02-075, § 1(Exh. A), 10-22-2002)

Sec. 40.02.210. Urban districts.

Urban character is found in the Traditional Neighborhood (TN) Districts.

(Ord. No. 97-172, § 3(ch. 13, § 02.210), 12-31-1997)

Sec. 40.02.211. Traditional Neighborhood (TN) District.

- A. This district is predominantly residential with a traditional urban neighborhood character. The setback line is close to the street and all buildings must be built to the setback line (build-to line). The character of the area is urban.
- B. This district shall be located either near transit or adjoining areas of neighborhood conservation having similar density.
- C. Design standards ensure the desired character. Pedestrian activity is encouraged, and open space shall be designed to be used for activity centers for the district.

(Ord. No. 97-172, § 3(ch. 13, § 02.211), 12-31-1997)

Sec. 40.02.220. Suburban transition districts.

The suburban transition character is found in seven (7) districts: Suburban Transition, Manufactured Home, Neighborhood Office, Regional Office, Regional Commercial, Business Park, and Industrial.

(Ord. No. 97-172, § 3(ch. 13, § 02.220), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 02.220), 9-22-1998)

Sec. 40.02.221. Suburban Transition (ST) District.

- A. This district provides for high quality moderately high density development with a full range of residential and limited nonresidential uses.
- B. The design requirements provide a suburban transition character while encouraging pedestrian linkages in addition to automobile access.
- C. This intensity of this district accommodates a range of housing types from small single-family to multi-family.
- D. The district shall only be located under the following circumstances:

1. The project is located in the central core of the southern sewer service area as described more fully in Resolution 06-069 and adopted by County Council on March 28, 2006;
2. The project proposes a gross density of less than five (5.0) dwelling units per acre; or
3. The project proposes a gross density of five (5.0) dwelling units per acre or greater and has access to transit services. Access to transit services shall mean:
 - a. Any proposed development or portion thereof within a one-quarter ($\frac{1}{4}$) mile walking distance to the nearest bus stop; or
 - b. Any proposed development or portion thereof within a two (2) mile radius of an existing transit park and ride facility or one that is proposed and constructed prior to the issuance of the first certificate of occupancy.

(Ord. No. 97-172, § 3(ch. 13, § 02.221), 12-31-1997; Ord. No. 08-040, § 1, 7-8-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.02.222. Manufactured Mobile Home (MM) District.

This district is intended to provide for a manufactured home park having a suburban transition.

(Ord. No. 97-172, § 3(ch. 13, § 02.222), 12-31-1997)

Sec. 40.02.223. Office, Neighborhood (ON) District.

- A. This district is intended to provide for professional and administrative offices in a park-like setting whose character is suburban transition.
- B. Building heights and floor area ratios are designed to provide a setting that is generally compatible with most of the County's residential areas.

(Ord. No. 97-172, § 3(ch. 13, § 02.223), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 02.223), 9-22-1998)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.224. Office, Regional (OR) District.

- A. This district is intended to accommodate large regional employment centers that are primarily office employment together with support type uses.
- B. The character of this district is suburban transition with tall buildings and floor area ratios compatible with the concentration of jobs.
- C. Other land uses that support office employment are permitted within the buildings and in larger developments as freestanding uses. Transit stop facilities shall be built into the development to reduce automobile traffic on surrounding roads. Mixed use structures are permitted for the same reason.
- D. This district is intended to work in general unison with the BP and I zoning districts to provide for a wide variety of uses by both location and general character to permit a consistency of employment related uses throughout the County.

(Ord. No. 97-172, § 3(ch. 13, § 02.224), 12-31-1997; Ord. No. 08-096, § 1, 11-25-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.225. Commercial, Regional (CR) District.

- A. This district is intended to provide for community and regional commercial services. Its character is suburban transition.
- B. Design controls are intended to promote circulation by foot and automobile within contiguous commercial or office areas. These design features are intended to lessen congestion on roads and create large commercial complexes rather than development strips.
- C. Mixed uses are permitted to provide residential customers within the development. Transit facilities are also required.
- D. The new areas to be zoned for this use should be large and deep. Small shallow frontages shall not be designated for this type of use.

(Ord. No. 97-172, § 3(ch. 13, § 02.225), 12-31-1997)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.226. Business Park (BP) District.

- A. This district permits office, manufacturing, light industrial, warehousing, and uses that support them. The land use restrictions ensure the land best suited for this use is available.
- B. Moderate to high intensities are permitted to achieve maximum land utilization. This development pattern provides a suburban transition character. The area is intended to attract business and industry.
- C. Design standards provide for a high quality business park character. The interior land, screened from main roads, may develop at higher intensities with less landscaped area. Such practices will maximize land use.
- D. Limits are placed on exterior storage to ensure an environment that encourages the mix of high quality office with other major employment generating uses.
- E. This district is intended to work in general unison with the OR and I zoning districts to provide for a wide variety of uses by both location and general character to permit a consistency of employment related uses throughout New Castle County.

(Ord. No. 97-172, § 3(ch. 13, § 02.226), 12-31-1997; Ord. No. 08-096, § 1, 11-25-2008)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.227. Industrial (I) District.

- A. This district retains the older industrial areas. The character of these areas is suburban transition. Many of these areas are existing industrial parks. In keeping with evolving employment trends, a wider range of uses is permitted.
- B. The intensities of this district are intended to encourage industrial types of uses.
- C. Exterior storage is permitted, but is limited and must be screened from the view of collector or arterial roads.
- D. This district is intended to work in general unison with the OR and BP zoning districts to provide for a wide variety of uses by both location and general character to permit a consistency of employment related uses throughout the County.

(Ord. No. 97-172, § 3(ch. 13, § 02.227), 12-31-1997; Ord. No. 08-096, § 1, 11-25-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.230. Suburban districts.

Four (4) districts comprise the suburban character class: a Suburban District that is residential, a Commercial Neighborhood, a low density Suburban Estate, and a Suburban Reserve.

(Ord. No. 97-172, § 3(ch. 13, § 02.230), 12-31-1997)

Sec. 40.02.231. Commercial, Neighborhood (CN) District.

- A. This district has a suburban character.
- B. The scale and intensity of the development is regulated to ensure that uses primarily serve the surrounding residential neighborhoods. Roof design and landscaping is intended to reinforce the compatibility of these uses with the neighborhoods.
- C. Size and spacing of this district is regulated to ensure this district does not promote strip commercial development that serves highway traffic or regional uses.

(Ord. No. 97-172, § 3(ch. 13, § 02.231), 12-31-1997)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.232. Suburban (S) District.

- A. This district permits a wide range of residential uses. This district includes all the newly developing areas designated as growth areas in the Comprehensive Development Plan.
- B. This district permits moderate to high density development and a full range of residential uses in a manner consistent with providing a high quality suburban character. Significant areas of open space and/or landscaping shall be provided to maintain the balance between green space and buildings that characterize suburban character. The highest densities are permitted in designed communities, hamlets and villages through the use of Smart Code techniques.
- C. This district is not intended to be used for fully developed areas. Fully developed areas are zoned Neighborhood Conservation (NC). The Suburban District is used for in-fill tracts containing at least five (5) acres or where New Castle County seeks to redevelop the area to suburban character.

(Ord. No. 97-172, § 3(ch. 13, § 02.232), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.02.233. Suburban Estate (SE) District.

- A. This district is not serviced by sewer, and is not planned for sewer service in the future. Some areas may have public water available. The development pattern is planned for full buildout.
- B. The character of the area is intended to preserve a character that has long been established in northern New Castle County for single-family homes on large lots.
- C. Landscaping and design are intended to enhance or preserve the character of the area and preserve the views of the landscape. Both single-family and open space subdivisions are provided to insure that difficult sites can be utilized.

(Ord. No. 97-172, § 3(ch. 13, § 02.233), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 02.233), 9-22-1998)

Sec. 40.02.234. Suburban Reserve (SR) District.

- A. This district is intended to be served with sewer and water in the future and rezoned to Suburban (S) when the sewer construction is imminent. The district is also designed to permit limited development that does not foreclose ultimate sewerage of the area. The preservation of large amounts of open space and agricultural land is encouraged in this district and such land may be used for spray irrigation as permitted by this Chapter.

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- B. The countryside character of this district is designed to facilitate residential and agricultural use. Should land develop before sewers are provided, it should be accomplished in a manner which preserves available farmland and consolidates development in such a way as to minimize the impact on the land.
- C. Incentives are provided for open space development to preserve land that can be farmed.
- D. A number of special provisions apply to this district that are intended to be an incentive for agriculture to continue, even as residential development occurs, by maximizing the contiguous farmland and providing farm operators additional revenue sources.

(Ord. No. 97-172, § 3(ch. 13, § 02.234), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.02.240. Special districts.

- A. *Intensive uses* Two (2) special districts were created to allow a limited amount of Heavy Industry (HI) and Extraction (EX).
- B. *Existing neighborhoods.* The Neighborhood Conservation (NC) district applies to neighborhoods or planned areas whose character is already set by existing uses and lotting, and which should be protected or conserved. The Diversified Planned Unit Development (DPUD) district is only for existing DPUD developments.
- C. *The Economic Empowerment District (EED).* The EED allows the creation of zoning regulations for an identified area based upon a set of guidelines, procedures and permitted uses to accommodate development consistent with the County's Comprehensive Plan and the 2014 Economic Development Strategic Plan, as those plans may be amended or updated.
- D. *Overlay zones.* The Historic (H) overlay zoning district is an overlay zone to preserve the County's historic heritage. The Hometown (HT) Overlay district may be used for communities built before zoning regulations were established (pre-1954) and with a unique development pattern that does not conform to existing zoning standards. These districts are established through the rezoning process for amendments to the zoning map and shall be considered a new zoning district which provides additional standards to the underlying zoning district.

(Ord. No. 97-172, § 3(ch. 13, § 02.240), 12-31-1997; Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 16-066 , § 1, 1-10-2017; Ord. No. 20-071 , § 5, 10-27-2020)

Sec. 40.02.241. Neighborhood Conservation (NC) Districts.

- A. These districts protect the residential character of existing neighborhoods or planned subdivisions that were or are being developed under previous zoning regulations.
- B. These districts recognize the lotting standards in effect when the community was developed and avoid making older developments nonconforming as development standards evolve. These districts permit minor in-fill consistent with the existing character, but shall not be used for rezoning.
- C. Different types of neighborhoods exist which receive an NC designation. Distinctions between these neighborhoods are made by numbers or letters following the NC designation. Table 40.02.241 indicates the new zoning designation and the former zoning designation that was replaced. Each subcategory provides lot size and setback standards. (See Table 40.04.110.) This designation also recognized the building of different dwelling unit types.
- D. In some cases, the designation applies to areas that were nonconforming at the time of adoption of these regulations. The new designation is intended to remove nonconforming status to the greatest degree possible.
- E. The Neighborhood Conservation Planned Unit Development (NCpud) District is used solely to recognize existing DPUD developments. The resolution adopting DPUD contains the standards applicable to the individual DPUD.
- F. Residential developments approved prior to December 31, 1997 (or for which a hardship exception was granted as provided in Ordinance 97-064) using alternative development options shall be subject to compliance with all applicable former alternative development option rules and regulations.

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- G. The NC5 district is designed to maintain the existing character of older built-up residential areas of the County that contain mixed dwelling unit types and remove nonconforming use status. Existing dwellings may be altered, expanded or replaced (subject to compliance with the dimensional standards of this Chapter), however, any new proposed dwellings within the NC5 district shall be single-family detached or single-family semi-detached and meet all of the requirements of this Chapter. The NC5 district may also contain existing legal nonconforming apartments built prior to December 31, 1997.

Table 40.02.241. NEIGHBORHOOD CONSERVATION (NC) DISTRICTS

Zoning Designation	Former Zoning District	Former Dwelling Unit Types
NC2a	R-1-A	Single-family detached
NC40	R-1-BB	Single-family detached
NC21	R-2	Single-family detached
NC15	R-1-B	Single-family detached
NC10	R-1-CC	Single-family detached
NC6.5	R-1-C, R-3, R-3-G, R-3-SD, R-4	Single-family detached
NC5	R-1-C, R-3-SD, R-3-G, R-3, R-4 nonconforming	Single-family detached, Single-family attached, apartment conversion
NCap	R-4	Single-family detached, Single-family attached, Multi-family residential, apartments
NCga	R-3	Garden apartments
NCth	R-3-G, R-3, R-4	Townhouses, single-family detached, semi-detached
NCsd	R-3-SD, R-3-G, R-3, R-4,	Semi-detached, single-family detached
NCmm	R-MM	Mobile homes parks
NCpud	DPUD	Diversified planned unit developments

(Ord. No. 97-172, § 3(ch. 13, § 02.241), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 02.241), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 02.241), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 05-087, § 1, 10-25-2005; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.02.242. Heavy Industry (HI) District.

- A. The Heavy Industry District is to be used principally for larger heavy industrial developments not suited to other industrial districts and the uses that support those types of developments.
- B. Location of such districts typically has access to rail lines or navigable marine waterways in addition to roadway access.
- C. Districts shall be located to minimize adverse effects from neighboring districts such as noise, air pollution, and unsightly structures.
- D. This district shall be permitted in coastal zones provided that any use prohibited by the Delaware Coastal Zone Act shall remain prohibited, and provided that such districts were zoned M-3 under the former New Castle County zoning maps. No new HI districts shall be created in a coastal zone.

(Ord. No. 97-172, § 3(ch. 13, § 02.242), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 02.242), 9-22-1998)

Cross reference(s)—Businesses, ch. 8.

Sec. 40.02.243. Extraction (EX) District.

The Extraction District is to be used initially for the purpose of mining, or quarry type operations. Recreation, high intensity and light industry uses may be permitted contemporaneous with or following the extractive use.

(Ord. No. 97-172, § 3(ch. 13, § 02.243), 12-31-1997; Ord. No. 00-065, § 1, 10-24-2000; Ord. No. 14-067, § 1, 7-22-2014)

Sec. 40.02.244. Historic Overlay (H) District.

The Historic Overlay District places additional standards on uses within the district. The preservation and protection of buildings, structures, sites, objects, districts and landscape features of historic, architectural, cultural, archeological, educational and aesthetic merit are public necessities and are in the interest of the health, prosperity and general welfare of all citizens of the County. Criteria for inclusion in the H District are set forth in Article 15.

(Ord. No. 97-172, § 3(ch. 13, § 02.244), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.02.245. Hometown (HT) Overlay District.

The Hometown Overlay District is intended to perpetuate and enhance the character of early settlement areas, hamlets, villages, and pre-World War II subdivisions. Many of these communities have unique characteristics that do not conform to modern zoning standards, but still possess qualities making them viable and attractive places to live and work. The purpose of the overlay district is to ensure that infill, redevelopment, and changes to the zoning pattern are compatible with the existing community. Each district will require its own community redevelopment plan that may address such issues as land use, dimensional characteristics, protected resources, and amenities, and other features, as appropriate. Future development will conform to the established character of the community as defined in the plan instead of adhering strictly to modern zoning standards. Communities in the unincorporated areas of the county identified in Chapter 10 of the 1997 New Castle County Comprehensive Development Plan Update as well as Claymont; and, incorporated areas regulated by this Chapter shall be eligible for the overlay district.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.02.246. Economic Empowerment District (EED).

- A. The Economic Empowerment District (EED) is intended to create a master planned, campus-like setting consisting of target industry uses as identified in the 2014 Economic Development Strategic Plan, as may be amended or updated, comprising corporate headquarters, high technology offices, research and/or light assembly centers, or master planned employment centers.
- B. The EED also may be used to transition existing industrial/office campuses to accommodate the expansion or re-use of target industries with streamlined reviews.
- C. The ordinance establishing each EED will clearly define anticipated future uses and create development standards and design features to facilitate long-term, sustainable job growth for the County at that location, while protecting surrounding neighborhoods.
- D. The EED will complement and enhance features of the UDC with respect to bulk and area standards and design guidelines that require more specificity to accommodate the unique types of development and uses anticipated within an EED.

(Ord. No. 16-066 , § 2, 1-10-2017)

Sec. 40.02.247. Neighborhood Preservation Overlay District (NPOD).

- A. The Neighborhood Preservation Overlay District (NPOD) designation is intended for residential communities that are dealing with issues of infill and proximate nonresidential development or redevelopment that could have a deleterious impact on the residential areas.

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- B. Once established, the NPOD will encourage economic development, placemaking, and healthy communities in a way that protects the character of existing neighborhoods.
- C. The NPOD will establish complementary development regulations and standards that will focus on the existing residential neighborhood character and emphasize compatible building heights, setbacks, massing, building orientation, off-street parking, roof line and pitch, signs, lighting, open space, and streetscape elements.
- D. As an overlay zone, the NPOD will provide standards and design features to protect and safeguard the established surrounding residential community.

(Ord. No. 16-067 , § 1, 1-10-2017)

Sec. 40.02.248. - Publicly Conserved Lands & Parks (P) District.

- A. This district shall only include publicly owned, governmental parkland and nature preserves, or any other land owned by Municipal, County, State, and Federal governments for the purpose of environmental protection, habitat protection, passive recreational uses, or active recreational uses.
- B. Except for County and Federal owned parcels, rezoning of parcels to the Publicly Conserved Lands & Parks (P) district is subject to the requirements and standards for a rezoning amendment application in Article 31, and shall only occur at the request of the property owner. County and Federal owned parcels may be rezoned to the Publicly Conserved Lands & Parks (P) district as County-initiated Rezoning or part of a comprehensive rezoning.
- C. On or before July 1 of each year, the Departments of Land Use and Public Works shall jointly advise County Council of all parcels in the unincorporated County which newly satisfy the above criteria as of December 31 of the previous year, and which have been or shall be rezoned to the P designation.

(Ord. No. 24-130, § 1, 3-25-2025)

ARTICLE 3. USE REGULATIONS

Division 40.03.000. Purpose.

The purpose of this Article is to regulate the land uses in each zoning district, including setting standards for limited and special uses, parking, loading, and signage related to specific uses.

(Ord. No. 97-172, § 3(ch. 13, div. 03.000), 12-31-1997)

Division 40.03.100. Use regulations.

All land uses or structures shall be permitted in districts only as indicated in this Division. Permitted uses must occur within the parcel boundaries subject to the use regulations provided in this Chapter. All permitted uses shall also include accessory uses and structures as defined in this Chapter. No use prohibited in a district shall be permitted under any circumstances. The following symbols are used in Table 40.03.110.

- A. "Y" indicates a permitted use, where the use is permitted as a matter of right, subject to all performance standards.
- B. "N" indicates a prohibited use.
- C. "L" indicates a use permitted only if a limited use is approved pursuant to Section 40.31.210. The limited use review determines whether the locational, design, or other criteria of Table 40.03.210, Division 40.03.300 and other sections of this Chapter have been met for the proposed site or specific land use. Not all properties may meet these requirements, thus limiting the sites upon which the use may be established. Where the limited use standards apply to only a specific use, all other uses in the general use category are permitted by right and without the need for limited use review. Limited use approval must be issued by the Department certifying compliance before the limited use is lawfully permitted.
- D. "S" indicates a use permitted only if a special use is approved per Sections 40.31.140 and 40.31.430. The use must conform to the locational, design, or other conditions of Table 40.03.210 and Division 40.03.300. Not all properties may meet these requirements, thus limiting the sites upon which the use may be built.
- E. "A" indicates a use permitted as an accessory use. These uses must meet the standards established in Division 40.03.400.

(Ord. No. 97-172, § 3(ch. 13, div. 03.100), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 03.100), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 18-020, § 2, 7-10-2018)

Sec. 40.03.110. Use table.

Table 40.03.110 lists the type of uses permitted in each district. Refer to Division 40.33.200 for definitions of the various use categories and their components. Should a use not be identified in Table 40.03.110, an interpretation pursuant to Section 40.31.520 can be requested. Table 40.03.522 lists the specific parking requirements for several general uses listed in Table 40.03.110. Limited and special use standards are contained in Table 40.03.210 and Division 40.03.300. See Article 4 for district, lot, bulk and other standards.

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Table 40.03.110A. General Use Table										Table 40.03.110B. General Use Table										Table 40.03.110C. General Use Table									
Zoning District (Urban and Suburban-Transition Character) Y=permitted, N=prohibited, L=limited review, S=special use review, A=accessory										Zoning District (Suburban and Special Character)										Additional Standards (all districts)									
Land Use	TN ₁	S _T	M _M	ON	OR	CR	BP	I		CN	S ³	SE	NC ²	HI	EX	SR	P		Parking	Limited & Special Use Standards									
Agricultural										Agricultural										Agricultural									
Agriculture (includes uses pursuant to Delaware Law)	Y	Y	Y	Y	Y	Y	Y	Y		Y	Y	Y	Y	Y	Y	Y	Y		na.	—									
Clearing	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L		na	Section 40.03.301									
Farmstead	N	N	N	N	N	N	N	N		N	Y	Y	N	N	N	Y	Y		2.0/du.	—									
Farm market	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L		8 spaces	Section 40.03.328									
Commercial stables	N	N	N	N	N	N	N	N		N	L	L	N	N	N	L	L		1 per 2 stalls	Section 40.03.302									
Residential										Residential										Residential									
Single-family, detached	Y	Y	N	N	N	N	N	N		N	Y	Y	Y	N	N	Y	N		2.0/du.	—									
Open space subdivision, Option 1	N	N	N	N	N	N	N	N		N	Y	Y	N	N	N	Y	N		3.0/du.	—									

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Open space subdivision, Option 2	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	2.0/du.	
Single-family, attached	Y	Y	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N	2.25/du.	—
Open space planned	Y	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	2.25/du.	
Apartments	Y	Y	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	Table 40.03.522	Section 40.03.303
Apartment conversions	L	L	N	N	N	N	N	N	N	N	L	N	L	N	N	N	N	2.25/du.	Section 40.03.304
Commercial apartments	L	N	N	N	N	L	N	N	N	L	N	N	N	N	N	N	N	2.0/du.	Section 40.03.305
Hamlet	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Village	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	N	N	Division 40.25.100	Division 40.25.100
Pocket Neighborhood	Y	Y	N	N	N	N	N	N	N	N	Y	N	N	N	N	N	N	Section 40.25.333	Section 40.25.333
Group home	Y	Y	N	N	N	N	N	N	N	N	Y	Y	Y	N	N	Y	N	1.0/2 beds	—
Manufactured home park	N	N	L	N	N	N	N	N	N	N	N	N	L	N	N	N	N	2.25/du.	Section 40.03.306
Small single-family detached dwelling	L	L	N	N	N	N	N	N	N	N	L	N	L	N	N	N	N	2.0/du.	Only permitted in as an ADU Section 40.03.410, or in a Pocket Neighborhood

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Home Uses										Home Uses								Home Uses	
Day care, family/large family	A	A	A	N	N	N	N	N	N	N	A	A	A	N	N	A	N	Section 40.03.420	Section 40.03.420
Home occupation	A	A	A	N	N	A	N	N	N	A	A	A	A	N	N	A	N	Table 40.03.522	Section 40.03.420
Home business	N	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	N	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Cottage industry	N	N	N	N	N	N	N	N	N	N	L	L	N	N	N	L	N	Table 40.03.522	Table 40.03.210, Article 25 for design standards
Institutional										Institutional								Institutional	
Assembly and worship	L	L	N	N	L	Y	L	L	L	L	L	L	L	N	N	L	N	Table 40.03.522	Section 40.03.307, Division 40.25.200
Schools	L	L	N	N	L	Y	L	L	L	L	L	L	L	N	N	L	N	Table 40.03.522	Section 40.03.307
Colleges	Y	Y	N	L	Y	Y	Y	Y	Y	L	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.307
Hospitals	N	N	N	N	Y	Y	Y	Y	Y	N	N	N	L	N	N	N	N	1/bed	Table 40.02.210
Institutional, regional	N	L	N	N	L	L	L	L	L	N	L	L	L	N	N	L	L	Table 40.03.522	Section 40.03.308
Institutional, neighborhood	L	L	L	L	L	L	L	L	L	L	L	L	L	N	N	L	Y	Table 40.03.522	Section 40.03.309
Institutional, residential (Type I)	L	L	N	N	N	Y	N	N	N	L	L	L	L	N	N	Y	N	Table 40.03.522	Table 40.03.210

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Institutional, residential (Type II)	L	L	N	N	N	L	N	N		L	L	L	L	N	N	L	N	Table 40.03.522	Table 40.03.210
Protective care	N	N	N	N	S	N	S	S		N	N	N	N	S	N	S	N	Table 40.03.522	Table 40.03.210, Section 40.03.310
Public service	L	L	L	Y	Y	Y	Y	Y		Y	L	L	L	Y	Y	L	Y	Table 40.03.522	Section 40.03.311
Commercial									Commercial									Commercial	
Adaptive reuse, historic building	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	Table 40.03.522	Section 40.15.240
Adult uses	N	N	N	N	N	S	N	N		N	N	N	N	N	N	N	N	1/100 GFA	Section 40.03.313
Agricultural support and other rural services	N	N	N	N	Y	Y	Y	Y		Y	S	S	S	Y	Y	S	L	Table 40.03.522	Section 40.03.314 and Section 40.03.336
Bed and breakfast	L	L	N	N	N	N	N	N		L	L	L	L	N	N	L	N	1/room plus 2/du.	Section 40.03.315
Commercial lodging	N	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210
Commercial retail and service	L	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210, Division 40.25.200
Corporate guest house	N	L	N	N	Y	Y	Y	Y		N	L	L	L	N	N	L	N	Table 40.03.522	Table 40.03.210
Craft alcohol production establishment	N	N	N	N	N	L	L	L		L	L	L	N	N	N	L	N	Table 40.03.522	Table 40.03.210 Section 40.03.318 Section 40.03.338

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Drive-in facility	L	N	N	L	L	L	L	L		L	N	N	N	L	N	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.316
Firearm retail business	L	N	N	N	L	L	L	L		L	N	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210 Section 40.03.342
Heavy retail and service	N	N	N	N	N	L	N	L		N	N	N	N	S	N	N	N	Table 40.03.522	Section 40.03.339 Section 40.31.430
Light automobile service	L	N	N	N	L	Y	L	Y		Y	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.317
Mixed use	L	N	N	L	L	L	N	N		L	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.318, Division 40.25.200
Multifamily conversion	L	N	N	L	L	L	N	N		L	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.340
Restaurants	L	N	N	N	L	Y	L	L		Y	N	N	N	N	N	N	N	Table 40.03.522	Table 40.03.210, Division 40.25.200
Office	L	N	N	Y	Y	Y	Y	Y		Y	N	N	N	L	N	N	N	Table 40.03.522	Table 40.03.210, Section 40.03.321, Division 40.25.200
Shopping center	N	N	N	N	N	Y	N	N		Y	N	N	N	N	N	N	N	Table 40.03.522	—
Vehicular sales, rental and service	N	N	N	N	N	L	N	N		N	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.339
Retail marijuana store	N	N	N	N	N	L	N	L*		S	N	N	N	N	N	N	N	Table 40.03.522	Section 40.03.341 *Site must have been established and operational as a medical marijuana dispensary before July 1, 2024

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Recreation and Amusement										Recreation and Amusement								Recreation and Amusement	
Campground	N	N	N	N	N	N	N	N	N	N	L	N	N	N	N	L	L	1/space + 3/50 spaces at office	Table 40.03.210
Recreation, high intensity	N	N	N	N	S	Y	S	S		L	N	N	N	N	L	N	L	Table 40.03.522	Table 40.03.210 In EX, see also Section 40.03.324
Recreation, low intensity	L	L	L	L	L	Y	L	L		Y	L	L	L	L	N	L	Y	Table 40.03.522	Table 40.03.210
Resort	N	N	N	N	N	L	N	N		N	L	L	N	N	N	L	N	Table 40.03.522	Table 40.03.210, Section 40.03.322
Industrial Uses										Industrial Uses								Industrial Uses	
Compost operations	N	N	N	N	N	N	N	L		N	N	N	N	L	L	S	N	Table 40.03.522	Section 40.03.336
Data Centers	N	N	N	N	N	N	N	S		N	N	N	N	S	S	N	N	Table 40.03.522	Table 40.03.210 Section 40.03.343
Extraction	N	N	N	N	N	N	N	N		N	N	N	N	N	L	N	N	Table 40.03.522	Section 40.03.324 and Table 40.03.210
Heavy industry	N	N	N	N	N	N	N	N		N	N	N	N	S	N	N	N	Table 40.03.522	Section 40.03.323
Light industry	N	N	N	N	L	S	L	Y		N	N	N	N	Y	Y	N	N	Table 40.03.522	Section 40.03.333 for OR and CR Zoned Land Table 40.03.210 for BP Zoned Land
Recycling or storage	N	N	N	N	L	N	L	L		N	N	N	N	L	N	N	N	Table 40.03.522	Table 40.03.210

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Utilities, maintenance facilities	N	N	N	N	Y	L	Y	Y		N	N	N	N	Y	N	N	L	Table 40.03.522	Section 40.03.312
Utility, minor	L	L	L	L	L	L	L	L		L	L	L	L	Y	Y	L	L	Table 40.03.522	Section 40.03.334
Utility, major	S	S	S	S	S	S	S	L		S	S	S	S	L	S	S	S	Table 40.03.522	Section 40.03.312
Solar energy system, large-scale	N	N	L	L	L	L	L	L		N	L	N	N	L	N	L	N	na.	Section 40.03.337
Other Uses									Other Uses									Other Uses	
Airports	N	N	N	N	L	N	L	L		N	S	N	N	L	N	S	N	Special study, Section 40.03.524	Table 40.03.210, Section 40.03.325 and 40.03.432
Commercial communications towers	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	2 per tower	Section 40.03.326
Community recycling bins	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	—	Section 40.03.430
Exterior lighting for outdoor recreational uses	S	S	S	S	S	S	S	S		S	S	S	S	S	S	S	S	Table 40.03.522	Table 40.03.210 and Division 40.22.700
Park and ride facility	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L	—	Section 40.03.210
Parking structures	N	N	N	S	S	S	S	S		S	S	N	N	S	N	N	L	—	Sections 40.03.528, 40.04.320, and 40.25.137

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Temporary Uses										Temporary Uses										Temporary Uses									
Temporary storage, office or classroom modulars or trailers	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L		Table 40.03.522	Table 40.03.210									
Concrete/asphalt batch plant	N	N	N	N	N	N	N	L		N	N	N	N	L	L	L	N		Table 40.03.522	Section 40.03.327									
Contractor's office	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L		1/200 sf.	—									
Model homes/sale office	L	L	L	N	N	N	N	N		N	L	L	L	N	N	L	N		2/model	Section 40.03.335									
Commercial temporary outdoor sales	L	N	N	N	N	L	N	N		L	N	N	N	N	N	N	L		none	Section 40.03.329									
Public interest and special events	L	L	L	L	L	L	L	L		L	L	L	L	L	L	L	L		Table 40.03.522	Section 40.03.330									
Temporary miscellaneous sales	L	N	N	N	N	L	N	N		L	N	N	N	N	N	N	L		Table 40.03.522	Table 40.03.210, Section 40.03.331									
	Notes: ¹ Refer to Article 25 for design standards for TN District. ² Refer to Section 40.02.241 for identification of permitted residential uses by specific NC zoning districts. ³ See Division 40.25.100 for Village and Hamlet Standards.																												

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(Ord. No. 97-172, § 3(ch. 13, § 03.110), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 03.110), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 03.110), 9-22-1998; Ord. No. 99-012, § 1, 3-23-1999; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 99-142, § 1, 5-9-2000; Ord. No. 00-065, § 1, 10-24-2000; Ord. No. 00-138, § 1, 3-27-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-003, § 1, 3-9-2004; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 05-087, § 2, 10-25-2005; Ord. No. 05-130, § 1, 2-28-2006; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-089, § 1, 9-25-2007; Ord. No. 07-124, § 1, 12-11-2007; Ord. No. 08-096, § 2, 11-25-2008; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-018, § 1, 4-27-2010; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 11-042, § 1, 11-22-2011; Ord. No. 14-067, § 2, 7-22-2014; Ord. No. [15-053](#), § 1, 7-28-2015; Ord. No. [17-044](#), § 1, 10-10-2017; Ord. No. [17-108](#), § 1, 5-8-2018; Ord. No. [18-021](#), § 1, 7-10-2018; Ord. No. [19-046](#), § 2, 8-27-2019; Ord. No. [21-065](#), § 1, 8-31-2021; Ord. No. [23-104](#), § 1, 1-9-2024; Ord. No. 24-057, 9-24-2024; Ord. No. 24-087, 9-24-2024, Ord. No. 24-137, 12-10-2024, Ord. No. 24-138, 12-10-2024, Ord. No. 24-130, § 1, 3-25-2025, Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Division 40.03.200. Limited and special uses.

This Division describes the standards governing individual limited (L) and special (S) uses, including: common standards for buffering, location, bulk, and scale; standards of an environmental nature that apply to open space uses; and standards not easily incorporated into Table 40.03.210. Division 40.03.300 describes individual limited or special uses, or standards that vary from district to district, that could not be summarized in Table 40.03.210. If the use is to be contained in a subdivision, the lots for such uses shall be so designated.

(Ord. No. 97-172, § 3(ch. 13, div. 03.200), 12-31-1997; Ord. No. 17-044 , § 2, 10-10-2017)

Sec. 40.03.210. Buffering, location, bulk and scale standards.

Table 40.03.210 provides standards that increase the degree of buffering, govern the location, and reduce the bulk or scale of limited or special uses. The meaning of the different categories contained in the Table is established as follows:

- A. *Location.* This column refers to the bufferyard location if it is different than normal district boundary bufferyards. "All" indicates the entire property is surrounded. Other designations set specific locations on site or uses to be buffered.
- B. *Increased width/opacity.* This column refers to the amount by which the bufferyard opacity required in Table 40.04.111 shall be increased. The use is responsible for the increased bufferyard. In some cases, a distance is to be added to the bufferyard width regardless of the options selected in Section 40.23.140 or 40.23.141.
- C. *Fence.* The use shall provide a fence of certain height within the bufferyard. The fence is to be added to the buffer option in Section 40.23.140 or 40.23.141. Where an option already requires a fence of lower height, the developer may use that option by increasing the fence height. Where a fence of the required height is contained within the options, the developer shall use an option that does not require a fence and add the fence.
- D. *Uses separated.* This column lists protected uses from which the limited or special use is to be separated. Residential, religious institutions, and schools are typical protected uses.
- E. *Spacing.* The use shall be separated from protected uses by a minimum distance.
- F. *Minimum spacing.* This requires a minimum distance between the next similar use. This requirement prohibits certain uses from concentrating in any given area and includes uses located outside the zoning district boundary. Some uses tend to cluster at intersections. This marketing practice is appropriate; therefore, a provision has been made to permit such clustering. Where "int" is found after the spacing distance in the column, uses may locate at any of the intersection corners. However, the intersection where these uses exist must be separated by the specified distance.
- G. *Minimum site area.* The use must have a certain minimum site area. In several cases, this column has also been used to indicate a maximum site size or a range of minimum and maximum sizes.
- H. *Minimum access.* The use may be built only where it has adequate frontage on a street of a certain type (e.g., arterial, collector or nonresidential local street).
- I. *Maximum size.* This standard limits the use's size to less than that permitted in Table 40.04.110.
- J. *Maximum height.* This standard sets a limit relative to the building's maximum height. An exception is granted for chimneys, steeples, cupolas, and antennas, provided that they occupy no more than seven (7) percent of the roof area.
- K. *Other.* This column contains short requirements and/or references to other sections where specific standards are found.

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Table 40.03.210A. Limited and Special Use Standards						Table 40.03.210B. Limited and Special Use Standards						Table 40.03.210C. Limited and Special Use Standards
	Buffer Standards					Locational or Dimensional Standards						Additional Standards
	Bufferyards			Separation		Minimum				Maximum		
Land Use	Location	Increase Opacity or Width	Fence or Berm	Use Protected	Distance from Use to protected parcel	Spacing	Site Area	Road Access	Open Space	Lot Area	Height	Other
Agricultural						Agricultural						Agricultural
Agriculture												
Clearing												Section 40.03.301
Farmstead												
Farm market												Section 40.03.328
Commercial stables												Section 40.03.302
Residential						Residential						Residential
Single-family, detached												
Open space subdivision, Option 1												
Open space subdivision, Option 2												

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Single-family, attached												
Open space planned												
Apartments												Section 40.03.303
Apartment conversions												Section 40.03.304
Commercial apartments												Section 40.03.305
Hamlet												Division 40.25.100
Village												Division 40.25.100
Group home												
Manufactured home park	all borders	0.4 (25 ft.)				2,640 ft.	8 ac.				35 ft.	Section 40.03.306
Small single-family												
Home Uses						Home Uses						Home Uses
Day care, family/large family												
Home occupation												
Home business												Only allowed in farmsteads, hamlets & villages (Article 25 design standards will apply in hamlets & villages)

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Cottage industry												Only allowed in farmsteads, hamlets & villages (Article 25 design standards will apply in hamlets & villages)
Institutional						Institutional						Institutional
Assembly and worship												Section 40.03.307
Schools												Section 40.03.307
Colleges												—
Hospitals							25 acs.					—
Institutional, regional												Section 40.03.308
Institutional, neighborhood												Section 40.03.309
Institutional, residential (Type I)							10,000 sf or min. zoning district area for single-family du., whichever is greater					
Institutional, residential (Type II)							5 ac.	Collector				
Protective care	Residential	0.3	10 ft.	Residential	500 ft.		1 ac.					Section 40.03.310
Public service												Section 40.03.311

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Commercial						Commercial						Commercial
Adult uses												Section 40.03.313
Agriculture support and other rural services												Section 40.03.314
Bed and breakfast							15,000 sq. ft.					Section 40.03.315
Commercial lodging				Residential	500 ft.							Max. 10% of GFA within the park or development in OR and BP Districts
Commercial retail and service												Division 40.25.200 for TN Districts. Max. 10% of GFA within the park or development and a maximum of 10% within any parcel in OR, BP and I districts.
Corporate guest house							5 ac.					
Craft alcohol production establishment												Section 40.03.318, Section 40.03.338
Drive-in facility	Residential	0.4										Section 40.03.316
Firearm retail business												Division 40.25.200 for TN districts. Max. 10% of GFA within the park or development and a maximum of 10% within any parcel in OR, BP and I districts

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Heavy retail and service												
Light automobile services												Section 40.03.317
Mixed use												Section 40.03.318
Restaurants				Residential	500'							Division 40.25.200 for TN districts. Max. 10% of GFA within the park or development and a maximum of 10% within any parcel in OR, BP and I Districts
Office								In the TN, collector or arterial				In the TN, approved with site plan and design guidelines, see Division 40.25.200. In the HI, see Section 40.03.321 for office use limitations.
Shopping center												
Vehicle sales and service												
Recreation and Amusement						Recreation and Amusement						Recreation and Amusement
Campground	All	0.6										Maximum gross density of 3 camp sites per acre
Recreation, high intensity	All	0.2										In the EX zoning district. See Section 40.03.324.
Recreation, low intensity	All	0.1					2 ac.					

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Resort	All	0.6					10 acres					Section 40.03.322
Industrial Uses						Industrial Uses						Industrial Uses
Compost operations												Section 40.03.336
Data Centers	Within 1,000 feet of a residentially zoned parcel or parcel with an established daycare center or school	0.4	Minimum 8 ft. berm	Residential and established daycare center and schools	1,000 ft.*							See Section 40.03.343 * See Section 40.03.343.B
Extraction	All	0.8 (150 ft.)	8 ft. berm	Residential	100 ft. *		25 ac.					Section 40.03.324 * 100' for Recreation, High Intensity Uses
Heavy industry												
Light industry	Residential and schools	0.3	Minimum 8 ft. berm	Residential and schools	500 ft.*							Requirements for OR and CR zoned land see Section 40.03.333 *500 ft. as measured to any Light Industrial building or structure
Recycling or storage	All exterior storage	0.3	8 ft. fence or 4 ft. berm									The use is a limited use in the OR and BP zoning districts only where there is no exterior storage, and all material is stored inside the buildings with impervious floors.
Utilities, minor												Section 40.03.334
Utilities, major	All exterior storage of heavy	0.3	4 ft. berm									

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	equipment and materials											
Utilities, maintenance facilities												
Other Uses						Other Uses						Other Uses
Airports				Residential and schools	500 ft.		300 ac.					Sections 40.03.325 and 40.03.432
Commercial communications towers												Section 40.03.326
Exterior lighting for outdoor recreational uses												Section 40.31.430, 40.31.431, and 40.31.432
Park and ride facilities	Residential	0.3		Residential								
Parking structures												Sections 40.03.528, 40.04.320, and 40.25.137
Temporary Uses						Temporary Uses						Temporary Uses
Temporary office, security, storage or classroom modulares or trailers				Residential	50 ft.							3 year nonrenewable permit, except that permits for temporary classrooms may be renewed by the Department. Shall provide required bufferyard for the principal use at adjacent lot line(s). Public schools shall

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												show only the 50' separation on a site plan.
Concrete/asphalt batch plant												Section 40.03.327
Contractor's office												
Model homes/sales office												Section 40.03.335
Commercial temporary outdoor sales												Section 40.03.329
Public interest and special events												Section 40.03.330
Temporary miscellaneous sales												Section 40.03.331

(Ord. No. 97-172, § 3(ch. 13, § 03.210), 12-31-1997; Ord. No. 98-062, § 1, 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 03.210), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 99-142, § 2, 5-9-2000; Ord. No. 00-006, § 1, 6-13-2000; Ord. No. 00-065, § 3, 10-24-2000; Ord. No. 00-138, § 2, 3-27-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 05-087, § 3, 10-25-2005; Ord. No. 05-130, § 2, 2-28-2006; Ord. No. 07-089, § 2, 9-25-2007; Ord. No. 07-124, § 2, 12-11-2007; Ord. No. 08-096, § 2, 11-25-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 11-042, § 2, 11-22-2011; Ord. No. 15-053, § 2, 7-28-2015; Ord. No. 17-108, § 2, 5-8-2018; Ord. No. 21-065, § 2, 8-31-2021; Ord. No. 23-104, § 2, 1-9-2024; Ord. No. 24-057, 9-24-2024, Ord. No. 24-084, § 2, 9-17-2024, Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Division 40.03.300. Additional limited and special use standards.

Sec. 40.03.301. Clearing.

- A. Clearing includes earth moving, logging, or burning and shall require a zoning permit. Such permits shall be issued only under one (1) or more of the following conditions:
 - 1. As part of a site plan or land development plan with an approved resource protection plan.
 - 2. A resource protection plan and analysis shall be submitted to the Department demonstrating that the standards of Table 40.10.010 are met, including a record of the property's original conditions.
 - 3. When trees are to be harvested beyond the required resource protection levels provided for in this Chapter, a zoning permit shall be granted; however, a conservation easement which shall require reforestation pursuant to Section 40.10.350, and which shall limit development to the open area shall be recorded.
- B. Agricultural uses are exempted from the provisions of this Section, except for the requirements contained in Subsection C.
- C. Agricultural uses shall submit an approved State Forestry Plan, which shall be used to determine the extent of forest on the site. Any future developer shall be required to use the original forest cover as set forth in the State Forestry Plan as the area of forest in Table 40.10.010.
- D. State agencies conducting or supervising prescribed burnings are exempt from the provisions of this Section.
- E. For site resource capacity purposes, parcels which have been cleared and are proposed for development shall use the forest cover which existed as of December 31, 1997. Documentation of such shall be submitted by the applicant.

(Ord. No. 97-172, § 3(ch. 13, § 03.301), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.301), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.302. Commercial stables.

In the SR, SE and S Districts, commercial stables must not conflict with the low density nature of the districts. A maximum of twenty-five (25) percent of the site may be improved with barns, stables, riding rinks, parking or other facilities. Agricultural uses may have commercial stables as an accessory use as a matter of right.

(Ord. No. 97-172, § 3(ch. 13, § 03.302), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.302), 9-22-1998)

Sec. 40.03.303. Apartments.

Within the NC zoning district classification, apartments shall only be permitted in NCap and NCga districts. The NC5 Zoning District may also contain apartments built prior to December 31, 1997.

(Ord. No. 97-172, § 3(ch. 13, § 03.303), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.303), 9-22-1998; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.304. Apartment conversion.

The conversion of a single-family detached dwelling into two (2) or more dwelling units is permitted subject to conformance with the following requirements:

- A. The dwelling shall have been constructed at least fifty (50) years before the date of application for conversion, or the structure shall have been previously approved by the Board of Adjustment for a special exception or special use. If the apartment use substitutes a previously approved special exception or special use, such prior use shall be considered to be abandoned and may not be reinstituted.

- B. There shall be a minimum lot area of at least one hundred twenty (120) percent of the parcel's minimum zoning district lot size for single-family dwellings.
- C. The minimum open area is fifty (50) percent.
- D. The gross floor area of the existing dwelling, excluding garages shall be at least four thousand (4,000) square feet. Any additions to the dwelling shall be limited to a total of ten (10) percent of the floor area of the existing dwelling.
- E. The minimum floor area of each apartment shall be eight hundred (800) square feet.
- F. Fire escapes and outside stairways shall not be located on any building wall facing a street. Where fire escapes and outside stairways are required to be placed where visible from a public street, the Department may require additional landscaping or bufferyards to minimize visual impacts.
- G. In addition to any other landscaping or bufferyard requirements, there shall be a parking buffer around the perimeter of the parking lot.

(Ord. No. 97-172, § 3(ch. 13, § 03.304), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.304), 9-22-1998; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 05-107, § 1, 7-24-2007)

Sec. 40.03.305. Commercial apartments.

The commercial apartment(s) shall meet the following standards:

- A. Apartments shall be designed to have a private access separate from that of the primary commercial use.
- B. At least five hundred (500) square feet of yard space, balcony, deck space or roof top area for each commercial apartment unit shall be provided.
- C. In the TN District, commercial apartments shall meet all design standard guidelines.

(Ord. No. 97-172, § 3(ch. 13, § 03.305), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.03.306. Manufactured home park.

- A. All manufactured home units shall be skirted consistent with the character of the mobile/manufactured home and meet the off-street parking requirements. If removable, hitches shall be removed; if not removable, hitches shall be skirted and screened.
- B. Mobile home parks shall meet the following standards:
 - 1. A developer of over twenty-five (25) units shall have the option of declaring a section of the community either sales or rental within the same residential manufactured/mobile home community. Each sales or rental section must meet the minimum applicable standards and be designated on the record plan.
 - 2. All roads, public or private, shall meet the street standards of this Chapter.
 - 3. Reserved.
 - 4. Outdoor living space. Appropriate outdoor living space, surfaced with a weather-resistant material, patio, deck, open porch or combination of these structures, having a minimum area of one hundred eighty (180) square feet, shall be provided adjacent to the manufactured or mobile home.
 - 5. Recreation area. A recreation area, utilizing developable land, shall be provided within the required open space. Nondevelopable land may be used if determined suitable by the Department. The recreation areas shall meet the following standards:
 - a. The total amount of recreation area shall be not less than three hundred (300) square feet for each lot within the manufactured/mobile home community.
 - b. The recreation area may be provided by a series of smaller recreation areas, the sum of which is equal to the required total. Furthermore, no recreation area shall be smaller in area than the

average of the lot areas within the community, and recreation areas less than one hundred (100) feet wide shall not exceed in length three (3) times their width.

- c. The open space and recreation areas shall be deed-restricted to active and passive recreational uses at the time of recordation of the subdivision plan.
- d. If manufactured/mobile home community is recorded and/or constructed in phases or stages, the required open spaces and recreation areas will be designated on the record plan and developed at the same proportion that the number of lots in the phase or stage bears to the total number of lots in the community.

(Ord. No. 97-172, § 3(ch. 13, § 03.306), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.306), 9-22-1998)

Sec. 40.03.307. Assembly and worship, schools, colleges.

- A. In the OR, BP and I Districts, churches and other places of worship shall be required to use existing structures and buildings. In ON and CN Districts, colleges shall be required to use existing structures and buildings. No additions to existing buildings or new buildings related to the assembly and worship shall be constructed in the BP and I Districts. The Department may request a parking plan for review and approval.
- B. In the OR, BP, and I Districts, schools as a principal use or as an accessory use and/or associated with a church or other place of worship on the same site, shall be permitted only when the new or existing structure(s) to be occupied by the school is separated by a minimum of one hundred (100) feet from all other industrial use buildings. In addition, the school site shall provide a five-tenths (0.5) opacity buffer along all property lines adjacent to industrial and commercial uses. All schools in the OR, BP and I districts shall provide a minimum of one-half (0.5) acres on-site for outdoor recreation and play areas per one hundred (100) students of school capacity, or demonstrate that they have secured by lease or other agreement the use of adequate outdoor recreation and play areas. Schools may request a waiver from the Department for this requirement if they demonstrate an alternative recreational option.
- C. In all other zoning districts, proposed uses shall be located on and take access from a collector or arterial street. At its discretion and with DelDOT concurrence, the Department may permit such uses to locate, expand or rebuild having access on other streets where vehicular and pedestrian safety is not compromised and the local neighborhood is not adversely impacted.

(Ord. No. 97-172, § 3(ch. 13, § 03.307), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.307), 9-22-1998; Ord. No. 99-012, § 2, 3-23-1999; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-003, § 2, 3-9-2004; Ord. No. 04-124, § 1, 10-12-2004; Ord. No. 07-036, § 1, 6-26-2007; Ord. No. 08-096, § 3, 11-25-2008; Ord. No. 10-018, § 2, 4-27-2010)

Editor's note(s)—Ord. No. 10-018, § 2, adopted April 27, 2010, changed the title of section 40.03.307 from "Assembly and worship, schools" to "Assembly and worship, schools, colleges." The historical notation has been preserved for reference purposes.

Sec. 40.03.308. Institutional, regional.

All uses shall be located on and take access from a collector or arterial street.

(Ord. No. 97-172, § 3(ch. 13, § 03.308), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.308), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.03.309. Institutional, neighborhood.

Except for sites licensed by the State of Delaware Department of Health and Social Services as an Adult Day Care facility, the establishment of a day care center is permitted subject to conformance with the following requirements:

- A. The minimum lot size is one (1) acre.

- B. State licensing requirements shall be met, including those pertaining to building, fire, safety and health codes.
- C. Outdoor play or activity areas shall be fenced or otherwise enclosed on all sides, as approved by the Department, and shall consist of developable lands, but shall not include driveways or parking areas. A one-tenth (0.1) opacity bufferyard shall be required around the play area, unless bufferyard standards are otherwise required by this Chapter.
- D. The circulation pattern of the parking area shall be designed to provide a safe and convenient pedestrian access from all parking spaces to the entrance of the facility.
- E. No portion of the day care center shall be located within five hundred (500) feet of any [gasoline pumps, underground or other storage of explosive materials], package store, bar or tavern, or other similar incompatible uses.
- F. Any on-site propane or any other petroleum product storage tanks must be stored underground, except for petroleum containers used for routine property maintenance.
- G. No portion of the day care center shall be located within one thousand (1,000) feet of an established retail marijuana store.
- H. No portion of the day care center shall be located within one thousand (2,800) feet of an established adult use.
- I. When a day care [facility]center is located in a shopping center or shares parking and/or access with other commercial uses, the parking area shall function independently of and physically separate from the general parking and circulation pattern of the other stores or businesses. The day care facility shall be in either the end unit of the multiple occupancy building or a separate structure. These standards shall not apply to day care facilities located within developments consisting solely of office uses.
- J. In residential districts, no structural or decorative changes that will alter the exterior residential character of an existing residential structure used for a day care center shall be permitted. Any new or remodeled structure must be designed to be compatible with the residential character of the surrounding neighborhood.

(Ord. No. 97-172, § 3(ch. 13, § 03.309), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 03.309), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 06-060, § 1(Exh. A), 9-26-2006, Ord. No. 25-063, Sub No. 1, 10-14-2025)

Sec. 40.03.310. Protective care.

All protective care facilities shall have an emergency plan filed with the police, emergency services, and disaster and emergency agencies indicating that these facilities have plans to protect the adjoining communities.

(Ord. No. 97-172, § 3(ch. 13, § 03.310), 12-31-1997)

Sec. 40.03.311. Public service.

All public service facilities, except those related to law enforcement activities, shall be designed to serve a defined service district and shall be located on a collector or arterial street. At its discretion and with DelDOT concurrence, the Department may permit such uses to locate, expand or rebuild having access on other streets where vehicular and pedestrian safety is not compromised and local neighborhood is not adversely impacted.

(Ord. No. 97-172, § 3(ch. 13, § 03.311), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.311), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 07-036, § 2, 6-26-2007)

Sec. 40.03.312. Major utilities.

- A. A three-tenths (0.3) increase in bufferyard opacity shall be required along the perimeter of the site, the barrier, or adjacent to any outside equipment or material storage. Exception: if state or federal standards provide

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minimum vegetation clearance distances, the landscaping requirements shall apply to the extent plantings can be installed in conformance with such standards.

- B. Utility installations shall be enclosed by a barrier, such as a fence, suitable to prevent unauthorized access. The barrier shall be constructed to meet any applicable state or federal rule or standard addressing the physical security of the utility installation. The barriers shall not be used to display any signage except as required by applicable law.
- C. Utility installations shall be located no closer than fifty (50) feet from any property line and no closer than one hundred fifty (150) feet from any dwelling unit.
- D. Electric power generating facilities, other than SESs, shall be permitted only in the Industrial (I) and the Heavy Industrial (HI) zoning districts and the following standards shall apply:
 - 1. In addition to filing a major land development plan, the landowner and operator of the proposed facility shall make application to the Department for review. The Department shall review the application and shall respond in writing to the owner/applicant with comments and recommendations, when appropriate.
 - 2. The application shall include the following:
 - a. A detailed account of the capacity and operating procedures for the facility, including, but not limited to: the hours of operation; the type and amount of traffic generated by the facility; and
 - b. A detailed account of the source, composition, and anticipated amount of feedstock material on site; the anticipated contaminants present in the feedstock; how the feedstock material is to be stored on site; how often the feedstock material is to be relocated and replenished; and
 - c. A detailed account of the anticipated impacts on adjacent land uses over the expected lifetime of the facility, including, but not limited to, likelihood of generation of glare, heat, noise, vibration, radiation, electromagnetic interference, obnoxious odors, or the effect on public access to tidal waters, effect on recreational areas and effect on adjacent residential and agricultural areas; and
 - d. Supporting information on the degree to which the proposed technology has been proven successful in commercial operation; and specific information on the applicant's commercial experience with the same or similar manufacturing processes with regard to environmental compliance; and
 - e. A copy of the State of Delaware Department of Natural Resources and Environmental Control, Division of Air & Waste Management Construction Permit issued for the proposed facility; and
 - f. An application fee to be determined by the Department in an amount to defray the costs of having an outside environmental consultant assess the information contained in the application.
 - 3. The Department shall make a recommendation to County Council as to whether the proposed use is appropriate, the parameters for the commencement of the use, hours of operation, intensity of the use, and a schedule for the operation of the use. The Department's recommendation can be in favor of the application, in favor of the application based on certain conditions being imposed, or not in favor of the application. In formulating its recommendation, the Department shall give consideration to the following factors:
 - a. Whether the operating procedures for the facility would have an adverse impact on the surrounding community; and
 - b. Whether the source, composition, and anticipated amount of feedstock material on site, or the method of storage relocation or replenishment of the feedstock material, would have adverse environmental impacts; and
 - c. Whether the proposed facility would create a public nuisance; and
 - d. Whether the proposed technology has been proven successful in commercial operation and whether the applicant has historically complied with environmental regulations utilizing the same or similar manufacturing processes.

4. County Council shall then consider the application which is to take the form of a resolution at a public meeting. The resolution shall have attached a copy of the application and the Department's recommendation. Passage of the resolution constitutes approval of the application. Failure of the resolution to pass shall constitute denial of the application. County Council may impose limitations or conditions beyond those which may be recommended by the Department pursuant to any findings developed during the public hearing on the resolution.

(Ord. No. 97-172, § 3(ch. 13, § 03.312), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.312), 9-22-1998; Ord. No. 00-006, § 2, 6-13-2000; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 17-044, § 3, 10-10-2017)

Sec. 40.03.313. Adult uses.

- A. No parcel containing adult uses shall be permitted within a five hundred (500) foot radius of any residentially zoned parcel improved or which can be improved with a residential dwelling unit.
- B. No parcel containing adult uses shall be permitted within a two thousand eight hundred (2,800) foot radius of any parcel containing a school, church or other place of worship.
- C. No parcel containing adult uses shall be permitted within a one thousand five hundred (1,500) foot radius of any other parcel containing an adult use.

(Ord. No. 97-172, § 3(ch. 13, § 03.313), 12-31-1997)

Sec. 40.03.314. Agricultural support and other rural services.

- A. These are special uses and may be permitted by the Board of Adjustment pursuant to the standards in Section 40.31.430. The use may support local agricultural activity. Within the NC zoning district classification, agricultural support and other rural services shall only be a special use in the NC21, NC40 and NC2a districts. The use is not permitted in any other NC district.
- B. All new commercial kennels shall have a minimum lot size of five (5) acres. All buildings must be enclosed and soundproofed so that no unreasonable noise or odor shall be detectable off-site by persons with normal sensibilities. Outdoor runs are permitted and shall be at least one hundred and fifty (150) feet from all residentially zoned lots and residential uses. Landscaping and buffering shall be enhanced to a minimum eight-tenths (0.8) opacity to reduce adverse impacts on adjacent residential uses.
- C. When legally existing commercial kennels are proposed to be expanded on residentially zoned lots with less than five (5) acres, the expansion shall require special use approval. Expansions of legally existing kennels on lots greater than five (5) acres, or with no outdoor runs, shall not require special use approval. All new and existing kennel buildings must be enclosed and soundproofed so that no unreasonable noise or odor shall be detectable off-site by persons with normal sensibilities. Outdoor runs are permitted and shall be at least one hundred and fifty (150) feet from all residentially zoned lots and residential uses. Landscaping and buffering shall be enhanced to a minimum eight-tenths (0.8) opacity to reduce adverse impacts on adjacent residential uses.
- D. A new or legally existing veterinary office, clinic or hospital may have accessory kennels associated with the medical facility. A commercial kennel operating independent of the veterinary services offered shall comply with the minimum standards for commercial kennels listed in Subsections A, B and/or C.

(Ord. No. 97-172, § 3(ch. 13, § 03.314), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.314), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 03-070, § 1, 10-28-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.315. Bed and breakfast.

In all districts, a bed and breakfast shall be in a single-family dwelling having a minimum floor area of three thousand (3,000) square feet. Guest rooms may also be located in an accessory structure when the bed and breakfast is located on a lot of at least five (5) acres. Bed and breakfast uses are limited to five (5) square feet total sign area. Such signs must be constructed of wood or other durable nonplastic material. Bed and breakfast uses must provide

for all parking off the street and screened from adjoining land uses by hedges and canopy trees. The Department may, however, permit on-street parking to be substituted upon a determination that the street can accommodate the parking and the provision of off-street parking would be detrimental to the area's appearance. The minimum required open space is fifty (50) percent. The minimum lot size is fifteen thousand (15,000) square feet.

(Ord. No. 97-172, § 3(ch. 13, § 03.315), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.315), 9-22-1998)

Sec. 40.03.316. Drive-in facility.

- A. When a drive-in facility is located within, or adjacent to, residential zoning districts or residential uses, talk boxes must be screened by a sound barrier, such as a solid fence or masonry wall and landscaping.
- B. In the BP District, drive-in facility uses shall take access from the entrance road to the business park. Further, these uses shall be located along the entrance road and prior to the first road intersection within the business park.
- C. There shall be a bypass lane to maintain vehicular circulation if required by the Department. Drive-in lanes shall be separated from other aisles by a curbed island.
- D. Except for bank and pharmacy uses, the circulation design must accommodate on site an additional four (4) vehicles for stacking that may be within parking aisles.
- E. Required stacking lanes shall be based on eighteen (18) lineal feet per vehicle as measured from the point an order or instructions are first given.
- F. Additionally, when a drive-in facility is placed adjacent to the public right-of-way or other public access thoroughfare, the drive-in cartway shall be screened from view with a combination of structures and landscaping as deemed appropriate by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 03.316), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 03.316), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 03.316), 9-22-1998; Ord. No. 18-021, § 2, 7-10-2018)

Sec. 40.03.317. Light auto services.

This use has different standards in the TN, OR and BP Districts.

- A. *Traditional Neighborhood (TN) District.* Light auto services shall only be permitted in the TN District as part of planned development with a minimum of one hundred (100) acres. The site plan submittal shall include a concept plan and design guidelines which protect the urban character of the streetscape. The building must be built to the front setback lines as are other buildings in the urban area. The landscaping and other design features shall be determined to provide a continued pedestrian precinct that is attractive and safe.
- B. *Office Regional (OR) and Business Park (BP) Districts.* The intent of this Section is to permit this use only at the entrance to a business or industrial park and to preserve the park for business or industrial uses. A maximum of one (1) light auto service use shall be allowed at the entrance to an office or industrial park with the following limitations:
 - 1. Minimum office park size of one hundred (100) acres.
 - 2. The use must architecturally blend with the office park and surrounding neighborhood.

(Ord. No. 97-172, § 3(ch. 13, § 03.317), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.317), 9-22-1998)

Sec. 40.03.318. Mixed use.

Mixed use is intended to facilitate development that is planned, designed and managed as an integrated development comprised of residential and nonresidential uses oriented to a pedestrian precinct and intended to provide convenient shopping, employment and residential opportunities while reducing vehicular trip generation. For all proposed mixed uses, the following apply:

- A. The mixed use development shall include a minimum of five (5) dwelling units comprising a minimum of twenty-five (25) percent or a maximum of seventy-five (75) percent of the total gross floor area on the site.
- B. In addition to the residential requirements above, mixed use development shall include a minimum of three (3) different uses. Gas stations, single use (e.g. stand-alone or pad site) restaurants, and restaurants with drive through service must not exceed ten (10) percent of GFA within a mixed use development.
- C. Residential uses shall provide outdoor areas greater than or equal to one hundred twenty (120) square feet per unit, or the equivalent using one or a combination of the following methods:
 - 1. Balconies or roof gardens;
 - 2. Parks or parkways with a minimum of twenty thousand (20,000) square feet of lawn area located within the development; and/or
 - 3. Paved pedestrian precincts which may count for no more than forty (40) percent of the requirement.
- D. In the OR and ON zoning districts, at least twenty-five percent (25%) of the total gross floor area shall consist of office uses. Developments proposing more than twenty-five percent (25%) of the total gross floor area as nonresidential must provide a minimum of fifty percent (50%) of the nonresidential GFA as office use(s).
- E. A CAPE shall include a tasting room that is a minimum five hundred (500) square feet GFA.
- F. Loading areas shall not be oriented toward a public street or be located on any side of a building facing a residential use. If residential uses abut all sides of the use requiring a loading area, the loading area shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to the required landscape buffering.

(Ord. No. 97-172, § 3(ch. 13, § 03.318), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 17-108, § 3, 5-8-2018; Ord. No. 24-057, 9-24-2024)

Sec. 40.03.319. Reserved.

Editor's note(s)—Ord. No. 05-087, § 4, adopted Oct. 25, 2005, repealed § 40.03.319 in its entirety. Formerly, said section pertained to open space planned, open space subdivision, and alternative development options as enacted by Ord. No. 97-172, § 3(ch. 13, § 03.319), adopted Dec. 31, 1997; as amended.

Sec. 40.03.320. Reserved.

Editor's note(s)—Ord. No. 05-087, § 5, adopted Oct. 25, 2005, repealed § 40.03.320 in its entirety. Formerly, said section pertained to special buffer requirements as enacted by Ord. No. 97-172, § 3(ch. 13, § 03.320), adopted Dec. 31, 1997; as amended.

Sec. 40.03.321. Office defined uses in the HI zoning district.

- A. In the HI zoning district, only those office uses that are affiliated with or support a permitted industrial use are permitted as stand-alone principal uses.
- B. Notwithstanding Subsection A, office buildings and office uses existing as of December 31, 1997, not affiliated with or supporting a permitted industrial use may continue as permitted uses, (i.e., they will not be considered nonconforming uses) if they meet the following criteria:
 - 1. The office building was in existence or a record plan approved for its construction, pursuant to former Code provisions.

2. The building was legally designed, constructed or altered, pursuant to former Code provisions, to accommodate office uses and not industrial uses.
3. The office use is not intended to attract and serve customers on-site.

(Ord. No. 97-172, § 3(ch. 13, § 03.321), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.321), 9-22-1998; Ord. No. 00-138, § 3, 3-27-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 08-096, § 3, 11-25-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Editor's note(s)—Ord. No. 08-096, § 3, adopted November 25, 2008, changed the title of § 40.03.321 from "Office defined uses in the I and HI zoning districts" to "Office defined uses in the HI zoning district."

Sec. 40.03.322. Resort.

- A. Resort uses in the S, SE and SR Districts must have a minimum of seventy-five (75) percent of the site as open space.
- B. A minimum of three (3) types of recreational opportunities such as marinas, beaches or pools, tennis or golf, equestrian or other recreation opportunities must be provided.
- C. A combination of at least three (3) restaurants and shops must be provided to serve guests.

(Ord. No. 97-172, § 3(ch. 13, § 03.322), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.322), 9-22-1998)

Sec. 40.03.323. Solid waste landfills.

In addition to satisfying all other legal requirements and standards, landfills shall conform with the following standards:

- A. Landfills shall not exceed 140 feet in height, as determined pursuant to industry standards, and all requests to increase the landfill height up to and including this maximum shall be subject, first, to an assessment of:
 1. The benefits of and need for any proposed height increase;
 2. The impact of such height increase and associated landfill operations on the health of nearby residents;
 3. The impact of such height increase and associated landfill operations on the values of real property in proximity thereto;
 4. The impact on traffic in the surrounding area;
 5. The impact on noise and visual blight to the surrounding area;
 6. The impact on stormwater, wastewater discharge, and flooding in proximity thereto;
 7. All other impacts on the health, safety, and general welfare of nearby residents;
 8. The compatibility with the policies and objectives of the Comprehensive Development Plan of New Castle County;
 9. The impact of the proposed height increase on immediate residents and neighborhoods and the compatibility therewith, and a comparison of the impact on and compatibility with surrounding residents and neighborhoods; and
 10. Whether the benefits of a height increase outweigh the negative impacts.

(Ord. No. 19-046 , § 1, 8-27-2019)

Note(s)—The historical notation of the former Section 40.03.323 is as follows: Ord. No. 97-172, § 3(ch. 13, § 03.323), adopted December 31, 1997, and Ord. No. 98-080, § 1(ch. 13, § 03.323), adopted September 22, 1998.

Sec. 40.03.324. Extraction.

The excavation and restoration plans must conform to the following applicable standards:

- A. *Frontage.* The operation site shall have at least two hundred (200) feet of frontage on a State road, or other adequate means of access compatible with sound land use principles.
- B. *Setbacks.* No area of excavation or storage of earth products or overburden material, except for approved berms, shall be permitted within two hundred (200) feet of any residential, office, or DPUD District or within fifty (50) feet of any Commercial, BP, I and HI Districts, except along public or private road frontage, where the setback plus right-of-way must total at least two hundred (200) feet, with a minimum setback of fifty (50) feet. The operation of machinery, other than excavation equipment, such as sorters, crushers or other processing devices, shall not be permitted within five hundred (500) feet of any lot line.
- C. *Screening.* No grading, removal or disturbance of plant material shall be permitted within thirty (30) feet of any lot line or road frontage; provided, however, that existing vegetation and/or grading shall be supplemented as required with additional plant material and/or berming so as to provide an effective year-round landscape screen, except at the approved point of access. All of the requirements of this subsection must be in place prior to commencement of extractive operations; provided, however, that the creation of berms as landscape screens using material from the site may follow the commencement of extractive operations.
- D. *Groundwater contamination.* Extractive operations, drainage, materials storage and use, site access, fueling procedures, restoration activities and postrestoration uses shall be strictly controlled so as to minimize to every extent possible any contamination of groundwater. Hydrogeological analyses and plans shall be used to determine the specific controls, programs, safeguards, restrictions and monitoring applicable to a particular site. The owner or licensee shall continue groundwater monitoring of the site for at least two (2) years after the Department certifies that the restoration plan for the entire project is in place. At least one (1) monitoring well upgradient and two (2) wells downgradient shall be placed so as to sample the upper portion of the aquifer on a quarterly basis. The sampling analysis shall include, as a minimum, pH, total dissolved solids, total carbon and total organic carbon.
- E. *Test borings and monitoring wells.* The number, time, duration and location of test borings and monitoring wells shall be determined by a registered geologist or a professional engineer qualified in hydrogeology.
- F. *Fencing and safety measures.* The tops of all open excavations shall be enclosed by a fence erected and maintained at least twenty-five (25) feet outside the excavation. Such fence shall not be less than six (6) feet in height and shall effectively control access to the site.
- G. *Cartway maintenance.* All on-site cartways shall be graded and maintained to minimize dust. Oiling and other techniques which lead to groundwater contamination are prohibited.
- H. *Restoration standards.* The rehabilitation of each phase of an extractive operation shall result in conditions appropriate for the expected reuse of the site. Restoration of the site shall occur continuously as the extractive use operation proceeds. In addition, the following minimum standards shall be achieved in order for any site to be considered rehabilitated:
 - 1. In all cases, the final grades shall be appropriate for the expected reuse.
 - 2. All final site drainage shall be designed, sloped, revegetated or treated by other measures so that erosion and siltation of watercourses and ponds are avoided.
 - 3. All restoration material used in the final grading of the site shall be free from refuse or toxic contaminants and shall be compacted as much as practicable, such as by installation in layers. Final soil depths and types shall be appropriate for the expected reuse.
 - 4. Revegetation of the site to control dust, erosion and to restore organic vitality is required. The owner or licensee must develop, through planting, seeding or sodding, complete ground cover

sufficient to retain the soils. The owner or licensee shall maintain the vegetation for two (2) growing seasons, after which the Department shall inspect the site to determine if revegetation has been successful. The approval of the revegetation by the Department is one prerequisite to the release of the performance surety bond.

- I. *Scope of operation.* The proposed site operation shall be phased such that no more than twenty-five (25) acres shall be in use or unrestored at any time. Operations in one (1) phase shall be permitted to the extent that restoration has been completed on equivalent acreage in a prior phase.
- J. If groundwater will be encountered, the plan must indicate the following:
 - 1. Probable maximum pumping rates and cone of depression impacts on surrounding public and private wells and long-term water table.
 - 2. Disposal methods for pumped water and its effect on water quality and flooding.
- K. *Buffers.* All buffers shall contain berms.
 - 1. Along the district boundary of any district permitting residential uses, the required buffer width shall be increased by one hundred (100) feet. The buffer planting requirements shall be increased until the landscaping has a one (1.0) opacity rating without counting the berm.
 - 2. Noise studies shall be conducted to determine the berm's exact height based on the equipment operated at the site and the blasting potential. The berm shall ensure the day night sound level (DNL) does not exceed fifty-five (55) at the property line or any building with a line of site to the property.
- L. Where surface water features remain or a depressional area is created, a final excavation plan matched to a proposed end use plan shall be submitted. The final excavation plan shall demonstrate that sufficient land is to remain unexcavated and/or that the excavation will be done in a manner permitting the development to conform to this Code's regulations without any variances.
- M. Recreation, high intensity uses. Before any high intensity recreation use is established, a major land development plan shall be submitted to the Department to show compliance with all of the preceding paragraphs of this Section, except Subsections F, H.4, I and K. The following additional standards shall apply:
 - 1. A minimum one hundred (100) foot bufferyard, including berms and no fewer than three (3.0) plant units per one hundred (100) linear feet, shall be provided along all abutting residentially zoned properties.
 - 2. A minimum six (6) foot high security fence shall be installed within the buffer around the perimeter of the site to control access to the property.
 - 3. The Department may require additional landscaping and/or other types of buffering to mitigate possible adverse impacts upon adjacent properties.
 - 4. The engineering section of the Department shall require the submission of revised stormwater management, grading, and sediment and erosion control plans prior to any regrading or re-contouring of tracks or other facilities.
 - 5. The Department may require continuation or revision of programs and standards to minimize groundwater contamination as set forth in Subsection 40.03.324.D and E.
 - 6. Notwithstanding any other provision of this Chapter, if the Department or DelDOT finds that the proposed use will generate significant traffic impacts as described in Section 40.11.120, the Department shall require the submission and approval of a Traffic Impact Study in compliance with Article 11 prior to plan approval.
 - 7. Noise generated on this site shall not exceed a sixty five (65) decibels (dB) hourly average during operating hours as measured at the individual residential property line of the person filing the

complaint. In addition, the use shall comply with all other federal, State and local regulations, rules, laws and/or ordinances regarding noise or sound levels.

8. Recreation, high intensity uses shall be permitted only on that portion of the site that has been restored pursuant to this Section, or where no excavation has occurred.
9. If the recreation, high intensity use contains facilities for snowmobiles, motorcycles, or motorcross vehicles, no racing or riding of these vehicles shall be permitted prior to 8:00 a.m. or later than fifteen (15) minutes after sunset.
10. All successive plans which propose additional land for the expansion of the recreation, high intensity use shall be processed as a major land development plan.
11. The one hundred (100) foot paving setback requirement of Table 40.04.111.B may be reduced to twenty (20) feet along any property line of an adjoining parcel zoned EX.

(Ord. No. 97-172, § 3(ch. 13, § 03.324), 12-31-1997; Ord. No. 00-065, § 4, 10-24-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.325. Commercial service category airports.

The following uses are permitted on the site of a commercial service category airport if the airport meets the limited use standards of Table 40.03.210: offices in connection with aviation related business and operations of fixed based operations, other fabricated metal product manufacturing (NAICS 3329), engine, turbine and power transmission manufacturing (NAICS 3336), aerospace product and parts manufacturing (NAICS 3364), gasoline stations (NAICS 447), air transportation (NAICS 481), scenic and sightseeing transportation (NAICS 487), support activities for transportation (NAICS 488), warehousing and storage facilities (NAICS 493), rental and leasing services (NAICS 532), management of companies and enterprises (NAICS 55), travel arrangement and reservation services (NAICS 5615), educational services (NAICS 611), accommodation (NAICS 721), food services and drinking places (NAICS 722), repair and maintenance (NAICS 811), and personal and laundry services (NAICS 812).

(Ord. No. 97-172, § 3(ch. 13, § 03.325), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 03.325), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 03.325), 9-22-1998)

Sec. 40.03.326. Commercial communications towers/antenna.

- A. *New freestanding tower/monopole.* Any new freestanding tower/monopole in any residential district requires a minimum lot size of one (1) acre and a special use permit. In nonresidential districts, no minimum lot size is required, however, any new freestanding tower/monopole proposed to be erected within five hundred (500) feet of any residentially zoned lot, improved or which can be improved with a residential dwelling unit, shall be permitted only if a special use permit is obtained.
- B. *Co-location.* Co-location of telecommunication equipment (such as antenna) in any zoning district on existing or replacement freestanding towers/monopoles, buildings, water towers/tanks, pole signs, lighting standards, silos, smokestacks, steeples, billboards, telephone poles, and other similar structures may be permitted subject to review and certification by the Department. The Department shall review the co-location application for compliance with the applicable conditions listed below. If a special exception or special use permit was issued, the Department shall review that decision to ascertain that the co-location of equipment will not be inconsistent or in violation of that prior decision.

The co-location of antenna on an existing or replacement structure may exceed the height of the existing structure if approved by the Department. However, in any zoning district, a special use permit is required for any height extension to an existing or replacement freestanding tower/monopole exceeding twenty-five (25) percent of the original height of the tower/monopole where that tower or pole is within five hundred (500) feet of a residentially zoned lot improved or which can be improved with a residential dwelling unit.

- C. *Submission requirements.* All applicants for a special use permit or for Department certification shall submit a site plan and appropriate written documentation demonstrating compliance with the applicable conditions

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listed in this Section. Any application for a new tower/monopole shall include documentation substantiating the need for such tower at the proposed location and shall include an area map showing the location of all known commercial communication towers/antenna within a one (1) mile radius of the proposed facility.

- D. *Documentation.* Documentation acceptable to the Department for a new tower or monopole must show that no existing building, site or structure, including other towers/monopoles within a one (1) mile radius of the proposed new location are available for co-location. The documentation shall include one or more of the following:
1. Evidence that no existing facilities are located within the area targeted to be served and which meet the applicant's engineering requirement.
 2. Evidence that existing facilities do not have sufficient height or cannot be increased to a height at a reasonable cost to meet the applicant's engineering requirements.
 3. Evidence that existing facilities do not have sufficient structural strength or space to support the proposed antenna and related equipment and that those existing facilities cannot be reinforced at a reasonable cost to accommodate the new equipment.
 4. Evidence that applicant's antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 5. Evidence of non-cooperation of landowners for alternative sites that might have been a better location.
- E. *Alternative design tower structure.* Where co-location is not possible, an application for new or replacement towers/monopoles shall provide the Department with a report and plans on the feasibility of locating the antenna on a support structure that screens or camouflages the presence of the antennas and support structure from public view, in a manner appropriate to the site's context and surrounding environment. Examples of concealed, camouflaged, or disguised antenna structures include manmade trees, clock towers, flagpoles, light structures, steeples and other similar like objects. The Department or Board of Adjustment shall not approve a new tower/monopole unless it is determined to be both technically and economically unfeasible to provide for some sort of alternative design.
- F. *Shared facilities.* All new or replacement towers/monopoles one hundred and fifty (150) feet or less in height, not including lighting rod, shall be designed to accommodate at least one (1) additional personal communication services (PCS)/cellular platform. All new or replacement towers/monopoles in excess of one hundred and fifty (150) feet in height shall be designed to accommodate at least two (2) additional PCS/cellular platforms.
- G. *Setbacks.* All new freestanding towers/monopoles shall be setback from adjoining property lines a minimum of not less than one-third (1/3) the height of the tower.
- H. *Landscaping.* Pad sites, ground equipment structures and guy wire locations shall be surrounded by a minimum six (6) foot tall fence and/or landscaping which has an opacity value of three-tenths (0.3).
- I. *Requirements.* The tower and accessory equipment must meet all requirements of the Federal Communications Commission and Federal Aviation Administration.
- J. *Abandonment.* Any tower/monopole that is not operated for a continuous period of six (6) months shall be considered abandoned and the owner of such tower shall remove the same within ninety (90) days of a receipt of notice from County Council notifying the owner of such abandonment. If such tower is not removed within ninety (90) days, the County may remove the tower at the owner's expense.
- K. *Signs and lighting.* No sign shall be permitted on the tower. Any blinking or rotating light thereon shall be screened so as not to throw its light below the horizontal plane on which it is located, except as required by the Federal Aviation Administration.

(Ord. No. 97-172, § 3(ch. 13, § 03.326), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.326), 9-22-1998; Ord. No. 05-111, § 1, 1-24-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.327. Concrete/asphalt batch plant.

Such temporary uses shall meet the following standards:

- A. No such use shall be located within five hundred (500) feet of an adjoining residential use.
- B. If any one (1) adjoining land use is residential, hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. In all other instances, hours of operation shall be limited to 6:00 a.m. to 10:00 p.m.
- C. The applicant shall provide a written agreement and advanced surety in the amount of one hundred twenty-five (125) percent of the estimated site restoration cost to ensure complete site restoration upon the facility's dismantling or if the permit should be revoked.
- D. The applicant shall provide a written agreement and advance surety in the amount of one hundred twenty-five (125) percent of the estimated road restoration/replacement costs along anticipated principal truck routes. This amount will be determined by the Department. This surety ensures roads will be reconstructed to DelDOT specifications.
- E. If deemed necessary by the Department, the property access shall be controlled by special traffic personnel paid for by the applicant. Such instances warranting traffic personnel may include locations at busy intersections or other extensive interference with primary traffic from trucks. Prior to receiving a permit, the applicant must provide a written communication from the County Public Safety Department or State Police indicating adequate provisions have been made.
- F. No high-intensity floodlights shall be permitted if an adjacent use or zone is residential.

(Ord. No. 97-172, § 3(ch. 13, § 03.327), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.327), 9-22-1998)

Sec. 40.03.328. Farm market.

- A. Farm markets with a GFA of two thousand five hundred (2,500) square feet or less shall be accessory to an existing agricultural use of the subject parcel.
- B. Farm markets with a gross floor area of more than two thousand five hundred (2,500) square feet shall meet the following standards:
 - 1. Indoor and outdoor display area and parking area (but exclusive of production areas), shall not exceed the lesser of ten (10) percent of the total lot area or two (2) acres.
 - 2. The farm market may include, as accessory thereto, a bakery or delicatessen counter for the preparation and sale of hot and cold sandwiches, side dishes, salads, desserts, baked goods, milk and dairy products.
 - 3. The farm market storage and display of merchandise and parking shall be set back not less than twenty-five (25) feet from the street line.
 - 4. The parking area is not required to be paved and curbed. At a minimum, however, the parking area shall be of a stone or gravel surface.

(Ord. No. 97-172, § 3(ch. 13, § 03.328), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.328), 9-22-1998; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.03.329. Commercial temporary outdoor sales, restaurant seating and CAPE.

- A. Any lawfully existing commercial use shall be permitted to display and sell its merchandise and serve food or beverages outdoors only under the following limited conditions:
 - 1. Owners must obtain a limited use permit for all such temporary outdoor uses. The permit shall be valid for no more than one hundred twenty (120) consecutive days and is renewable. Permits may be revoked at the discretion of the Department based on any applicable State of Emergency declaration.
 - 2. No display, sales, seating or parking is permitted in any street right-of-way unless approved by DelDOT. In addition, no display, sales, seating or parking shall obstruct pedestrian or vehicular traffic.

3. All temporary structures associated with display, sales, dining areas shall comply with the minimum required yard setbacks for the zoning district in which the commercial temporary outdoor use is being proposed.

(Ord. No. 97-172, § 3(ch. 13, § 03.329), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.329), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-070, § 1, 8-25-2020)

Sec. 40.03.330. Public interest and special events.

- A. A limited use permit is required for temporary special events. Non-profit and/or charitable organizations shall only be required to submit an information sheet, on a form to be approved by the Department, that identifies the nonprofit or charitable organization and the name, address and telephone number for a primary contact.
- B. This activity is limited to no more than six (6) times per year, and each event shall last no longer than fourteen (14) days. In the EX district, the use is only permitted in areas approved for recreation, high intensity uses.
- C. No display, sales or parking is permitted in any street right-of-way. In addition, no display, sales or parking shall obstruct pedestrian or vehicular traffic.
- D. All display areas and temporary structures shall comply with the minimum required yard setbacks for the zoning district in which the public interest/special event is being proposed and may not displace required parking for the primary use of the property, except that the Department may permit the displacement of required parking for parking lots containing no fewer than five hundred (500) parking spaces when the applicant demonstrates that sufficient parking will be available throughout the event.

(Ord. No. 97-172, § 3(ch. 13, § 03.330), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 08-115, § 1, 1-13-2009; Ord. No. 18-020, § 3, 7-10-2018)

Sec. 40.03.331. Temporary miscellaneous sales.

- A. A limited use permit shall be required for all temporary miscellaneous sales and shall be valid for a period not to exceed thirty (30) consecutive calendar days. A property may only be used a total of four (4) times per calendar year for temporary miscellaneous sales.
- B. No open fires for the disposal of tree trimmings, scrap wood, or other material is permitted.
- C. A permit shall be required for any security trailer or shed that is proposed to be used on the property.
- D. Within five (5) days after the expiration of the limited use permit, the site must be cleared of all debris and temporary structures.
- E. Reserved.
- F. A copy of the DelDOT entrance/exit permit or waiver for the site and a copy of a valid State of Delaware vendor license issued to the applicant must be attached to the limited use permit application.
- G. No display, sales or parking is permitted in any street or right-of-way. In addition, no display, sales or parking shall obstruct pedestrian or vehicular traffic.
- H. All display areas and temporary structures shall comply with the minimum required yard setbacks for the zoning district in which the temporary sales event is being proposed and may not displace required parking for the primary use of the property, except that the Department may permit the displacement of required parking for parking lots containing no fewer than five hundred (500) parking spaces when the applicant demonstrates that sufficient parking will be available throughout the event.
- I. A limited use permit for the sale of agricultural products shall comply with the above standards only as noted below and shall meet the following standards:
 1. Permits shall be issued in sixty (60) day increments for a total period of time not to exceed two hundred forty (240) calendar days. The applicant may apply for one (1) or more sixty (60) day permits at any one (1) time.

2. All display materials shall be at least ten (10) feet from the property lines and shall not obstruct pedestrian or vehicular traffic or circulation. In addition, the display areas shall not displace more than twenty (20) percent of the required parking.
3. No more than five (5) percent of the sales area may be devoted to non-agricultural products;
4. The Department may waive the requirement for a copy of the DelDOT entrance or exit permit where the access is already a recognized and/or established entrance.
5. The standards shown in Subsections B. and C. shall apply to the sale of agricultural products.
6. For purposes of this Section, agricultural products are defined as raw food and plant products that have not been processed or manufactured into other food products including, but not limited to, dairy products; poultry products (eggs); apiary products; fruits of all kinds; vegetables; nursery, floral and greenhouse products.

(Ord. No. 97-172, § 3(ch. 13, § 03.331), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.331), 9-22-1998; Ord. No. 08-115, § 2, 1-13-2009; Ord. No. 09-089, § 1, 11-24-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 4, 7-10-2018)

Sec. 40.03.332. Limited waiver to Table 40.03.210A.

County Council may grant a waiver from the five hundred (500) foot distance from use provisions contained in Table 40.03.210A for commercial lodging and restaurants where Council is satisfied after a public hearing that a reduction in the five hundred (500) foot distance would not adversely impact the character of the existing development in the area or otherwise adversely impact existing development in the area. To obtain a waiver from the five hundred (500) foot distance requirement contained in Table 40.03.210A for commercial lodging and restaurants, the applicant must request in writing that County Council adopt an ordinance of approval. The request shall be forwarded to the Department for a recommendation. The Department shall then have twenty (20) days to issue its recommendation to County Council based upon the same criteria County Council must consider pursuant to this Section. A request for such a waiver shall not be considered by County Council until the applicant has obtained exploratory plan approval for the proposed development for which the waiver is sought.

(Ord. No. 98-080, § 1(ch. 13, § 03.332), 9-22-1998; Ord. No. 09-066, § 2, 10-13-2009)

Sec. 40.03.333. Light Industry uses in OR or CR zoning districts.

- A. Light Industry uses as defined in Subsection 40.33.270.E are considered Limited Uses in the OR zoning district, except that the following uses require a special use permit:

Marijuana cultivation facility (NAICS 111419, NAICS 424590)

Construction of buildings (NAICS 236)

Heavy and civil engineering construction (NAICS 237)

Wholesale trade (NAICS 42)

Trucking transportation (NAICS 484)

Transit and ground passenger transportation maintenance (NAICS 485)

Service and storage facilities (NAICS 487)

Support activities for transportation (NAICS 488)

Miniwarehousing and self storage units (NAICS 53113)

Commercial and industrial machinery equipment rental (NAICS 5324)

Marina and associated uses (NAICS 71393)

Automotive paint and body shop (NAICS 811121)

Commercial and industrial repair (NAICS 8113)

Heavy industry, where the business is less than twenty thousand (20,000) square feet

Warehousing and storage facilities, including logistics services related to the distribution of goods (NAICS 493)

- B. The only Light Industry use as defined in Section 40.33.270.D that is permitted in the CR zoning district is warehousing and storage facilities (NAICS 493). This use requires a special use permit and is subject to the following standards:
1. Property must be developed in accordance with Section 40.08.130.B.6.
 2. The gross site area must be a minimum of forty (40) acres.
 3. Where a warehousing and storage facility is adjacent to an existing residential use or residential zoning district, lighting shall be designed so that there is zero (0) footcandle at the property line of the residential area.
 4. A noise study shall be completed and submitted as part of the special use application to evaluate potential noise impact on adjacent properties.
 5. The special use application shall include a narrative identifying how the proposal addresses Table 2 of Appendix 7 with respect to the design principles for the applicable Character Area.

(Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 08-096, § 3, 11-25-2008; Ord. No. 21-065, § 3, 8-31-2021; Ord. No. 23-104, § 3, 1-9-2024, Ord. No. 24-138, 12-10-2024, Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Sec. 40.03.334. Minor utilities.

- A. Any new utility substation that transmits or distributes more than 139 kV of electricity shall meet the following additional standards:
1. A three-tenths (0.3) increase in bufferyard opacity shall be required along the perimeter of the site or the barrier. Exception: if state or federal standards provide minimum vegetation clearance distances, the landscaping requirements shall apply to the extent plantings can be installed in conformance with such standards.
 2. The substation installation shall be enclosed by a barrier, such as a fence, suitable to prevent unauthorized access. The barrier shall be constructed to meet any applicable state or federal rule or standard addressing the physical security of power system facilities. The barriers shall not be used to display any signage except as required by applicable law.
 3. The perimeter of the substation installation shall be located no closer than fifty feet (50) from any property line and no closer than one hundred fifty (150) feet from any dwelling unit.
- B. Elevated storage tanks and standpipes.
1. Any new elevated storage tank or standpipe which is not a replacement of any existing elevated storage tank or standpipe shall be setback from any adjoining property line a minimum of not less than one-fourth (¼) its height, or one-half (½) its maximum diameter or thirty (30) feet, whichever is greatest.
 2. No identification sign on any new elevated storage tank or standpipe shall be illuminated. Additionally, subject to any applicable State or federal regulations or statute to the contrary, any blinking or rotating light thereon shall be screened so as not to throw its light below the horizontal plane on which it is located.

3. The Department following the receipt of an exploratory submission for an elevated storage tank or standpipe must schedule the application for review and approval at a regularly scheduled Planning Board public hearing. The Planning Board will review the proposal and consider the impacts of the proposed tank on adjoining properties. Planning Board approval of the exploratory sketch plan is required prior to submission of a record plan to the Department and must not be withheld where Subsections B.1 and B.2 have been satisfied by the applicant. However, the Planning Board approval may contain certain additional conditions deemed reasonably necessary by the Planning Board to protect adjacent land uses including requirements for fencing, landscaping, and tank color.
 4. For purposes of this Section, the term "elevated storage tank" shall mean any structure of any shape or profile more than thirty (30) feet above ground level used to store water, natural gas, or propane. Also, for purposes of this Section, the term "standpipe" shall mean an above grade storage tank in the form of a right circular cylinder below its roof level.
- C. Water distribution stations and pump houses. In residential zoning districts, the district and bulk standards in Table 40.04.110 and Table 40.04.111 for the respective permitted single-family dwellings in each residential zoning district shall be applied to all water distribution stations and pump houses that are designed to resemble single-family dwellings and accessory garages in external appearances.

(Ord. No. 99-175, § 1, 12-14-1999; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 17-044, § 4, 10-10-2017; Ord. No. 18-020, § 5, 7-10-2018; Ord. No. 23-104, § 3, 1-9-2024)

Sec. 40.03.335. Model homes/sales office.

- A. *Temporary.* Model homes and/or sales offices which are temporary and not intended to be sold as a dwelling at its location shall be removed from the site within twenty (20) days following the sale of the last residential lot within that subdivision. The use of the temporary home and/or sales office as a sales office or model home for other subdivisions is permitted; provided, that a building permit for a home located within the subdivision in which the temporary model home and/or sales office is located has been issued within the preceding three (3) months and; further provided, there are not less than three (3) unsold dwellings within the subdivision or not less than five (5) percent unsold dwellings within the subdivision, whichever is greater.
- B. *Permanent.* Model homes and/or sales offices which are intended to be sold as a dwelling at its location are permitted; provided, however, that the sales office use must cease and be converted to a dwelling within twelve (12) months following the sale of the last residential lot within that subdivision. In addition, the use of that structure as a sales office or model home for other subdivisions is permitted; provided, that a building permit for a home located within the subdivision in which the model home is located has been issued within the preceding three (3) months and; further provided, there are not less than three (3) unsold dwellings within the subdivision or not less than five (5) percent unsold dwellings within the subdivision, whichever is greater.

(Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.03.336. Compost or mulch operations.

A commercial compost or commercial mulch operation must conform to the following applicable standards:

- A. *Frontage.* The site shall have at least two hundred (200) feet of frontage on a public road, or other adequate means of access compatible with sound land use principles.
- B. *Setbacks.* No area of compost or mulch shall be permitted within two hundred (200) feet of any residential use, office, and DPUD district; or, within fifty (50) feet of any commercial, BP, I and HI Districts, except along public or private road frontage, where the setback plus right-of-way must total at least two hundred (200) feet, with a minimum setback of fifty (50) feet.
- C. *Screening.* No grading, removal or disturbance of plant material shall be permitted within thirty (30) feet of any lot line or road frontage provided, however, that existing vegetation and/or grading shall be supplemented as required with additional plant material and/or berming so as to provide a one (1.0)

opacity, except at the approved point of access. All of the requirements of this subsection must be in place prior to commencement of compost or mulch operations.

- D. *Access, fencing and safety measures.* The compost or mulch operation shall have in place artificial barriers (fences, walls, guardrails, buildings, etc.) or natural barriers (rocks, berms, trees, streams, etc.) at least twenty-five (25) feet outside the operation that will effectively control access to the site.

(Ord. No. 07-124, § 3, 12-11-2007)

Sec. 40.03.337. Large-scale solar energy system.

- A. The following requirements apply to any large-scale SES:

1. In the SR zoning district, the total number of aggregate acres dedicated to all SES uses shall not exceed one thousand (1,000).
2. In the SR and S zoning districts, regardless of the OSR/LSR provided in Table 40.04.110A, up to eighty-five (85) percent of the total site acreage may be dedicated to the SES, as measured by the outside perimeter of the SES structures, including aisles contained therein. In all other zoning districts, the site shall comply with the minimum OSR/LSR for other permitted uses for the appropriate zoning district.
3. The SES shall be located no closer than fifty (50) feet from any property line and no closer than one hundred fifty (150) feet from any dwelling unit.
4. The SES shall be enclosed by a barrier, such as a fence, suitable to prevent unauthorized access. The barrier shall be constructed to meet all applicable state or federal rules or standards addressing the physical security of power system facilities. The barriers shall not be used to display any signage except as required by applicable law.
5. Landscaping of no less than five (5) plant units per one hundred (100) linear feet shall be required as a buffer along the perimeter of the site or the barrier. The buffer shall not exceed fifty (50) feet in width and shall provide four-season visual screening. Exception: if state or federal standards provide minimum vegetation clearance distances, the landscaping requirements shall apply to the extent plantings can be installed in conformance with such standards.
6. Signage, not to exceed four (4) square feet, identifying the SES operator, its contact phone numbers and emergency contact information, shall be posted at each entrance or exit of the property.

- B. Abandonment.

1. The operator or property owner shall provide written notice to the Department whenever the SES is out of active production for more than six (6) months. Any SES that ceases to produce electricity for one (1) year is considered abandoned.
2. The operator or property owner shall either recommence production of electricity and schedule a site inspection with the Department to verify that all use requirements are still intact or shall remove all equipment and systems and restore the site as near as practicable to its original condition within six (6) months of being considered abandoned.
3. An abandoned SES site shall be restored to its predevelopment condition and inspected by the Department. Failure to comply with the requirements of this section shall authorize, but not require, the County to remove the SES and restore the site to its predevelopment condition and charge the property owner as set forth in Subsection C. below.

- C. Financial assurance. Prior to issuance of a building permit, the operator or property owner shall provide a bond, surety, letter of credit, or other financial assurance in a form and amount acceptable to the Department to secure payment of one hundred (100) percent of the anticipated cost of removal of all associated site improvements and restoration of the site to its predevelopment condition. The financial assurance shall remain in full force and effect while the SES remains in place and shall be renewed every ten (10) years and replaced as necessary.

- D. Development rights. The acreage dedicated for the SES shall be subtracted from the base site area of the property prior to conducting the Site Capacity and Concurrency Analysis for any other proposed development of the property.
- E. An SES shall not be located:
 - 1. On any land that is subject to a conservation or preservation easement acquired with public funds or required by a government entity to the extent the SES would materially interfere with any purpose of the easement.
 - 2. Within six hundred sixty (660) feet of the right-of-way of a designated byway, except that any Community Solar Energy System (CSES) located outside any SR zoning district in the Coastal Zone shall be located no closer than two hundred (200) feet from the right-of-way of a designated byway. As it relates to any CSES, the barrier and buffer required under this section shall be provided adjacent to CSES structures where visible from the right-of-way. Plant unit types 3 and 4, in accordance with Article 23, are preferred to provide adequate screening in a leaf-off condition.

(Ord. No. 17-044 , § 5, 10-10-2017; Ord. No. 22-072 , § 1, 10-11-2022)

Sec. 40.03.338. Craft Alcohol Production Establishment (CAPE).

- A. The following use standards apply to all zoning districts:
 - 1. All aspects of the brewing, fermenting or distilling process shall be completely confined within a building.
 - 2. Outside storage of materials and finished products is prohibited.
 - 3. By-products or waste from the production of the alcoholic beverage shall be properly disposed of off property.
 - 4. The CAPE may offer to the public, on a regular and continuing basis, various activities ancillary to its alcoholic beverage production process, including, but not limited to: tours of the premises, educational classes, and demonstrations. Unless otherwise prohibited, the CAPE may sell, on the licensed premises, packaged food items, souvenirs, alcoholic beverage supplies and other materials relating to the CAPE.
 - 5. All licenses required pursuant to Title 4 of the Delaware Code shall be obtained prior to the issuance of a certificate of occupancy or use for the CAPE. The CAPE shall be operated pursuant to all applicable licenses at all times. A copy of all applicable licenses shall be provided to the Department prior to the issuance of a certificate of occupancy or use. Failure of the owner or operator to maintain any valid license required by Title 4 shall result in the revocation of the certificate of occupancy or use.
 - 6. A tasting room shall be operated only pursuant to a license issued by the Office of Alcoholic Beverage Control Commissioner for the State of Delaware. A tasting room shall remain at all times an ancillary use to the CAPE.
- B. The following use standards apply in the CR zoning district:
 - 1. A tasting room shall be provided that is a minimum five hundred (500) square feet GFA.
 - 2. Loading areas shall not be oriented toward a public street or be located on any side of a building facing a residential zoning district or a residential use. Where a residential zoning district or a residential use abuts all sides of the property, the loading area shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to required landscape buffering.
- C. The following use standards apply in the CN zoning district:
 - 1. The CAPE shall not exceed ten thousand (10,000) square feet GFA exclusive of lands, buildings, and structures used exclusively for agricultural purposes.
 - 2. A tasting room shall be provided that is a minimum five hundred (500) square feet GFA.

3. Loading areas shall not be oriented toward a public street or be located on any side of a building facing a residential zoning district or residential use. Where a residential zoning district or residential use abuts all sides of the property, the loading area shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to required landscape buffering.
- D. The following use standards apply in BP and I zoning districts:
1. Any tasting room shall not exceed two thousand (2,000) square feet GFA.
 2. Mobile food trucks may operate in conjunction with a CAPE provided that:
 - a. The food truck is located on the same parcel as the CAPE;
 - b. Required parking spaces shall not be used for food truck vending;
 - c. The food truck is located within the off-street parking area in a location that does not block or interfere with drive aisles, ingress or egress areas, or emergency access or fire lanes;
 - d. The hours of operation shall not extend beyond the CAPE's hours of operation; and
 - e. No signage shall be allowed other than signs permanently affixed to the food truck and one (1) portable menu sign no more than six (6) square feet in display area situated on the ground in the customer waiting area.
- E. The following use standards apply in the S, SR, and SE zoning districts:
1. The CAPE shall not exceed ten thousand (10,000) square feet GFA exclusive of lands, buildings, and structures used exclusively for agricultural purposes.
 2. A tasting room shall be provided that is a minimum five hundred (500) square feet GFA.
 3. Loading areas shall not be oriented toward a public street or be located on any side of a building facing a residential zoning district or residential use. Where a residential zoning district or residential use abuts all sides of the property, the loading area shall be screened by a solid wall or opaque fence with a minimum height of six (6) feet, in addition to required landscape buffering.
 4. Except in a village or hamlet T4 or T5 transect zone:
 - a. The minimum lot size shall be ten (10) acres;
 - b. The minimum side and rear yard setbacks shall be one hundred (100) feet;
 - c. The minimum street yard setback shall be fifty (50) feet; and
 - d. All alcoholic liquors produced on-site shall contain no less than ten (10) percent of a basic ingredient, other than water, harvested from or grown on the property unless otherwise provided by 4 *Del. C.* § 512A (farm wineries).

(Ord. No. 17-108 , § 3, 5-8-2018)

Sec. 40.03.339. Commercial Uses.

The following requirements apply to heavy retail and service, vehicular sales, rental and service uses established within one hundred (100) feet of a residentially zoned parcel or use, whichever is closer, as measured from the parcel line of the residential use or zoned parcel to the proposed nonresidential use or structure:

- A. The site must be designed to minimize noise impact on neighboring properties. A noise study must be submitted to evaluate this impact.
- B. The site must be designed so that parking, loading, and circulation minimize the glare from vehicular lights visible to neighboring residential properties.
- C. The bufferyards, street trees, berming, and on-lot landscaping is upgraded to mask the development.

- D. Lighting must be designed so that there is zero (0) footcandle at the property line of the residential area.

(Ord. No. 23-104, § 3, 1-9-2024)

Sec. 40.03.340. Multifamily conversion.

Multifamily conversions are intended to facilitate and encourage the redevelopment of existing office and commercial sites and increase the diversity in housing opportunities in the county where supporting infrastructure exists. The following requirements apply to all multifamily conversions:

- A. A multifamily conversion is not permitted on a parcel that is within one thousand (1,000) feet of a Heavy Industry zoned parcel or a parcel with a Heavy Industry Use as defined in Section 40.33.270.D.
- B. Excluding mixed use developments, legally existing commercial or office GFA may be converted to apartments or residential condominiums subject to Section 40.31.711.
- C. A land development application that proposes new GFA as part of a multifamily conversion is reviewed under the standards for “other permitted use” in the underlying zoning district set forth in Table 40.04.110, and is reviewed in accordance with the process and standards for a Resubdivision Plan, a Minor Land Development Plans or a Major Land Development Plan.
- D. Multifamily conversion may yield one dwelling unit for every eight hundred (800) square feet of GFA. The average size of an apartment or residential condominium unit in a multifamily conversion must be at least eight hundred (800) square feet of GFA.
- E. At least two hundred (200) square feet of yard space, balcony, deck space or roof top area for each apartment or residential condominium unit must be provided.
- F. A multifamily conversion is required to provide Moderately Priced Dwelling Units in accordance with Article 7.Division 40.03.400. Individual use standards.

This Division contains standards that apply to uses in all districts.

(Ord. No. 97-172, § 3(ch. 13, div. 03.400), 12-31-1997, Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Sec. 40.03.341. Retail marijuana store.

A. Except for sites licensed by the State of Delaware and operating as medical marijuana dispensaries (NAICS 459991) before July 1, 2024, under the Medical Marijuana Act, as part of a complete submission, the property owner shall provide the Department with a copy of a document (available from the Department) that has been recorded in the New Castle County Office of the Recorder of Deeds certifying that no portion of the proposed retail marijuana store building and signage is located within:

- 1. One mile of an existing retail marijuana store as verified by the State of Delaware.
 - 2. One thousand (1,000) feet of any parcel with a substance abuse treatment facility as verified by the State of Delaware.
 - 3. One thousand (1,000) feet of any parcel with an established day care center, school (NAICS 6111), college (NAICS 6112, 6113), place of worship (NAICS 813110), governmental parkland, governmental office building, or library.
- B. When a retail marijuana store is in a mall or shopping center, internal customer access should be provided.
- C. A retail marijuana store cannot serve as a home use (Section 40.33.221)

(Ord. No. 24-138, 12-10-2024)

Sec. 40.03.342. - Firearm retail businesses.

The following requirements apply to any firearm retail business:

- A. A firearm retail business is not permitted within a five hundred (500) foot radius of any residentially zoned parcel.
- B. A firearm retail business is not permitted within a one thousand (1,000) foot radius of any parcel containing a school, daycare center, or a parcel that contains government-owned parkland.
- C. A firearm retail business is not permitted within a one thousand five hundred (1,500) foot radius of any other parcel containing a firearm retail store.

(Ord. No. [24-084](#), § 3, 9-17-2024)

Sec. 40.03.343. – Data Centers.

In addition to the requirements of Section 40.31.430, the following requirements apply to every data center development or the cumulative expansion of an existing data center in excess of 20,000 square feet:

- A. The site shall be designed to minimize noise impact on neighboring residential properties and shall not generate noise levels that exceed the predevelopment noise level. A noise study shall be submitted to evaluate this impact and to verify consistency with Chapter 22 of the New Castle County Code.
- B. No portion of the proposed data center building shall be located within 1,000 feet of a residential district. The Department may approve data center structures located less than 1,000 feet, but no closer than 500 feet from a residential district, provided that noise levels generated will not exceed the allowable noise levels permitted in this section. The Department will require submission of a site-specific noise study demonstrating that the combined effectiveness of the selected measures will ensure compliance with this section.
- C. Except for lot lines along an existing office or industrial park or adjacent to an existing industrial use, the bufferyards, street trees, berming and landscaping shall be upgraded, where appropriate to mask the development. The buildings shall meet the requirements for large industrial structures in Section 40.26.260.
- D. In addition to meeting all the requirements of Article 11, anticipated trip generation for a data center shall be based on the latest published ITE manual calculations. Data centers shall not be converted to any use that exceeds the approved Transportation Improvement Study (TIS) or equivalent study, for the site unless another TIS or equivalent study is completed and approved in accordance with all other applicable provisions of this Chapter.
- E. Open-loop or once-through cooling is prohibited unless reclaimed water is used.
- F. All generators shall be Tier IV or other technologies that the applicant can demonstrate as being more efficient and have less impact on the environment.
- G. Any energy storage system proposed as part of the data center should be based upon best practices for energy storage and efficiency and have less impact on the environment. Energy storage systems must employ fire-safe technologies as determined and approved by the State Fire Marshall's Office.

- H. All new or expanded facilities shall submit documentation outlining the operation of the building as a LEED certified building.
- I. All data centers must reserve an area for future integration with onsite or communal microgrid components that include various energy generation sources, energy storage systems, a distribution network, a control system, and metering/billing systems.
- J. Abandonment.
 - 1. The operator or property owner shall provide written notice to the Department whenever the data center is out of active operation for more than 6 months. Data centers that cease to operate for 1 year or longer will be considered abandoned.
 - 2. The operator or property owner shall either recommence operations and schedule a site inspection with the Department to verify that all use requirements are still satisfied or shall remove all equipment and systems within 6 months of being considered abandoned.
 - 3. Within 2 years of being considered abandoned, the data center site shall be either restored to its predevelopment condition and inspected by the Department, or the property owner shall submit a land use application consistent with this Chapter to establish a new use for the site. Failure to comply with the requirements of this section shall authorize, but not require, the County to remove the data center and, when abandoned, restore the site to its predevelopment condition and charge the property owner as set forth in Subsection K.
- K. Financial assurance. Prior to issuance of a building permit, the operator or property owner shall provide a bond, surety, letter of credit, or other financial assurance in a form and amount acceptable to the Department to secure payment of 100% of the anticipated cost of removal of all associated site improvements and restoration of the site to its predevelopment condition when the data center has been abandoned. Financial assurances for data centers are subject to the following:
 - 1. The operator or property owner shall provide a decommissioning report that includes the following:
 - a. An inventory of components installed on the site.
 - b. Expected lifetime of the facility.
 - c. Decommissioning sequence.
 - d. Decommissioning cost estimate based on RSMeans or other software or methodology approved by the Department.
 - 2. The financial assurance shall remain in full force and effect while the data center remains in place and operating, and shall be renewed every 5 years and revised as necessary to adjust for inflation and any change in the cost for decommissioning.
- L. Annual Report, Enforcement and Compliance. The operator or property owner of the data center shall supply an annual report to the Department indicating compliance with all applicable local, state and federal regulations.

(Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Sec. 40.03.405. Driveways.

The Department may permit driveways providing vehicular access to a parcel from a proposed street right of way to be located on an adjacent parcel so long as the following criteria are met:

- A. An easement is established for as long as the principal use will be served by the driveway.
- B. It is determined by the Department that a safe means of access without creating any visible or audible adverse effects on adjacent residentially zoned properties can be provided. The Department may require increased bufferyards and/or landscaping adjoining the driveway to avoid any adverse effects.
- C. The off-site driveway is located on a parcel zoned to permit a similar use as the principal use being accessed by the driveway.

(Ord. No. 99-075, § 1, 12-14-1999)

Sec. 40.03.406. Stormwater management areas.

The Department may permit stormwater management facilities to be located off-site and/or to be shared by other parcels provided:

- A. An easement is established for as long as the principal use will utilize the stormwater facility.
- B. It is determined that the off-site stormwater facility location is preferred over an on-site location taking into consideration zoning, environment, drainage, and/or aesthetic concerns.
- C. The Department may require the stormwater management facilities to be designed to accommodate existing or future development within the same drainage basin.

(Ord. No. 99-075, § 1, 12-14-99)

Sec. 40.03.410. Accessory uses, residential.

Residential uses may have accessory buildings and accessory uses provided they conform to the following standards:

- A. *General standards.* Unless otherwise provided in Subsections B. through M. of this Section, all accessory structures (e.g., detached garages, sheds, pergolas, and similar structures) shall meet the following standards:
 - 1. For lots less than two (2) acres, freestanding accessory structures shall not be permitted in front of the principal structure or within the street or front yard setback. Lots two (2) acres or larger may locate one (1) freestanding accessory structure in front of the principal structure, so long as the freestanding structure is not within the front or street yard setback. Lots ten (10) acres or larger may locate a freestanding accessory structure(s) in front of the principal structure, so long as the freestanding structure(s) is not within the front or street yard setback.
 - 2. Freestanding accessory structures shall not be located in any side yard setback or any required bufferyard.
 - 3. Freestanding accessory structures may be located in the rear yard provided any such structure is located at least three (3) feet from the side lot line and rear lot line.
 - a. Where a detached garage is facing an alley, the setback for garage doors facing the alley shall be at least three (3) feet.
 - b. For attached dwelling units, freestanding accessory structures shall have a setback from the rear lot line of at least three (3) feet and shall be at least two (2) feet from each side lot line. Garages that share a common wall with an adjacent garage shall have a setback of at least two (2) feet from the side property line on the unattached side.
 - c. Walled units, patio houses, and atrium houses shall contain all accessory structures within their walls.
 - 4. Not over thirty (30) percent of the required rear yard setback area may be covered by freestanding accessory structure(s). Detached garages served by an alley are exempt from the calculation.

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5. No freestanding accessory structure shall be permitted in any street yard setback except as may be specifically permitted elsewhere in this Chapter.
 6. On lots less than one (1) acre, the gross floor area of any one (1) freestanding accessory structure shall not exceed the square footage footprint of the principal dwelling unit.
 7. No freestanding accessory structure shall exceed twenty (20) feet in height. However, freestanding accessory structures located on lots greater than one (1) acre may be constructed to a height equal to that of the principal building provided that the structure is not within any front, street, side or rear setback.
- B. *Private stables.* Stables are permitted on lots a minimum of two (2) acres, and on lots of record existing as of December 31, 1997 which legally had stables located on them. Stables shall have a setback of fifty (50) feet from all property lines.
- C. *Yard ornaments and play structures.* Yard ornaments, play structures, fountains, flagpoles, cloth lines, and similar objects may be permitted in all yards and all yard setbacks. Any such structure or object which exceeds six (6) feet in height above ground level shall be at least six (6) feet from the front, street, side or rear lot line.
- D. *Neighborhood book exchange boxes.* Neighborhood book exchange boxes may be permitted in all yards and all yard setbacks, subject to the following parameters. Any such structure shall be no taller than six (6) feet in height above ground level, which shall be the maximum height for such structures, and shall be at least six (6) feet from the front, street, side or rear lot line. Neighborhood book exchange boxes are further subject to the following, and must:
1. Be no wider than thirty (30) inches or deeper than thirty (30) inches;
 2. Be anchored to the ground;
 3. Be marked in such a way to clearly indicate that the box is part of a book exchange;
 4. Be no more than a single neighborhood book exchange box per parcel; and
 5. Not be situated in a public right-of-way or public easement.
- E. *Fences.* Fences are permissible in all yards and all yard setbacks, subject to the following regulations.
1. *Maximum height.* Fences must be no more than 6' in height, except as otherwise set forth herein. In zoning designations NC5, NC6.5, NC10, and NC15, the maximum permissible fence height in the street yard is 4'.
 2. *Approved fencing material.* Fences must be constructed of approved materials, including: wood, brick, decorative masonry, stone, wrought iron, manufactured vinyl, aluminum, and PVC fence material.
 3. *Prohibited fencing material.* No fence shall be constructed of sheet or corrugated metal, plywood, concrete masonry unit block (with the exception of use for a retaining wall), or other materials not manufactured or designed for the primary purpose of fence construction. Furthermore, metal prongs or spikes not designed and manufactured as part of a fence section are prohibited. Barbed or razor wire is prohibited for fence construction.
 4. *Installation.* When constructed on sloping ground, a fence may be installed on an incline or in stepped sections. To account for installation on sloping ground and any necessary space between the ground and the bottom of the fence panels or materials, the top of the fence panels, materials, and posts may not exceed 7' in height when measured from the ground, except as permitted in Subsection G.
 5. *Maintenance.* Fences must be maintained in good condition, structurally sound and safe, and shall not by reason of age, decay, accident, or otherwise be allowed to become and remain in a state of disrepair so as to be a nuisance or cause blight, or present a potential injury or threat to the public;

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- a. Dilapidated fences shall be repaired or replaced in accordance with provisions of this Division.
 - b. The property owner shall maintain each fence, including any fence existing prior to adoption of this section, at all times, in a state of good repair, safe and secure condition, with all braces, bolts, nails, supporting frames and fastenings free from deterioration, termite infestation, rot, rust, or loosening, and able to withstand at all times the wind pressure for which they were designed.
6. Visibility triangle. All walls and fences located on a corner lot shall comply with any applicable visibility sight triangles as provided for in this Chapter.
7. Floodplains. Fences proposed in a floodplain must comply with the requirements in Article 10, including the requirement to obtain a floodplain permit.
8. Nothing in this Section waives any restrictions otherwise applicable under the New Castle County Code including Chapter 7 (Property Maintenance Code) and Chapter 40 (Unified Development Code). Moreover, the regulations set forth herein do not override validly adopted deed restrictions.
- F. *Satellite dish or antenna.* Satellite dishes (over three (3) feet in diameter) or antennas, including amateur ham radio antennas, over three (3) feet in diameter shall be mounted on the ground in the rear yard. If location in the rear yard is not possible, then the structure may be located in the side or front yard, subject to setback requirements. These dishes shall be screened from view with an evergreen hedge or shrub and understory trees. The dish shall be located so that the screening protects neighboring homes. Evergreen trees shall be used to block other views from neighboring homes to the dish's front where plantings cannot be placed close to the dish. This Subsection shall not apply where the satellite dish or antenna is located in a rear yard and would not be visible to neighboring homes.
- G. *Ball courts.* Ball courts shall not be permitted on lots of less than one (1) acre and shall be set back from side and rear property lines a minimum of six (6) feet. Any fence around the court may be over six (6) feet in height provided it is not within any required minimum yard setback.
- H. *Private swimming pool.* A private swimming pool may be located in the rear yard provided the pool, including all appurtenances such as, but not limited to, the decking, pool filter and pump, shall be at least six (6) feet from any side or rear property line. A private swimming pool may be located in a side yard provided the pool, including all appurtenances shall not encroach into the side yard setback. In the case of a corner lot or multiple frontage lot, the pool shall not be located in the street yard setback. All fencing requirements contained in Chapter 6 shall be followed.
- I. *Accessory dwelling unit (ADU).*
 1. Only one (1) ADU is permitted per single-family residential detached lot. The ADU may be constructed within the home or as an attached addition to the home.
 2. Only one (1) home occupation is permitted per residential lot.
 3. Once an ADU is established, the primary structure shall not be used for apartment conversion and only one (1) of the dwelling units may be rented.
 4. The property owner shall occupy and reside in either the principal dwelling unit or the ADU as his or her principal legal residence. An affidavit (available from the Department) of owner occupancy shall accompany the application for a building permit for the ADU.
 5. Prior to the issuance of an ADU building permit, the property owner shall provide the Department with a copy of a document (available from the Department) that has been recorded in the New Castle County Office of the Recorder of Deeds stating that residency by the property owner is required in one of the dwelling units as a condition of having an ADU on the property.
 6. One (1) additional off-street parking space is required for the ADU, in addition to the number of spaces required for the existing single-family detached dwelling.

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7. On any lot one half (1/2) of an acre or more, one (1) freestanding accessory structure may be constructed or used as an ADU provided that the dwelling unit the same front, street, side and rear yard setbacks as required for the principal dwelling.
 8. Annual report. The Department shall provide County Council with an annual report on the use and effectiveness of the ADU provisions.
 9. Rental code registration. If the ADU is to be rented and prior to the issuance of a certificate of occupancy, the property owner shall register the ADU pursuant to the requirements of Chapter 19.
 10. Adequate sanitary sewer or septic capacity must be available to accommodate the ADU.
 11. The ADU shall be in conformance with Chapter 6 and Chapter 12.
 12. A detached ADU may be either a Small Single-Family or Single-Family Detached dwelling.
 13. An ADU is the only detached accessory residential structure that may provide quarters for sleeping.
 14. Ardens exception for existing ADUs. All ADUs existing in the Ardens prior to May 1, 2007 and which have been individually certified in writing as permitted by the respective Village Trustees from Arden, Ardencroft and Ardentown shall be considered a permitted use notwithstanding the requirements for an ADU in this section. Certified ADUs shall not be subject to the provisions of Article 8. In addition, each ADU certified pursuant to this section shall be permitted to rebuild, restore, replace or repair the ADU as necessary in the event the structure is destroyed or rendered uninhabitable for any reason. The restoration, replacement or repair shall be completed within the existing footprint of the structure. All repairs, restoration or rebuilding shall be in conformance with Chapter 6. For purposes of this exception and certification process, an ADU in the Ardens, constructed prior to May 1, 2007 may include more than one (1) attached or detached subordinate dwelling unit on the leasehold property and which provides living, sleeping, eating, cooking, and sanitation facilities.
- J. *Temporary roadside stand.* A roadside stand for the sale of agricultural products grown on the premises may be located in the street or front yard and is subject to the following limitations.
1. Any structure or display area shall not be located in any right-of-way.
 2. No permanent structure or building or parking associated with the roadside stand shall be constructed or maintained.
- K. *Garage/yard sales.* Garage/yard sales are permitted provided they occur on no more than four (4) occasions per year and are of no more than three (3) consecutive days in duration.
- L. *Mulching and composting.* Mulching or composting conducted by the resident using material (both yard waste and kitchen waste) found and generated on-site and not to include material from other property.
- M. *Solar energy system, accessory.*
1. A ground-mounted accessory SES shall be considered a free-standing accessory structure. The SES shall be located a minimum of six (6) feet from any side or rear lot line.
 2. A rooftop SES shall not extend more than five (5) feet above the surface of the roof and shall be considered when evaluating maximum building height. Any component of a rooftop SES located on the ground shall be located behind the principle structure and a minimum of six (6) feet from any side or rear lot line.

(Ord. No. 97-172, § 3(ch. 13, § 03.410), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.410), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-001, § 1, 4-10-2007; Ord. No. 07-124, § 4, 12-11-2007; Ord. No. 07-153, § 1, 2-26-2008; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. [16-117](#), § 1, 2-28-2017; Ord. No. [17-044](#), § 6, 10-10-2017; Ord. No. [18-021](#), § 3, 7-10-2018;

Ord. No. 20-038, § 1, 8-25-2020; Ord. No. 23-104, § 4, 1-9-2024; Ord. No. 24-059, 8-27-2024; Ord. No. 24-087, 9-24-2024)

Sec. 40.03.420. Accessory uses, residential home uses.

- A. *Home occupation.* Any home occupation as defined in Section 40.33.221.B which is conducted in a manner such that the dwelling housing the occupation is indistinguishable from dwellings with no business use and which meets the following standards is permitted as an accessory residential home use as set forth below.
1. Employees: The owner of the home occupation shall be a full-time resident of the dwelling unit and subject to the following exceptions, shall not employ any individuals other than family members who also are full-time residents of the dwelling unit.
 - a. Additional non-resident, on-site employees or independent contractors are permitted if the operator executes a Conditional Home Occupation Agreement, hereinafter "the agreement." Upon execution of the agreement with the County, the operator may employ up to two (2) full-time non-resident employees or independent contractors at a time or up to four (4) part-time employees or independent contractors, provided only two (2) are on the premises at one time. The agreement shall be on a form provided by the Department, disclose the name and date of birth of all additional non-resident employees and/or independent contractors and shall be filed with the County Code Enforcement Office. All information on the written agreement is of a continuing nature. Any changes in the information on the agreement shall be in writing and mailed or otherwise submitted to the County Code Enforcement Office within thirty (30) days of the change. The person applying for the agreement shall sign the agreement and represent that the contents of the certificate are true and correct to the best of his or her knowledge. Any person who falsifies any information on any agreement made with the Department shall be subject to criminal proceedings under 11 *Del. C.* § 861 through § 880 (Offenses Involving Falsification of Records). The agreement is not required for home occupations, professional office or studios, which as of December 31, 1997, legally employed no more than two (2) persons to provide secretarial, clerical or similar assistance.
 - b. A home occupation which provides a service that occurs off-site may have additional employees, provided such employees meet and work off-site and not at the subject residence.
 - c. Exception: In Arden, Ardentown, and Ardencroft ("the Ardens") the owner of the home occupation need only be a full-time resident of the Ardens and may employ two (2) full-time non-resident employees or independent contractors. The owner may employ an additional two (2) part-time/seasonal employees or independent contractors, provided the appropriate Village Secretary is notified in writing on the Home Occupation Village Notification Form. Any changes to such an arrangement must be done in writing to the Village Secretary within thirty (30) days of the change.
 2. Customers/clients: The operator may meet with customers at the site provided that the frequency and consistency of traffic to and from the site in relation to the home occupation does not interfere with the community's comfort, safety, or enjoyment of the neighborhood around the subject property as a residential area or create a visual or traffic annoyance to persons of normal sensibilities such that a public nuisance is created. High volume visits and traffic to and from the site during the hours of 8:00 a.m. until 6:00 p.m. shall be prima facie evidence that the home occupation is not indistinguishable from other dwellings and creates a public nuisance in the residential neighborhood, in violation of this Section.
 3. Location, size and modifications: No home occupation shall be conducted outside the dwelling unit. The total area used to accommodate the home occupation shall not exceed twenty-five (25) percent of the total gross floor area (GFA) of the principal residential dwelling. No structural alterations or enlargements shall be made to the dwelling unit for the primary purpose of conducting the home occupation.

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- a. Exception: In the Ardens, the home occupation shall not exceed one thousand (1,000) square feet inclusive of all square footage in the dwelling and any accessory structure on the same lot utilized for the home occupation so long as the residential character of the buildings is maintained.
4. Parking: Adequate on-site, off -street parking shall be provided for all employees, customers, clients and/or pupils. The principal driveway serving the residence shall act as the parking area. Only the principal driveway may be used for parking in conjunction with the home occupation.
5. Hazardous materials: Toxic, explosive, flammable, radioactive or other restricted materials used, sold or stored on the site in connection with the home occupation shall conform to Chapter 6 for residential uses.
6. Outside storage: No outdoor display or storage of materials, goods, supplies or equipment related to the home occupation shall be permitted.
 - a. Exception: In the Ardens, outside storage is permitted, but neither shall be visible from roadways or from beyond the leasehold.
7. Deliveries and pick-ups: Truck deliveries or pick-ups of supplies or products, associated with the home occupation shall occur only within the hours of 8:00 a.m. and 7:00 p.m. Vehicles used for delivery and pick-up are limited to those normally servicing residential neighborhoods. No regular tractor trailer delivery shall be permitted.
8. Signs and displays: No display of any products or operations that would create external evidence of the operation of the home occupation is permitted. No sign is permitted which will in any way advertise or identify the home occupation. No marked service vehicle, trailer or other equipment used in conjunction with the home occupation shall be parked on the property or contiguous street right-of-way so as to identify, advertise or otherwise attract attention to the home occupation.
 - a. Exception: In the Ardens, one (1) non-illuminated sign up to one (1) square foot in size may be attached to the dwelling or the accessory structure and one (1) two-axle marked service vehicle may be parked on the property.
9. Manufacturing, repairing, mechanical work: No manufacturing, repairing or other mechanical work shall be performed outside the dwelling unit. When such activity is conducted inside the dwelling unit, it shall be conducted in such a way that no noise, heat, glare, odor, vibration, electromagnetic interference or smoke shall be perceptible at or beyond the property line.
 - a. Exception: In the Ardens, manufacturing, repairing, and other mechanical work may be performed outside the structure housing the home occupation as long as they are conducted in such a way that no noise, heat, glare, odor, vibration, or electromagnetic interference causes an annoyance to persons of normal sensibilities by creating a public nuisance.
10. Penalties:
 - a. Each person who engages in a home occupation with on-site, non-resident/family employees or independent contractors without having filed the Conditional Home Occupation Agreement or updating the Conditional Home Occupation Agreement as required (except for those exempted as valid nonconforming uses at the time of the passage of this ordinance) shall be guilty of a violation of this Chapter and subjected to a fine of up to one hundred dollars (\$100.00). Each day that a violation of this Section continues shall constitute a separate offense for which a separate conviction may be obtained and a separate penalty imposed.
 - b. Each person found to have included a false statement in the Conditional Home Occupation Agreement shall be subject to the penalties for violation of 11 *Del. C.* § 861 through § 880 (Offenses Involving Falsification of Records).
 - c. Each person found to have violated any other provision of this Section shall be guilty of a violation punishable by a fine of up to one hundred dollars (\$100.00). Each day that a violation

continues shall constitute a separate offense for which a separate conviction may be obtained and a separate penalty imposed.

11. Nonconforming uses: Legal home occupation uses that were in existence prior to December 31, 1997 may continue to remain as a nonconforming situation and, pursuant to Article 8, any change in title or of right to possession shall not affect the continuation of the nonconforming situation. As set forth in Article 8, the status of any nonconforming situation may be determined by the Department after public notice.
 12. Variance from home occupation provisions: Any application for a variance from the provisions of this Section will be treated as an application for a use variance.
- B. *Family day care home.* A family day care home shall be permitted subject to the following:
1. State licensing requirements shall be met, including those pertaining to building, fire, safety and health codes.
 2. Lot dimensional and bulk standards shall conform to the applicable zoning district.
 3. One (1) nameplate sign not to exceed one (1) square foot may be permitted.
 4. No structural or decorative modifications that will alter the exterior residential characteristics of the dwelling shall be permitted.
- C. *Large family day care home.* A large family day care home shall be subject to the following:
1. State licensing requirements shall be met, including those pertaining to building, fire, safety and health codes.
 2. Minimum lot size shall be ten thousand (10,000) square feet.
 3. One (1) nameplate sign not to exceed one (1) square foot may be permitted.
 4. No structural or decorative modifications that will alter the exterior residential character of the dwelling shall be permitted. Any new or remodeled dwelling must be designed to be compatible with the residential character of the surrounding neighborhood.
 5. Outdoor play or activity areas shall be fenced or otherwise enclosed on all sides and shall consist of developable lands but shall not include driveways, parking areas or dropoff areas.
 6. No outdoor play or activity structures shall be located within ten (10) feet of the property line.
 7. Two (2) additional off-street parking spaces shall be provided.
- D. *Roomers and boarders.* In any one (1) family dwelling no more than three (3) nontransient roomers or boarders may be permitted subject to the following:
1. The owner of the property must reside in the dwelling.
 2. No display or advertising on the premises is permitted.
 3. For purposes of this Section, the term "nontransient" means a person who resides as a roomer or boarder for a period of time not less than forty-five (45) days.

(Ord. No. 97-172, § 3(ch. 13, § 03.420), 12-31-1997; Ord. No. 99-134, § 1, 2-8-2000; Ord. No. 00-057, § 1, 7-25-2000; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.430. Accessory uses, nonresidential.

Nonresidential uses (not including agricultural uses) may have a variety of accessory uses within the principal structure or in separate structures, provided they meet the following standards:

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- A. *Uses.* All uses not permitted in the district shall be prohibited, except where a commercial use is established as accessory to a permitted manufacturing or industrial use, such accessory use shall be limited to fifteen (15) percent of the total gross floor area or lot area whichever is applicable.
- B. *General.* No uses or structures shall be within the required yards.
- C. *Fences.* A fence may not exceed eight (8) feet in height in a nonresidential zoning district. To account for installation on sloping ground and any necessary space between the ground and the bottom of the fence panels or materials, the top of the fence panels, materials, and posts may not exceed nine (9) feet in height when measured from the ground.
 - 1. Where barbed or razor wire fence is used in a nonresidential zoning district, a minimum three-tenths (0.3) opacity bufferyard shall be provided between the fence and any street or residential use.
 - 2. Notwithstanding the above, any fence or barrier required pursuant to a provision of State or Federal law shall be constructed to meet the applicable rule or standard.
- D. *Reserved.*
- E. *Community recycling bins.* Where recycling bins are used in developments, parking lots, open space and other areas, the bin shall be fully enclosed with a wood or masonry fence or other durable low maintenance materials or berms.
- F. *Reserved.*
- G. *Amusement game machines.* Amusement game machines may be permitted in any commercial use. Two (2) machines are permitted per establishment plus one (1) additional machine for every two thousand (2,000) square feet of GFA up to a maximum of six (6) machines. The game machines must be located within and accessible only from the principal use.
- H. *Reserved.*
- I. *On-site residence.* In the ON, OR, CR, CN, I, BP, HI, P Districts a building may be used, erected or altered for residential purposes for an owner, caretaker, watchman, janitor or employee employed on the premises.
- J. *Vehicular repair.* Hydraulic hoists, pits and all lubrication, greasing, washing and repair equipment shall be entirely enclosed within buildings.
- K. *Temporary contractor's office or real estate office.* Temporary building, temporary real estate or construction offices and temporary storage of materials, provided that such use is located on the lot where construction is taking place or on a lot adjacent or part of the development site thereto, and that such temporary use is to be terminated upon completion of construction.
- L. *Ancillary uses.* Ancillary uses in business parks, office/office research parks or industrial parks for the purpose of providing restricted service uses that will be an integral part of the park is permitted, subject to the following conditions.
 - 1. The ancillary use operates exclusively for the convenience of park employees and patrons.
 - 2. Advertising of the use shall be restricted to internal advertising only.
- M. *Solar energy system, accessory.*
 - 1. A rooftop SES shall be considered when evaluating maximum building height.

(Ord. No. 97-172, § 3(ch. 13, § 03.430), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.430), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 17-044 , § 7, 10-10-2017; Ord. No. 18-021 , § 4, 7-10-2018, Ord. No. 24-130, § 1, 3-25-2025)

Sec. 40.03.431. Accessory waste storage and HVAC equipment.

Where common waste storage facilities, dumpsters, recycling bins or ground mounted HVAC equipment are used, the area shall be fully enclosed with a wood fence, masonry wall, berm or enclosure made of other durable low maintenance materials, subject to approval by the Department. The Department may require specific locations and the use of specific materials in the design of these enclosures, where such enclosures are visible from adjacent residential area or public rights-of-way. In residential developments where common waste storage facilities are used, plantings approved by the Department may be substituted for fencing. This Section shall not apply to agricultural uses.

(Ord. No. 97-172, § 3(ch. 13, § 03.431), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.431), 9-22-1998; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.432. Airports.

- A. The County shall prohibit residential use within the twenty (20) year, sixty-five (65) day-night sound level ("DNL"), graphically depicted on the noise contour map maintained by the Department, except as follows:
 - 1. Where land is residentially zoned, all habitable structures shall be noise proofed to the fifty-five (55) DNL as certified by a registered architect.
 - 2. All developments and all individual lot surveys shall indicate noise contours. A written warning shall accompany the sale of all such lots indicating the County will not restrain future airport growth because of residential development inside the sixty-five (65) DNL noise contour.
- B. Within the airspace above all approach and transitional zones for each airport runway, no permit shall be issued for the erection or alteration of any building or structure in violation of 2 *Del. C.Ch. 6* (Obstructions in Airport Approach Areas), or Part 77 of the Federal Aviation Regulations.
- C. Within the airspace above all transitional, horizontal and conical surfaces, no permit shall be issued for the erection or alteration of any building or structure in violation of 2 *Del. C.Ch. 6* (Obstructions in Airport Approach Areas) or Part 77 of the Federal Aviation Regulations.
- D. Within those portions of the runway approach zones extending to a distance of ten thousand two hundred (10,200) feet from the end of each runway, no new school, hospital, church or other place of public assembly shall be established.

(Ord. No. 98-062, § 1(ch. 13, § 03.432), 9-22-1998; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.440. Sale of motor vehicles as an accessory use.

- A. The display of a motor vehicle for sale is prohibited by this Article at any location except at a private residence where no more than one (1) motor vehicle, owned by a resident of such private residence, may be displayed for sale at one time, or in zoning districts properly zoned for motor vehicle sales so long as the property owner or tenant is properly licensed for such sales. However, in all cases, the display of such motor vehicles for sale in any public right-of-way is prohibited.
- B. Notwithstanding any other provision of this Chapter, whenever the Department or Code Enforcement Officer determines that there has been a violation of this Chapter or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner of the property where the vehicle is illegally displayed and to the owner of the vehicle illegally displayed. The notice shall be in writing, contain the property address and description of the vehicle sufficient for identification, include a clear statement of why the notice is being issued, and include a correction order providing ten (10) working days for compliance with the order. Notice required by this Section shall be satisfied where a copy of the notice is delivered to the property owner or vehicle owner personally, mailed by regular United States mail and addressed to the property and/or vehicle owner, at his or her last known addresses as reflected on New Castle County and/or motor vehicle records, or posted on the vehicle and/or property affected by such notice. Only one (1) written notice to any property owner or vehicle owner is required in a twenty-four (24) month period. Subsequent vehicles displayed on a property where the property owner has received notice within a twenty-four (24) month period and subsequent vehicles illegally displayed by an individual owning a vehicle who previously was provided written notice within a twenty-four (24) month period will not require additional written notice. No notice is required when safety is threatened by displaying a vehicle in the right-of-way.
- C. Abatement by the County. If the occupant, owner, or person in charge of the property or vehicle for which a violation notice has been given fails to remove or abate the violation in the time specified in the notice and/or subsequently displays illegally another motor vehicle within twenty-four (24) months of receiving written notice, whether on public or private property, the vehicle may be removed by the County thereby abating the violation. The County may lawfully enter upon the property on which the violation remains unabated to remove or abate such violation at the cost of the person responsible for creating or maintaining the violation. Additionally, any remedy in Section 40.31.920 may be applied.

(Ord. No. 98-080, § 1(ch. 13, § 03.440), 9-22-1998; Ord. No. 00-116, § 1, 40.03.440; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.450. Domestic drinking water supply well protection standard.

All individual domestic drinking water supply wells shall be shown on the appropriate plan submission as part of any building permit application seeking a permit for a new structure or building on the subject property.

Division 40.03.500. Loading and parking standards.¹

Sec. 40.03.510. Loading standards.

All uses shall provide off-street loading as required below. The storage of merchandise, materials or motor vehicles and/or the repair of motor vehicles or any kind of equipment is prohibited in loading bays and areas. Loading bays shall be located on the premises and shall be designed and located so as not to impede fire lane access or the safe and efficient vehicular and pedestrian circulation and shall be in accordance with the following:

A. Number of required loading bays.

1. For retail stores, shopping centers, supermarkets, restaurants, and storage warehouses, the number of bays shall be provided as follows:
 - a. One (1) bay for buildings with five thousand one (5,001) to fifteen thousand (15,000) square feet of gross floor area ("GFA").
 - b. Two (2) bays for buildings with fifteen thousand one (15,001) to fifty thousand (50,000) square feet of GFA.
 - c. One (1) additional bay for each additional twenty thousand (20,000) square feet of GFA, not to exceed four (4) required bays.
 - d. For buildings smaller than five thousand one (5,001) square feet, loading shall take place such that access to the site and fire lanes is not impeded.
2. For office buildings, automobile dealerships, motels and hotels, the number of loading bays shall be provided, as follows:
 - a. One (1) bay for buildings with ten thousand one (10,001) to fifty thousand (50,000) square feet of GFA.
 - b. One (1) additional bay for each additional fifty thousand (50,000) square feet of GFA, not to exceed three (3) required bays.
 - c. For buildings smaller than ten thousand one (10,001) square feet, loading shall take place such that access to the site and fire lanes is not impeded.
3. For manufacturing and industrial uses, the number of bays required may vary due to the specific nature of the facility and shall be determined by the Department from documentation submitted by the developer.
4. Where an owner/developer or the Department believe the loading requirements specified in Subsections A.1 or A.2 are inappropriate for the proposed use, a special study citing similar uses and based on a detailed analysis of the loading requirements of the proposed use may be submitted at the owner/developer's expense. The Department may substitute or rely on the special study for that specific property.

¹Cross reference(s)—Stopping, standing and parking, ch. 34, art. 2.

(Ord. No. 97-172, § 3(ch. 13, § 03.510), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021, § 5, 7-10-2018)

Sec. 40.03.520. Parking standards.

This Division requires off-street parking areas for land uses except in hamlet or village development options where Division 40.25.100 shall govern and in the Traditional Neighborhood District where on-street parking is credited. These requirements lessen congestion on streets and ensure an adequate supply of parking and loading spaces for customers within a reasonable distance.

(Ord. No. 97-172, § 3(ch. 13, § 03.520), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.03.521. Off-street parking requirements.

All uses shall be required to meet the off-street parking standards set forth in Table 40.03.110C and Table 40.03.522. The following general requirements shall govern off-street parking provisions and maintenance:

- A. *Change of use.* Should a lot or building owner or occupant change the use of said lot or building, the new use shall conform with this Chapter's off-street parking provisions.
- B. *Storage prohibited.* Required off-street parking spaces shall be available for operable passenger automobiles of the residents, customers, patrons, and employees of the use to which they are accessory. Storing materials or unregistered or inoperable vehicles, or parking trucks or trailers, shall be prohibited in any off-street parking areas.
- C. *Vehicle work prohibited.* No vehicle work other than emergency tire changes or jump starting of vehicles shall be permitted in conjunction with off-street parking facilities.
- D. *Service vehicles.* Service vehicles used in conjunction with any permitted use associated with the parking area may be parked continuously on site. Except for passenger vehicles serving exclusively the on-site institutional uses, no service vehicle larger than a one (1) ton truck shall be permitted in residentially zoned areas.
- E. *Parking plan.* Except for the conversion of parking spaces to electric vehicle (EV) charging stations, a parking plan must be submitted to the Department for review and approval if any of the following conditions apply unless the proposed parking is shown on a pending or approved land development or resubdivision plan:
 - 1. Construction of a new parking area with ten (10) or more parking spaces.
 - 2. Restriping or otherwise reconfiguring an existing nonconforming parking lot not depicted on a previously recorded subdivision, resubdivision or land development plan such that the design will differ from that which currently exists. (Reconfiguring the design of a nonconforming parking lot shown on a record plan requires the filing of a resubdivision plan.)
 - 3. Expansion of an existing nonconforming parking lot with ten (10) or more additional parking spaces either within the confines of the existing parking area or in a new area.
 - 4. Any time a change is proposed to an existing nonconforming parking lot where some or all of the current parking dimensional and design standards are proposed to be incorporated.
- F. *EV-capable or EV-ready parking spaces.* EV-capable or EV-ready parking spaces shall be required as provided in Chapter 6.

(Ord. No. 97-172, § 3(ch. 13, § 03.521), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.521), 9-22-1998; Ord. No. 21-065, § 4, 8-31-2021)

Sec. 40.03.522. Off-street parking.

- A. *Minimum parking requirements.* Table 40.03.522 specifies the minimum number of parking spaces required for each use type. When the number of required off-street parking spaces results in a fractional space, the fractional space shall be counted as one (1) parking space. If several uses occupy a single parcel or building, the off-street parking and loading requirement shall be the additive total for all these parcel's or building's uses, however, in the case of shopping centers with more than ten thousand (10,000) square feet of GFA, the parking requirements shall be based only on the total GFA regardless of use. Uses not listed shall have their parking requirements determined by the Department based on most similar use(s) or parking studies of similar uses in the region.
- B. *Changes in use.* For purposes of accommodating changes in use or tenancy in an existing shopping center of over ten thousand (10,000) square feet GFA, legal nonconforming parking provided on the site and on the Record Plan if applicable, shall be considered adequate for purposes of required parking.
- C. *Parking requirements along designated byways.* Parking requirements for development within six hundred sixty (660) feet of the right-of-way of a designated byway must be in accordance with the provisions of Article 18.

Table 40.03.522. OFF-STREET PARKING FOR SPECIFIC USES

Uses	Parking Spaces Required	
	Per 1,000 sf. of Gross Floor Area	Other Standard
PARKING STANDARDS¹		
Institutional: Community, Neighborhood, and Residential		
Places of public assembly and churches	—	1 per 4 permanent seats or 10/1000 sf. of public assembly area, whichever is greater
Clubs & associations (no food service)	6.0	—
Clubs & associations (with food service)	10.0	—
Fire station	—	4 per vehicle bay plus 10/1000 sf. of public assembly area
Library or museum	3.5	calculate public assembly areas separately at 7.5/1000 sf.
Nursing homes	—	0.33 per bedroom
Day care, kindergarten, preschool	3.5	—
Schools: Elementary & junior high	—	2 per classroom, calculate public assembly areas at 7.5/1000 sf.
Schools: Senior high, trade and vocational, college and university	—	10.0 per classroom, calculate public assembly areas at 7.5/1000 sf.
Age-restricted residential developments	—	1.50 per dwelling unit
Institutional, residential, monasteries & convents	—	0.75 per bedroom
Rooming & boarding houses	—	1.25 per guestroom
Police station	4.0	—
Post office	4.0	—
Residential Uses: Multifamily		
Apartments	—	1.5 per 1 bedroom dwelling unit, 2 per 2 or 3 bedroom dwelling unit, 2.25 per 4 bedroom dwelling unit, 2.5 per 5+

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		bedroom dwelling unit; 1 additional guest parking space per 5 dwelling unit
Commercial Uses: Office		
General	3.5	—
Government offices	4.0	—
Medical	4.5	—
Bank/financial	3.0	plus 3 stacking spaces per drive-in window
Commercial Uses: Commercial Retail		
General	4.0	Up to and including 100,000 sf. of GFA
	3.0	Greater than 100,000 sf. of GFA
Shopping center	4.5	Up to and including 50,000 sf. of GFA
	4.25	Greater than 50,000 sf. up to and including 100,000 sf. of GFA
	3.0	Greater than 100,000 sf. of GFA
Furniture & carpet stores	—	5.0 space minimum, plus 1 per 1000 sf. of GFA
Commercial temporary outdoor sales	—	1 off-street parking space per 250 sf. of sales and display area (exclusive of production area), minimum 4 spaces
Roadside stand (permanent or temporary)	—	1 per 250 sf. of sales and display area (exclusive of production area)
Hardware, paint & home improvement	4.0	Up to and including 100,000 sf. of GFA
	3.0	Greater than 100,000 sf. of GFA
Craft alcohol production establishment	—	9 spaces per 1,000 sf. of tasting room, retail areas, and 25% of the GFA of all outdoor seating areas; plus 5 spaces minimum plus 0.5 spaces per 1,000 sf. of GFA for manufacturing, warehouse, and storage.
Pharmacy	3.0	plus 3 stacking spaces per drive-in window
Commercial Uses: Light Auto Service		
General	1.5	or 4 per bay, whichever is greater
Carwashes (single car, automatic bay)	2.0	plus 6 stacking spaces per bay and 1 drying
Carwashes (multiple car, automatic bay)	4.0	plus 12 stacking spaces per bay and 2 drying
Carwash (self-wash bay)	—	3 per bay
Gas station	1.5	or 4 per bay, whichever is greater
Commercial Uses: Services		
Drive-in facility	—	six (6) stacking spaces per window unless a stricter standard applies
Personal service businesses	4.0	—
Funeral homes	8.0	—
Fitness center/health club	7.0	—

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Restaurants	8.0	plus parking for one-quarter of the area of outdoor seating
Fast food restaurants with twenty (20) or fewer seats, or take-out	8.0	plus parking for one-quarter of the area of outdoor seating
Fast food restaurants with more than twenty (20) seats	13.0	plus parking for one-quarter of the area of outdoor seating
Veterinary services, pet grooming	3.5	—
Kennels	—	5 space minimum plus 0.5 per 1000 sf. of GFA
All others	4.0	—
Commercial Uses: Commercial Lodging		
Hotel, motel	—	1 per guestroom, plus required spaces for restaurant, lounge, banquet and meeting room facilities as they may exist
Bed & breakfast	—	1 per guestroom, plus 2 per du.
Campgrounds	—	1 per camp space, plus 3 per 50 spaces at office
Commercial Uses: Heavy Retail/Service		
General	4.0	—
Auto, boat, mobile dwelling unit, truck, trailer, outdoor equipment and machinery sales	—	5 space minimum, plus 1 per 1000 sf. of floor and ground area devoted to sales, service, display and storage
Building materials	2.0	plus 5 space minimum
Vehicle repair/service	1.0	or 4 per bay, whichever is greater
Recreation and Amusement Uses: Outdoor Recreational		
Camps, day or youth	—	1 per 1500 sf. of area
Golf course	—	3 per hole
Golf driving range or rifle range	—	1 per station
Parks, playground	—	1 per 5000 sf. of area
Equestrian facilities	—	1 per 4 stalls, plus 1 per 2000 sf. of inside riding area
Swimming pool	—	1 per 400 sf. pool surface area
Tennis courts	—	3 per court
Athletic fields	—	15 per field plus 1 per 4 permanent seats
All other active	—	1 per 10,000 sf. of area
All other passive	—	5 space minimum plus 1 per 3 acres
Recreation and Amusement Uses: Indoor Recreational		
Swimming pool	—	1 per 100 sf. pool surface area
Indoor court games	—	3 per court
Community center, auditorium, stadium, gymnasium and other similar uses	—	1 per 4 permanent seats or 10 per 1000 sf. of public assembly area, whichever is greater
All others	—	1 per 4 permanent seats or 10 per 1000 sf. of public assembly area, whichever is greater
Recreation and Amusement Uses: Outdoor Commercial Amusement		

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General	—	5 space minimum plus 1 per 1500 sf. of area
Outdoor court games	—	3 per court plus 1 per 4 permanent seats
Outdoor arenas	—	1 per 3 seats
Recreation and Amusement Uses: Indoor Commercial Amusement		
General	6.0	—
Amusement parks	—	special study
Bowling alley/pool rooms	—	4 per lane, 2 per pool/billiard table
Skating rinks	—	1 per 100 ft. skate surface
Theaters/assembly rooms	—	1 per 4 permanent seats or 10 per 1000 sf. of public assembly area, whichever is greater
Industrial Uses		
Warehouse, storage establishment, wholesaling, manufacturing or industrial establishment	—	5 space minimum plus 0.5 per 1000 sf. of GFA
Miniwarehouses/self-storage	—	3.5 spaces per 1000 sf. of GFA of sales/rental office
Notes: ¹ Parking for institutional uses on governmental parkland is determined and certified by owner.		

(Ord. No. 97-172, § 3(ch. 13, § 03.522), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.522), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 17-108, § 4, 5-8-2018; Ord. No. 18-021, § 6, 7-10-2018; Ord. No. 22-072, § 2, 10-11-2022, Ord. No. 24-130, § 1, 3-25-2025)

Sec. 40.03.523. Off-street parking standards.

Parking shall be set back behind any required buffer area or as specified in Table 40.04.110. All parking spaces, aisles, and turning areas shall be located entirely within the served property's lot lines and shall not encroach on any road, driveway, or other public right-of-way. No parked vehicle shall overhang any road, sidewalk, access driveway or public right-of-way. The Department may permit off-site parking to be located on a contiguous parcel provided:

- A. It is determined to have safe and convenient pedestrian and vehicular access.
- B. The off-site parking is located within a zoning district that permits the use being served. However, institutional uses defined in Section 40.33.230, located in areas zoned residential and which existed prior to January 1, 2009 may permit their residentially zoned parking areas to be shared as off-site excess parking for adjacent commercial or office uses. The institutional use parking area must satisfy the minimum code requirements for the institutional use and may not be counted towards additional development potential for the adjacent commercial or office use. In addition, the on-site parking area for the commercial or office use must meet the minimum code requirements for that commercial or office use.
- C. If the off-site parking is across a collector street, the Department may require a pedestrian improvement such as cross walks or signalization. Off-site parking shall not be located across an arterial street.
- D. A cross access easement is recorded and is valid for the duration of the use requiring the parking. Such a cross access easement must be approved by the Department prior to it being recorded. Any limitations upon the operation of the off-site parking area shall be identified in the cross access agreement between the parties. Any proposed amendment to the cross access easement shall be provided to the Department for approval prior to recordation.

- E. Single-family homes shall have all parking other than overflow parking on site, except townhouses and atrium homes may opt to use off-site parking.
- F. Multi-family dwelling units shall have all off-site parking located within one hundred eighty (180) feet of the building being served. This provision also applies to townhouses or atrium homes that choose to use off-site parking.
- G. Where off-site parking is approved by the Department pursuant to this Section, the residentially zoned off-site parking areas for the commercial or office uses shall have a minimum six-tenths (0.6) opacity and an eight (8) foot opaque fence between the off-site parking area and adjacent residential parcels. The Department may also impose other conditions to the off-site parking area where such conditions will reduce noise and light migration from the off-site parking area to the residential parcel(s).
- H. Only passenger cars and light trucks not exceeding the limits of an oversized vehicle as defined in Chapter 7 shall park in the residentially zoned parking area.
- I. A land development plan shall be submitted for Department review before off-site parking may be approved by the Department pursuant to this Section.

(Ord. No. 97-172, § 3(ch. 13, § 03.523), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 08-096, § 3, 11-25-2008; Ord. No. 08-129, § 1, 2-24-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.03.524. Special study.

When Table 40.03.522 calls for a special study, or where a developer or the Department believes the parking requirements are inappropriate for the proposed use and provides a reasonable explanation, a special study conducted by a transportation planner or engineer citing similar uses and based on a detailed analysis of peak hour parking of the proposed use may be submitted at the developer's expense. The County may substitute or rely on the special study for that specific property. All such special studies, if needed, shall be requested by the Department at time of the preapplication conference and shall follow the format of PDNA study in Section 40.22.615.

(Ord. No. 97-172, § 3(ch. 13, § 03.524), 12-31-1997)

Sec. 40.03.525. On-street parking.

- A. For commercial, commercial mixed-use, or institutional uses in any district, the Department may allow the developer to deduct from the required off-street parking their share of available parking in the defined development area in accordance with the following formula:

$$\text{Parking Credit} = S_a \times P$$

Where:

S_a = Share of the area in the defined development area.

P = Total available parking spaces for the proposed use in the defined development area. These values would be taken from the development plan.

- B. The Department may consider the following factors in defining the development area:
 - 1. Existing buildings and structures with similarly-proximate setbacks are located on the same street.
 - 2. Existing or proposed pedestrian facilities or transit stops are nearby on adjacent streets.
 - 3. Institutional, public assembly or similar uses are nearby or may be accessed by pedestrians.
 - 4. The proposed development is in or near existing development that exhibits pedestrian-scale streetscapes.
 - 5. On-street parking on adjacent streets is permitted.
 - 6. Compatibility with Guiding Principles - Character Area standards for building design, site design and amenities.

7. The proposed development utilizes concurrent modification of street bufferyard opacity standards.
8. The proposed development is identified in any area or corridor master plan for land use or transportation.
9. Natural or man-made boundaries are present.

(Ord. No. 97-172, § 3(ch. 13, § 03.525), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 18-021 , § 7, 7-10-2018)

Sec. 40.03.526. Handicapped parking.

The number and minimum dimensions of handicapped parking spaces shall be consistent with the requirements found in the Americans with Disabilities Act (ADA).

(Ord. No. 97-172, § 3(ch. 13, § 03.526), 12-31-1997)

Sec. 40.03.527. Bicycle parking.

All parking facilities containing more than ten (10) parking spaces, excluding spaces for vehicle storage, fleet vehicles, and special vehicle types such as trucks, buses, trailers, and vans, shall provide one (1) bicycle parking space or locker for each ten (10) parking spaces. No more than twenty (20) bicycle parking spaces shall be required in any one (1) facility.

(Ord. No. 97-172, § 3(ch. 13, § 03.527), 12-31-1997; Ord. No. 18-021 , § 8, 7-10-2018)

Sec. 40.03.528. Parking structures.

The intent of this Section is to regulate the mass, scale, visibility and overall aesthetic appearance of a parking structure in order to ensure its context sensitivity with the surrounding community.

- A. A parking structure shall be permitted on any parcel which would otherwise allow at-grade parking pursuant to Section 40.03.110. In the Suburban (S) District, a parking structure shall only be permitted in the Village or Hamlet development option.
- B. A parking structure shall be subject to the same bulk and area requirements as the principal use for which it is designed to serve as referenced in the table found in Section 40.04.110 ("District and bulk standards").
- C. A parking structure shall be required to meet the following site design standards addressing visibility, mass and scale:
 1. Architectural design and massing shall be consistent with the adjacent building(s) and the surrounding communities in both proportion and scale.
 2. Facade elevations shall utilize articulation and materials to complement the adjacent building(s).
 3. Ramps and decks shall be screened from view by way of architectural design.
 4. Pedestrian entrances shall have building features that are human-scaled.
 5. Where a parking structure is adjacent to an existing residential use or residential zoning district, the design shall incorporate transitional elements to minimize negative impacts to the surrounding community. Transitional elements shall include:
 - a. Lighting shall be designed so that there is zero (0) foot candle at the property line of the residential area.
 - b. Vehicular access and egress shall be located to minimize impact to the residential area.

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- D. On land development plans proposing a parking structure, there shall be an increase in the landscape surface ratio (LSR) of no less than fifty (50) percent above the minimum LSR required by Table 40.04.110.

(Ord. No. 97-172, § 3(ch. 13, § 03.528), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 03.528), 9-22-1998; Ord. No. 15-053 , § 3, 7-28-2015)

ARTICLE 4. DISTRICT INTENSITY AND BULK STANDARDS

Division 40.04.000. Purpose.

The purpose of Article 4 is to establish the basic intensity, bulk performance, bufferyard, and landscaping standards for each zoning district. Site specific standards shall require each development to conduct a carrying capacity analysis. This analysis regulates the maximum intensity based on actual site conditions (see Article 5).

(Ord. No. 97-172, § 3(ch. 13, div. 04.000), 12-31-1997)

Division 40.04.100. District performance standards.

District performance standards are the minimum requirements for each use and shall apply to all districts. Where other more specific standards in this Chapter are applicable to specific uses, those standards shall be applicable and shall override any general standards.

(Ord. No. 97-172, § 3(ch. 13, div. 04.100), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 04.100), 9-22-1998)

Sec. 40.04.110. District and bulk standards.

This Section contains the basic district standards applicable to all uses. Table 40.04.110 contains intensity, lot, bulk and exterior storage standards. These standards may be modified by the Department pursuant to Article 18 and Article 26.

- A. *Minimum open space ratio.* For residential subdivisions of five (5) lots or less open space shall not be required. Protected resource land shall be preserved by conservation easements. For major land development plans, all protected resources shall be in open space and none shall be permitted on any residential lots.
- B. *Site area.* Site area is the area required for any new uses recognized by this Chapter to be permitted in the zoning district. The number identified is the minimum site area unless otherwise specified. No land shall be rezoned unless the proposed zoning district meets minimum site area requirements. In determining minimum site area requirements for rezoning applications, contiguous parcels of the same zoning shall be considered in the calculation.
- C. *Maximum building height.* If there are single-family detached or single-family attached dwellings within one hundred (100) feet of a property line of the parcel to be developed with a building over fifty (50) feet, the required front, street, side or rear yards adjacent to those dwellings shall be at a minimum equal to the height of the proposed building.
- D. *Minimum lot area.* The minimum lot area requirement must be met exclusive of protected resources, and for lots less than one (1) acre, exclusive of required bufferyards.
- E. *Exceptions.*
 - 1. *Projections into required yards.* The following exceptions are permitted for residential dwellings:
 - a. Bay windows, oriels or balconies may project not more than three (3) feet into any required yard.
 - b. Chimneys, cornices and eaves may project not more than two (2) feet into any required yard.
 - c. Sills, leaders, belt courses and similar ornamental or structural features may project not more than six (6) inches into any required yard.
 - d. An open fire balcony, a fire escape or a fire tower may project not more than four (4) feet into a required side yard or rear yard.

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- e. An uncovered patio at ground level or uncovered driveway (except for shared driveways) may project into any yard, provided it is set back from any lot line a minimum of two (2) feet.
 - f. An uncovered porch or deck or any part thereof elevated above ground level may project half the distance of the distance of the minimum required yard but no more than fifteen (15) feet. Stairs leading from the deck, with a landing area not greater than fifty (50) square feet may project an additional two (2) feet.
 - g. Covered entrance ways, stairs, and enclosures providing entry directly to a dwelling and including a landing of not more than fifty (50) square feet may project one-half (½) the distance of the minimum required yard but not more than twelve (12) feet.
 - h. Uncovered handicapped access structures may project to within three (3) feet of any property line or to within zero (0) feet of any property line if the ground level landing is parallel to the property line. The owner shall be required to provide proof of need and the handicapped access structure shall be removed no later than six (6) months after the need no longer exists.
- 2. *Exception along a navigable waterway or railroad right-of-way.* Where the rear or side of a lot adjoins a navigable waterway or railroad right-of-way in an OR, BP, I, HI District, no rear or side yard shall be required.
 - 3. *Height exceptions.* Height limits in this Article shall not apply to the following or similar structures: spires on churches, cupolas, belfries, chimneys, smokestacks, flag poles, water tanks or towers, fire towers, observation towers, lighthouses, transmission towers, windmills, silos, antennae (including amateur radio antennae), manufacturing or mechanical equipment and its necessary supports including but not limited to HVAC equipment, or elevator enclosures.
 - 4. *Side entry garages and side yard setback.* Where a side entry garage is proposed as part of a residential dwelling, the minimum required side yard setback for only the garage portion of the dwelling shall be thirty (30) feet.
 - 5. *Former code alternative development options.* Lot size, lot width, front yard setback, side yard setback and rear yard setbacks for all existing lots created by former code subdivision and land development plans recorded under any of the former code alternative development options shall continue to be regulated using the former code alternative development option regulations.
 - 6. *Developments recorded pursuant to former R-2 zoning standards.* Residential land development plans recorded pursuant to former R-2 zoning bulk and area standards and currently zoned NC40 or NC2a shall comply with the NC21 side, rear and street yard setbacks standards for building construction.
 - 7. *Lot width/street frontage exceptions.* The Department may authorize the reduction or elimination of the minimum lot width/street frontage requirements in order to achieve conservation design objectives when the applicant demonstrates that such requirements could be met but the modified design helps reduce impervious cover and surface water runoff and/or provides additional natural resource protection.
- F. *Street yard build-to line in ON, CN, ST and CR zoning districts.* If required by the Department, the minimum street yard setback shall be established as a build-to line for the principal structure(s) on the lot. The build-to line may be less than the required minimum street yard setback. The Department shall consider the following criteria when determining the location of the build-to line:
 - 1. Existing buildings and structures with similarly proximate setbacks are located on the same street; particularly, institutional, public assembly or similar uses are nearby or may be accessed by pedestrians.

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2. Standards for building design, site design and amenities follow the Guiding Principles in Appendix 7 and existing or proposed pedestrian facilities or transit stops or on-street parking are nearby on adjacent streets.
 3. The proposed development is in or near existing neighborhoods or development(s) that exhibit pedestrian-scale streetscapes.
 4. The proposed development utilizes concurrent modification of street bufferyard opacity standards pursuant to Article 23.
 5. The proposed development is identified in any area or corridor master plan for land use or transportation.
- G. *Residential dwelling density.* Unless otherwise specifically permitted, in every single-family residential zoning district, only one (1) single-family dwelling per lot is permitted.
- H. *Visibility at corners.* On any corner lot there shall be no building, structure, shrubbery or planting such as will obstruct street traffic visibility within the triangular area formed by the intersection of any two (2) street lines and a line joining the respective points on each of these lines distant twenty-five (25) feet from their point of intersection.
- I. *Development along a designated byway.* For nonresidential buildings within six hundred sixty (660) feet of the right-of-way of a designated byway, the maximum building height is limited to forty-five (45) feet.

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Table 40.04.110A. DISTRICT AND BULK STANDARDS								Table 40.04.110B. DISTRICT AND BULK STANDARDS								Table 40.04.110C. DISTRICT AND BULK STANDARDS	
District Standards								Lot, and Building Standards								Storage and Comments	
		Density		Floor Area Ratio				Minimum							Max.	Exterior Storage	Notes
Zoning District & Type	Min. OSR/ LSR	Max. Gross	Max Net	Max. Gross	Max Net	Utilities (on-site, public)	Site Area	Lot Area	Lot Width (feet)	Front and Street Yards (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/ other yard (feet)	Unit Mix (%)	Build- ing Height (feet)	Percent of Lot Area	
Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District (P)								Publicly Conserved Lands & Parks District (P)	
Permitted uses*	0.70	na.	na.	0.12	0.45	P/OS	na.	na.	na.	50	40	50	50/30	na.	40	na.	*The standards are applicable unless explicitly established otherwise by a governmental agreement.
Suburban Reserve (SR)								Suburban Reserve (SR)								Suburban Reserve (SR)	
Farmstead	0.00	0.02	0.02	na.	na.	OS	50 ac.	50 ac.	600	50	50	50	na.	na.	50	na.	
Single-family	0.05	0.17	0.18	na.	na.	OS	5 ac.**	5 ac. 1 ac. **	300 100	50 40	40 15	100 40	na. na.	na. na.	40 40	na. na.	* A lot legally existing as of December 31, 1997, with less than the minimum required lot width/frontage requirement, may be subdivided into two (2) lots, one (1) of which may have a zero (0) foot lot width/frontage so long as a permanent

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																		access easement is granted, ** On any lot greater than ten (10) acres and with an agricultural tax exemption, the owner may create one (1), one (1) acre minimum lot.
Open space subdivision	0.60	0.30	0.80	na.	na.	OS	20 ac.		1 ac.	150	40	15	40	na.	na.	40	na.	
Other permitted uses	0.85	na.	na.	0.06	0.40	OS	10 ac.		5 ac.	300	100	50	100	75/40	na.	50	5*	* Ag. Support Services, no limit
Rural subdivision	na.	na.	na.	na.	na.	OS	35 ac.*		2 ac.	na	40	15	40	na.	na.	40	na.	See Division 40.24.100
Suburban Estate (SE)								Suburban Estate (SE)								Suburban Estate (SE)		
Single-family	0.05	0.41	0.43	na.	na.	OS	2 ac.		2 ac.	200	50	40	40	na.	na.	40	na.	
Open space subdivision	0.45	0.42	0.79	na.	na.	OS	8 ac.		1 ac.	150	40	12	40	na.	na.	40	na.	
Open space subdivision	0.60	0.44	1.16	na.	na.	P water	8 ac.		30,000 sf.	125	40	12	40	na.	na.	40	na.	
Other permitted uses	0.75	na.	na.	0.08	0.40	P water	5 ac.		5 ac.	300	100	30	100	50/30	na.	40	5*	* Ag. Support Services, no limit
Suburban (S)								Suburban (S)								Suburban (S)		
Farmstead	0.00	0.02	0.02	na.	na.	OS	50 ac.		50 ac.	600	50	50	50	na.	na.	50	na.	
Pocket Neighborhood	0.25	5.0	13.0	na.	na.	P	4 to 40 ac		See Table 40.04.112								na.	See Section 40.25.333
Single-family	0.15	0.67	0.80	na.	na.	P*	1 ac. to less than 50 ac. **		1 ac.	150	40	12	40	na.	na.	40	na.	* Division 40.22.300 **Maximum site area allowed for sites utilizing the option. Project site shall have been a legally

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																		existing tax parcel prior to August 1, 2003
Single-family, conservation design	0.50*	0.67	1.34	na.	na.	p**	5 ac.	20,000	100	40	10	40	na.	na.	40		na.	* Division 40.10.702 **Division 40.22.300
Age restricted single family, see Division 40.07.700	0.15	0.80	0.95	na.	na.	P*	1 ac. to less than 50 ac.**	1 ac.	150	40	12	40	na.	na.	40		na.	* Division 40.22.300 **Maximum site area allowed for sites utilizing this option. Project site shall have been a legally existing tax parcel prior to August 1, 2003.
Open space subdivision— Option 1	0.30	1.09	1.70	na.	na.	P	10 ac. to less than 50 ac.*	20,000 sf.	100	40	10	40	na.	na.	40		na.	*Maximum site area allowed for sites utilizing this option. Project site shall have been a legally existing tax parcel prior to August 1, 2003.
Open space subdivision— Option 1, conservation design	0.50*	1.09	2.38	na.	na.	P	10 ac.	15,000	80	25	10	40	na.	na.	40		na.	*Division 40.10.702
Open space subdivision— Option 2	0.50*	1.25	2.54	na.	na.	P	10 ac.	6,500 to 15,000 sf. over 15,000 sf.	60 80	25 25	6 6	25 25	na. na.	30 na.	40 40		na. na.	*Division 40.10.702

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Age restricted open space subdivision, see Division 40.07.700	0.50*	1.30	2.60	na.	na.	P	10 ac.		10,000 sf.	60	25	6	25	na.	na.	40		na.	*Division 40.10.702
Open space planned	0.50**	1.30	5.20	na.	na.	P	50 ac.		See Table 40.04.112									na.	*A minimum of 25% of the base site area must be unrestrained by floodplain or wetland. As a result, the actual required open space may exceed the site protected land or minimum required open space calculation in Table 40.05.421 **Division 40.10.702
Age restricted open space planned, see Division 40.07.700	0.50	1.56	6.24	na.	na.	P	50 ac.		See Table 40.04.112									na.	
Hamlet See Division 40.25.100						P			See Division 40.25.100										See Division 40.25.100
Village See Division 40.25.100						P			See Division 40.25.100										See Division 40.25.100
Assembly and worship	0.50	na.	na.	0.30	0.50	P	1 ac.		1 ac.	100	40	25	40	20/10	na.	45		5	
Schools	0.50	na.	na.	0.30	0.50	P	1 ac.		1 ac.	100	40	25	40	20/10	na.	45		5	
Fire stations	0.50	na.	na.	0.30	0.50	P	1 ac.		1 ac.	100	40	25	40	20/10	na.	45		5	
Other permitted uses	0.70	na.	na.	0.12	0.45	P	3 ac.		2 ac.	200	50	40	50	50/30	na.	40		5*	* Ag. Support Services - no limit

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Suburban Transition (ST)								Suburban Transition (ST)								Suburban Transition (ST)	
Pocket Neighborhood	0.15	8.0	13.0	na.	na.	P	4 to 40 ac	See Table 40.04.112								na.	See Section 40.25.333
Single-family	0.17	3.69	4.46	na.	na.	P	5,500	5,500 sf	50	20	6	25	na.	na.	35	na.	
Age restricted single family, see division 40.07.700	0.17	4.43	5.36	na.	na.	P	5 ac.	4,800 sf.	48	20	5	25	na.	na.	35	na.	
Single-family attached	0.25	4.90	6.62	na.	na.	P	5 ac.	Single-family attached see Table 40.04.112								na.	
Age restricted single-family attached	0.25	5.88	7.94	na.	na.	P	5 ac.	Single family attached see Table 40.04.112								na.	
Open space planned	0.35	5.40	8.52	na.	na.	P	5 ac.	See Table 40.04.112								na.	
Age restricted open space planned	0.35	6.48	10.24	na.	na.	P	5 ac.	See Table 40.04.112								na.	
Apartments	0.40	8.00	14.50	na.	na.	P	2 ac.	Apartments see Table 40.04.112								na.	
Other permitted uses	0.40	na.	na.	0.30	0.50	P	1 ac.	1 ac.	150	40	15	25	10/10	na.	40	5	
Traditional Neighborhood (TN)								Traditional Neighborhood (TN)								Traditional Neighborhood (TN)	
Pocket Neighborhood	0.15	8.0	13.0	na.	na.	P	4 to 40 ac	See Table 40.04.112								na.	See Section 40.25.333
Single-family village house	0.20	4.39	5.52	na.	na.	P	4,800 sf.	4,800 sf.	48	12 bt*	5	25	na.	20	35	na.	* bt - build to line
								5,400 sf.	54	12 bt*	5	25	na.	40	35	na.	
								6,000 sf.	60	12 bt*	5	25	na.	15	35	na.	
Single-family attached	0.25	6.00	9.00	na.	na.	P	5 ac.	Single-family attached see Table 40.04.112								na.	
Open space planned	0.25	5.20	8.50	na.	na.	P	20 ac.	See Table 40.04.112								na.	
Mixed use	0.35	na.	na.	0.40	0.61	P	5 ac.	20,000 sf.	100	0	0	10	10/10	na.	45	5	
Other permitted uses	0.20	na.	na.	0.46	0.46	P	75 ac.	10,000 sf.	100	0	5	10	10/10	na.	40	5	

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Neighborhood Conservation (NC)								Neighborhood Conservation (NC)								Neighborhood Conservation (NC)	
NC2a	0.05	0.41	0.44	na.	na.	P	2 ac.	2 ac.	200	50	40	50	na.	na.	40	na.	
NC40	0.07	0.90	0.90	na.	na.	P	40,000 sf.	40,000 sf.	125	40	15	40*	na.	na.	40	na.	* 30 feet for corner lot
NC21	0.09	1.48	1.63	na.	na.	P	21,780 sf.	21,780 sf.	75	40	10	40*	na.	na.	40	na.	* 30 feet for corner lot
NC15	0.11	1.89	2.13	na.	na.	P	15,000 sf.	15,000 sf.	100	40	12	40*	na.	na.	40	na.	* 30 feet for corner lot
NC10	0.14	2.65	3.09	na.	na.	P	10,000 sf.	10,000 sf.	80	25	8	30*	na.	na.	35	na.	* 20 feet for corner lot
NC6.5	0.17	3.73	4.52	na.	na.	P	6,500 sf.	6,500 sf.	60	25	6	25*	na.	na.	35	na.	*15 feet for corner lot
NC5 - See note	0.20	4.62	5.96	na.	na.	P	5,000 sf.	5,000 sf.	50	25	6	25*	na.	na.	35	na.	Bulk and area stds. for: sf semi-detached, same as NCsd sf townhouse, same as NCth garden apts., same as NCga multi-family, same as NCap
NCsd	0.22	5.78	7.44	na.	na.	P	8,000 sf.	4,000 sf.	40	25	6	25	na.	na.	35	na.	
NCth	0.25	10.45	14.00	na.	na.	P	1 ac.	2,000 sf.	16	25	6*	40	na.	na.	40	na.	* End units only have side yard
NCga	0.25	11.19	15.00	na.	na.	P	1 ac.	2,178 sf.	50	40	10	40	25/10	na.	45	na.	
NCap	0.25	20.80	27.91	na.	na.	P	1 ac.	1,089 sf.	50	40	10	40	25/10	na.	60	na.	
Other permitted uses	0.50	na.	na.	0.23	0.46	P	1 ac.	1 ac.	150	40	30	40	20/10	na.	45	5	
Manufactured Home (MM) District								Manufactured Home (MM) District								Manufactured Home (MM) District	

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Single wide	0.15	4.7	6.0	na.	na.	P	8 ac.		4,200 sf.	45	25	5	10	na.	na.	35		na.	
Double wide	0.25	4.7	6.0	na.	na.	P	8 ac.		6,000 sf.	60	25	5	10	na.	na.	35		na.	
Other permitted uses	0.50	na.	na.	0.23	0.46	P	1 ac.		1 ac.	150	40	30	40	25/10	na.	35		5	
Office Neighborhood (ON)								Office Neighborhood (ON)								Office Neighborhood (ON)			
Offices	0.35	na.	na.	0.34	0.54	P	1 ac.		1 ac.	100	15	15	35	40/10	na.	35		5	
Mixed use	0.35	na.	na.	0.50	0.77	P	3 ac.		1 ac.	100	15	15	35	40/10	na.	35		10	
Other permitted uses	0.35	na.	na.	0.24	0.38	P	1 ac.		1 ac.	100	15	15	35	40/10	na.	35		5	
Office Regional (OR)								Office Regional (OR)								Office Regional (OR)			
Offices	0.20	na.	na.	0.50	0.83	P	5 ac.		1 ac.	100	40	15	40	40/10	na.	50/140*	5	* For buildings over 50 feet, see 40.04.110C	
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.		3 ac.	100	40	15	40	40/10	na.	50/140*	5		
Restaurants	0.25	na.	na.	0.14	0.20	P	25 ac.		2 ac.	150	40	15	40	40/10	na.	30	5		
Mixed use	0.30	na.	na.	0.71	1.02	P	25 ac.		1 ac.	100	40	15	40	40/10	na.	50/180*	10		
Industrial	0.30	na.	na.	0.40	0.57	P	25 ac.		3 ac.	100	40	15	40	40/10	na.	50/140*	15		
Other permitted uses	0.30	na.	na.	0.32	0.48	P	15 ac.		1 ac.	100	40	15	40	40/10	na.	50/140	10		
Commercial Neighborhood (CN)								Commercial Neighborhood (CN)								Commercial Neighborhood (CN)			
Offices	0.50	na.	na.	0.26	0.53	P	1 ac.		20,000 sf.	50	15	none*	20	40/10	na.	35	5	* Minimum 20 foot side yard adjacent to residential uses or districts	
Retail	0.45	na.	na.	0.18	0.34	P	1 ac.		20,000 sf.	50	15	none*	20	40/10	na.	35	10		
Other commercial uses	0.50	na.	na.	0.18	0.37	P	1 ac.		20,000 sf.	50	15	none*	20	40/10	na.	35	10		
Mixed use	0.45	na.	na.	0.35	0.71	P	3 ac.		1 ac.	100	15	10	10	40/10	na.	35	10		
Other permitted uses	0.50	na.	na.	0.23	0.46	P	1 ac.		1 ac.	50	15	none*	20	40/10	na.	35	10		
Commercial Regional (CR)								Commercial Regional (CR)								Commercial Regional (CR)			
Offices	0.35	na.	na.	0.50	0.82	P	5 ac.		1 ac.	100	15	20	20	25/5	na.	50/140*	5	* For buildings over 50 feet, see 40.04.110C	

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Commercial lodging	0.35	na.	na.	0.50	0.82	P	10 ac.		3 ac.	100	40	20	20	25/5	na.	50/140*		5	
Commercial retail	0.20	na.	na.	0.37	0.47	P	5 ac.		1 ac.	100	15	20	20	25/5	na.	50		15	
Heavy retail and service	0.25	na.	na.	0.28	0.37	P	5 ac.		2 ac.	100	40	20	20	25/5	na.	50		20	
Vehicular sales, rentals and service	0.25	na.	na.	0.35	0.44	P	5 ac.		1 ac.	100	40	20	20	25/5	na.	50		15**	** Unlimited for vehicular inventory
Other commercial uses	0.20	na.	na.	0.37	0.47	P	5 ac.		1 ac.	100	15	20	20	25/5	na.	50		15	
Mixed uses	0.20	na.	na.	1.00	1.40	P	10 ac.		1 ac.	100	15	20	20	25/5	na.	50/180*		15	* For buildings over 50 feet, see 40.04.110C
Other permitted uses	0.25	na.	na.	0.39	0.53	P	5 ac.		1 ac.	100	40	20	20	25/5	na.	50		15	
Business Park (BP)								Business Park (BP)								Business Park (BP)			
Offices	0.20	na.	na.	0.50	0.83	P	25 ac.		5 ac.	150	40	20	20	40/10	na.	50/140*		5	*For buildings over 50 feet, see Section 40.04.110 C.
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.		3 ac.	100	40	15	40	40/10	na.	50/140*		5	
Industrial	0.30	na.	na.	0.40	0.57	P	25 ac.		5 ac.	150	40	20	20	40/10	na.	50/140*		5	
Restaurants	0.25	na.	na.	0.14	0.20	P	25 ac.		2 ac.	150	40	20	20	40/10	na.	30		5	
Other permitted uses	0.30	na.	na.	0.26	0.38	P	25 ac.		2 ac.	150	40	20	20	40/10	na.	50/140*		5	
Industrial (I)								Industrial (I)								Industrial (I)			
Offices	0.20	na.	na.	0.50	0.83	P	5 ac.		1 ac.	100	40	0*	0**	40/10	na.	65/140***		5	* Minimum 20 foot side yard adjacent to residential uses or districts ** Minimum 50 foot rear yard adjacent to residential uses or districts *** For buildings over 65 feet, see Section 40.04.110 C.
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.		3 ac.	100	40	0*	0**	40/10	na.	50/140***		5	

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Restaurants	0.15	na.	na.	0.16	0.20	P	25 ac.	1 ac.	100	40	0*	0**	40/10	na.	30	5	
Heavy retail and service	0.15	na.	na.	0.32	0.37	P	1 ac.	1 ac.	100	40	0*	0**	40/10	na.	60	50	
Industrial	0.15	na.	na.	0.48	0.57	P	1 ac.	1 ac.	100	40	0*	0**	40/10	na.	60/140***	50	
Other permitted uses	0.20	na.	na.	0.30	0.38	P	10 ac.	1 ac.	100	40	20	20	40/10	na.	60/140***	50	
Heavy Industrial (HI)								Heavy Industrial (HI)								Heavy Industrial (HI)	
Heavy industry	0.10	na.	na.	0.62	0.69	P	20 ac.	5 ac.	300	40	0*	0**	40/10	na.	90	no limit	* Minimum 20 foot side yard adjacent to residential uses or districts ** Minimum 50 foot rear yard adjacent to residential uses or districts
Other industrial	0.10	na.	na.	0.51	0.57	P	20 ac.	5 ac.	300	40	0*	0**	40/10	na.	70	no limit	
Other permitted uses	0.10	na.	na.	0.34	0.38	P	5 ac.	2 ac.	150	40	20	20	40/10	na.	70	100	
Extraction (EX)								Extraction (EX)								Extraction (EX)	
Extraction	0.30	na.	na.	0.01	0.02	P	200 ac.	200 ac.	500	See Section 40.03.324						no limit	Section 40.03.324
Other permitted uses	0.30	na.	na.	0.40	0.57	P	25 ac.	5 ac.	150	40	20	20	40/10	-	50/140*	5	Section 40.03.324 *For buildings over 50 feet, see Section 40.04.110 C
DPUD - See Adopted Ordinance and Resolution for each DPUD								DPUD - See Adopted Ordinance and Resolution for each DPUD									
EED - See Adopted Ordinance for each EED								EED - See Adopted Ordinance for each EED									

(Ord. No. 97-172, § 3(ch. 13, § 04.110), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 04.110), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 04.110), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 00-011, § 1, 6-13-2000; Ord. No. 00-083, § 1, 9-26-2000; Ord. No. 01-008, § 1, 4-24-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 08-096, § 4, 11-25-2008; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 1, 1-13-2015; Ord. No. 16-066, § 3, 1-10-2017; Ord. No. 18-021, § 9, 7-10-2018; Ord. No. 21-065, § 5, 8-31-2021; Ord. No. 22-072, § 3, 10-11-2022; Ord. No. 24-087, 9-24-2024, Ord. No. 24-130, § 1, 3-25-2025)

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Sec. 40.04.111. Landscape and illumination standards.

Bufferyard, landscaping standards and lighting standards are provided in Table 40.04.111.

Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS																
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes													
	Lot	Acre Open Space	Parking Spaces	Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like development options are adjacent)																		Illumination	Height														
				Arterial	Collector	Minor	P	SR	SE & NC 2a	S	NC 40- 10	ST	TN	MM	NC 6.5 or less *	ON	OR	CN	CR	BP	I	HI	EX																	
Publicly Conserved Lands & Parks District (P)							Publicly Conserved Lands & Parks District (P)																	Publicly Conserved Lands & Parks District (P)																
Permitted uses	5/ac	4	1/12	0.4	0.3	0.2		0.3	0.3	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-	40	C=4 fc S=2 fc	C=20 ft S=20 ft													
Suburban Reserve (SR)							Suburban Reserve (SR)																	Suburban Reserve (SR)																
Farmstead	-	na.	na.	-	-	-																				40	C=0.5 fc S=0.4 fc	C=15 ft S=15 ft												
Single-family	3/du	4	none					-	-	-	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	-															
Open space subdivision	2/du	4	none																																					
Other permitted uses	5/ac	4	1/16	0.1	0.1	0.1		0.1	0.1	0.1	0.1																													
Suburban Estate (SE)							Suburban Estate (SE)																	Suburban Estate (SE)																
Single-family	2/du	4	none	0.4	0.3	0																			40	C=0.5 fc S=0.4 fc	C=15 ft S=15 ft													
Open space subdivision	2/du	4	none					0.2				0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	-																
Other permitted uses	5/ac	4	1/16						0.2		0.2	0.2	0.2																											
Suburban (S)							Suburban (S)																	Suburban (S)																
Farmstead	*	na.	na.	-	-	-		-	-	-	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.1	0.2	-	40	C=4 fc S=2 fc	C=20 ft S=20 ft	* Lot landscape credit may be applied within subdivisions with at least 50% open space, for plantings found in Section 40.23.121 and for alternative stormwater management techniques												
Pocket Neighborhood	-	4	none	0.4	0.3	0				0.2	0.2																													
Single-family	2/du *	4	none						0.2	-	-																													
Open space subdivision, option 1 and 2	1/du *	4	none					0.3		0.2	0.2																											0.2		-
Open space planned	1/du *	5	1/12						0.3	0.3	0.2																													

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Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS			
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes
				Adjoining Streets																					Illumination		
	(No bufferyard shall be required where like zoning district and like development options are adjacent)																	C=Cutoff fc=footcandles S=Semi-Cutoff	C=Cutoff ft=feet S=Semi-Cutoff	*NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and N Cpud							
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	P	SR	SE & NC 2a	S	NC 40-10	ST	TN	MM	NC 6.5 or less *	ON	OR				CN	CR	BP		I	HI	
Hamlet	1/du *	6	1/12																						as approved by the County		
Village	1/du *	6	1/12																								
Institutional residential	5/ac	4	1/12								0.2	0.2															
Other permitted uses	5/ac	4	1/12					0.2			0.3	0.3	0.3														
Suburban Transition (ST)							Suburban Transition (ST)																	Suburban Transition (ST)			
Pocket Neighborhood	-	4	none	0.4		0		0.3	0.2	0.2	0.2	0.1										0.1	0.2	C=4 fc S=2 fc	C=20 ft S=20 ft		
Single-family	2/du	5		1/12			0.3	0.3									0.1	0.1									
Single-family attached	1/du																										
Open space planned	1/du										0.4	0.4	0.3	0.3										0.2	0.2		
Apartments	1/du								0.3						0.3				0.3								
Other permitted uses	6/ac																										
Traditional Neighborhood (TN)							Traditional Neighborhood (TN)																	Traditional Neighborhood (TN)			
Pocket Neighborhood	-	4	none	0.4		0		0.3	0.2	0.2	0.2		0.1									0.1	0.2	C=4 fc S=2 fc	C=20 ft S=20 ft		
Single-family village house	1/du	5	1/12	0.3			0.3							0.1		0.1	0.1										
Single-family attached	1/du																										
Open space planned	1/du										0.4	0.4	0.3											0.2	0.2		
Mixed use	6/ac								0.3					0.3	0.3	0.2	0.2	0.3									
Other permitted uses	5/ac																										

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Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS				
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes	
				Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like development options are adjacent)																		Illumination	Height		
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	P	SR	SE & NC 2a	S	NC 40- 10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	EX		C=Cutoff fc=footcandles S=Semi-Cutoff	C=Cutoff ft=feet S=Semi- Cutoff		*NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and NCpud
Neighborhood Conservation (NC)							Neighborhood Conservation (NC)																	Neighborhood Conservation (NC)				
NC2a	2/du	4	none	0.3	0.3	0																			40	C=4 fc S=2 fc	C=20 ft S=20 ft	** Any permitted nonresidential use in all NC district
NC40																												
NC21							0.3	0.3	0.1	0.1																		
NC15																												
NC10																												
NC6.5	1/du	6	1/12	0.3	0.3	0.2					0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-	40	C=5 fc S=3 fc	C=20 ft S=20 ft		
NC5																												
NCsd																												
NCth							0.4	0.4	0.3	0.3																		
NCga																												
NCap	6/ac			0.4	0.4	0.2																			40	C=5 fc S=3 fc	C=20 ft S=20 ft	
Other permitted uses**																												
Manufactured Home (MM) District							Manufactured Home (MM) District																	Manufactured Home (MM) District				
Single wide	1/du	6	1/16	0.5	0.5	0.4																			40	C=5 fc S=3 fc	C=20 ft S=20 ft	
Double wide							0.4	0.4	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-					
Other permitted uses	6 ac																											

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Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS										
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes							
				Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like development options are adjacent)																		Illumination	Height								
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	P	SR	SE & NC 2a	S	NC 40- 10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	EX		C=Cutoff fc=footcandles S=Semi-Cutoff	C=Cutoff ft=feet S=Semi-Cutoff		*NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and NCPud						
Office Neighborhood (ON)							Office Neighborhood (ON)																	Office Neighborhood (ON)										
Offices	10/ac	6	1/12	0.3	0.3	0.2										-								50	C=6 fc S=5 fc	C=25 ft S=20 ft								
Mixed use								0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1					-						
Other permitted uses																																		
Office Regional (OR)							Office Regional (OR)																	Office Regional (OR)										
Offices	10/ac	7	1/12	0.3	0.3	0.2											-							50	C=8 fc S=6 fc	C=30 ft S=25 ft								
Commercial lodging								0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.2	0.1	0.2	0.1	0.1	0.2	0.2					-						
Mixed use																																		
Other permitted uses																																		

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Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS							
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes				
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like development options are adjacent)																		Illumination	Height					
							P	SR	SE & NC 2a	S	NC 40- 10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	EX								
Commercial Neighborhood (CN)							Commercial Neighborhood (CN)																	Commercial Neighborhood (CN)							
Offices	8/ac	8	1/12	0.3	0.3	0.3																		40	C=6 fc S=6 fc	C=20 ft S=15 ft					
Commercial retail																															
Other commercial uses																															
Mixed use																															
Other permitted uses																															
Commercial Regional (CR)							Commercial Regional (CR)																	Commercial Regional (CR)							
Offices	8/ac	6	1/12	0.4	0.4	0.3																		50	C=8 fc S=6 fc	C=30 ft S=25 ft					
Commercial lodging																															
Commercial retail																															
Vehicular sales, rentals and service																															
Other commercial uses																															
Mixed uses																															
Other permitted uses																															
Heavy retail and service											0.4		0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.3	0.3	0.3								

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Table 40.04.111 A. USE AND LOT STANDARDS							Table 40.04.111 B. USE AND LOT STANDARDS																	Table 40.04.111 C. USE AND LOT STANDARDS						
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards			Bufferyard Opacity Standards (See Section 40.23.140)																	Street Tree Spacing (feet)	Max. Illumination/Height		Notes			
				Adjoining Streets			Adjoining District or Use (1) (No bufferyard shall be required where like zoning district and like development options are adjacent)																		Illumination	Height				
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor	P	SR	SE & NC 2a	S	NC 40- 10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	EX					C=Cutoff fc=footcandles S=Semi-Cutoff	C=Cutoff ft=feet S=Semi-Cutoff	*NC6.5 or less includes NC5, NCap, NCga, NCth, NCsd, CNmm, and NCpud
	Business Park (BP)							Business Park (BP)																	Business Park (BP)					
Offices, commercial lodging	10/ac	6	1/12	0.3	0.3	0.3																-					50	C=12 fc S=10 fc	C=30 ft S=25 ft	
Industrial								0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.2	0.2	0.2	0.1		0.1	0.2	-						
Restaurants																														
Other permitted uses																														
Industrial (I)							Industrial (I)																	Industrial (I)						
Offices	6/ac	5	1/30	0.5	0.5	0.5																				50	C=12 fc S=10 fc	C=40 ft S=35 ft		
Industrial																														
Restaurants								0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.2	0.2	0.3	0.2	0.2		-	-	-					
Heavy retail and service																														
Other permitted uses																							0.2							
Heavy Industrial (HI)							Heavy Industrial (HI)																	Heavy Industrial (HI)						
Heavy industry	6/ac	10	1/40	0.6	0.6	0.6																				50	C=20 fc S=20 fc	C=50 ft S=45 ft		
Other industrial								0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.4	0.4	0.4	0.4	0.4	0.2		-	-					
Other permitted uses																									0.2					
Extraction (EX)							Extraction (EX)																	Extraction (EX)						
Extractive use and recreation high intensity	See Section 40.03.324							See Section 40.03.324																50	C=20 fc S=20 fc	C=50 ft S=45 ft				
Other permitted uses	10/ac	6	1/12	0.3	0.3	0.3		0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.2	0.2	0.2	0.1	0.1	0.1	0.2	-	50	C=12 fc S=10 fc	C=30 ft S=25 ft				
(1) In the event a proposed use adjoins another municipality, the bufferyard requirement shall be equal to the same opacity required as the most similar New Castle County Zoning District.																														

(1) In the event a proposed use adjoins another municipality, the bufferyard requirement shall be equal to the same opacity required as the most similar New Castle County Zoning District.

Figure 40.04.111
HOUSING TYPES AND LOT CONFIGURATIONS

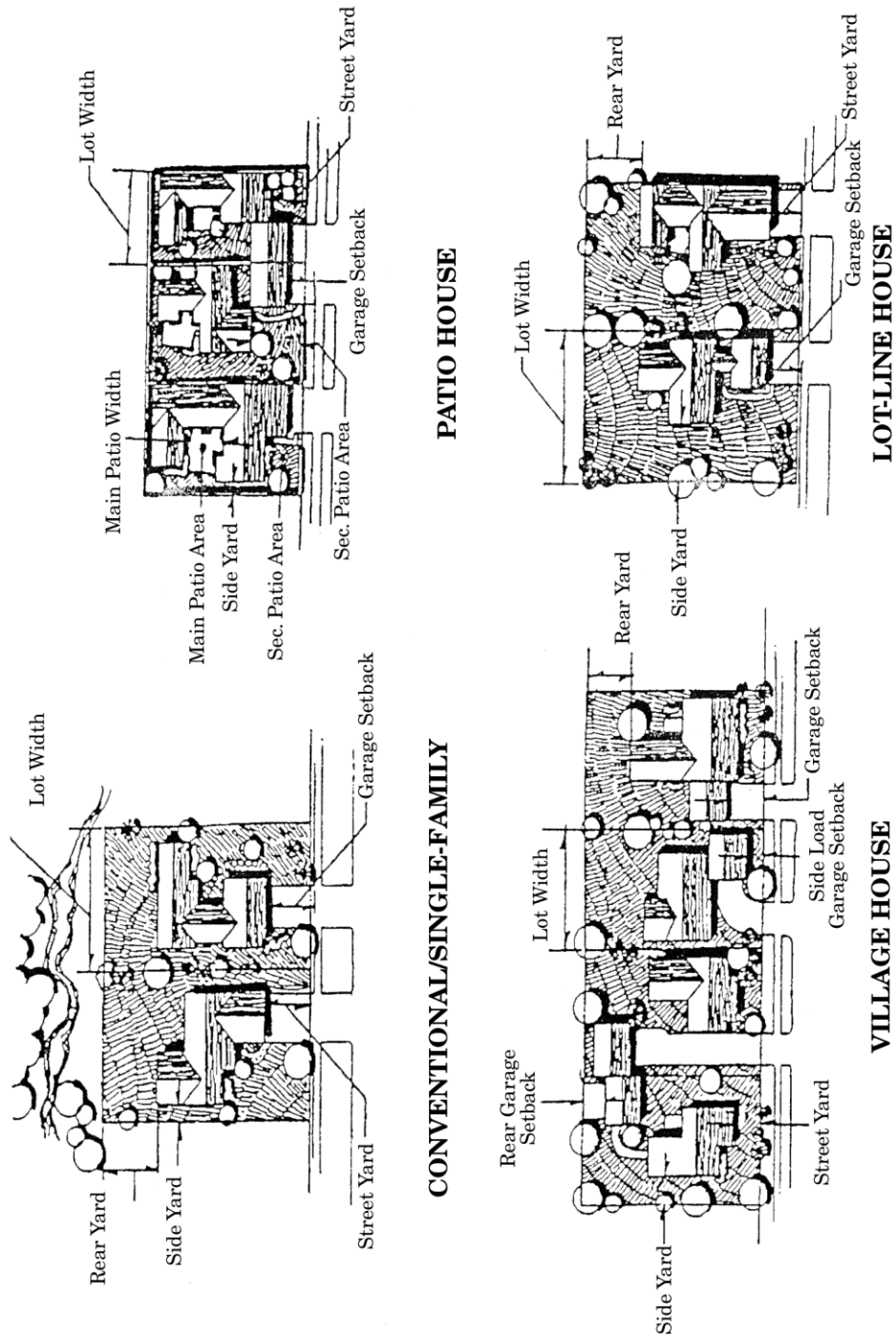


Figure 40.04.111
 HOUSING TYPES AND LOT CONFIGURATIONS (Continued)

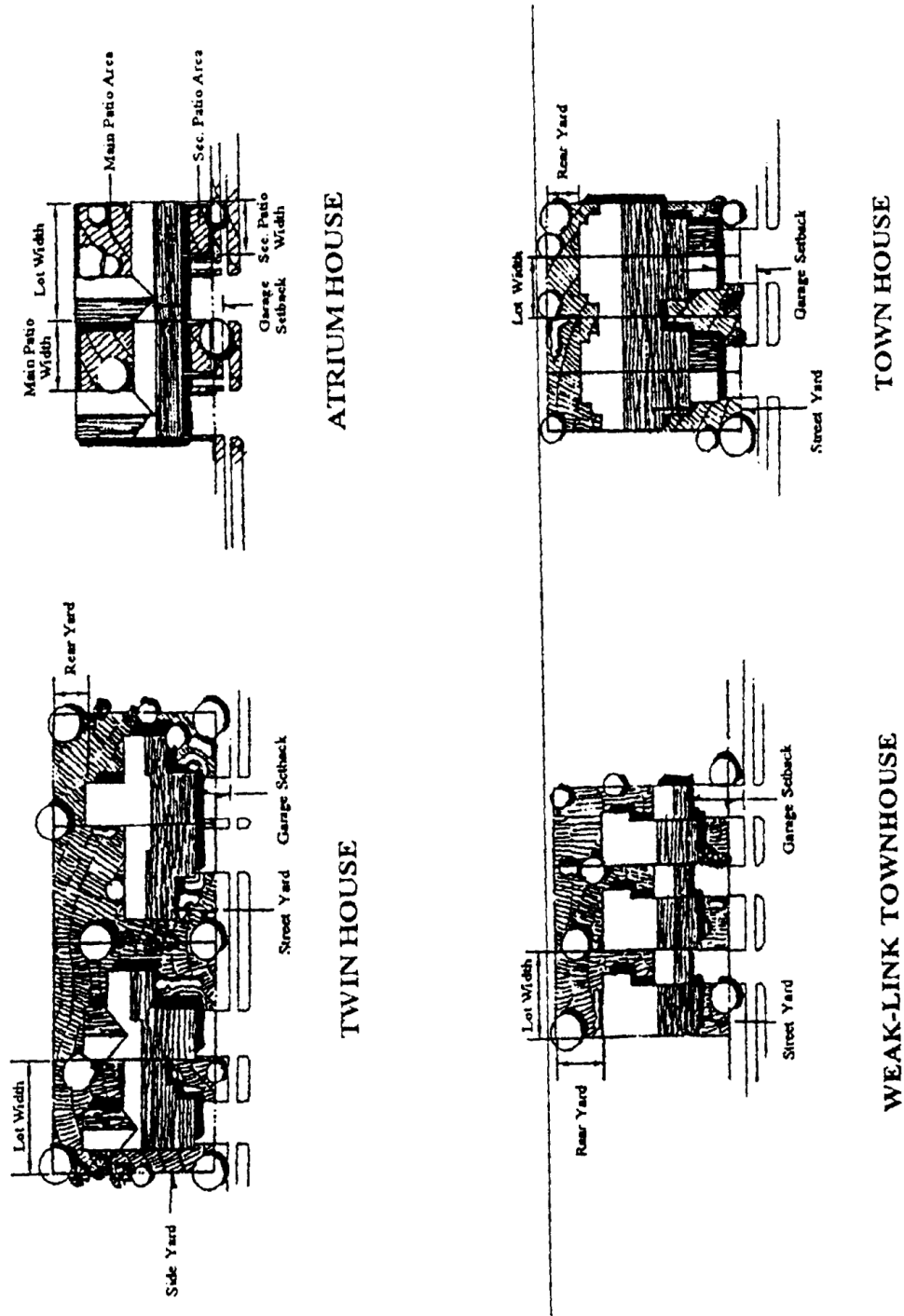
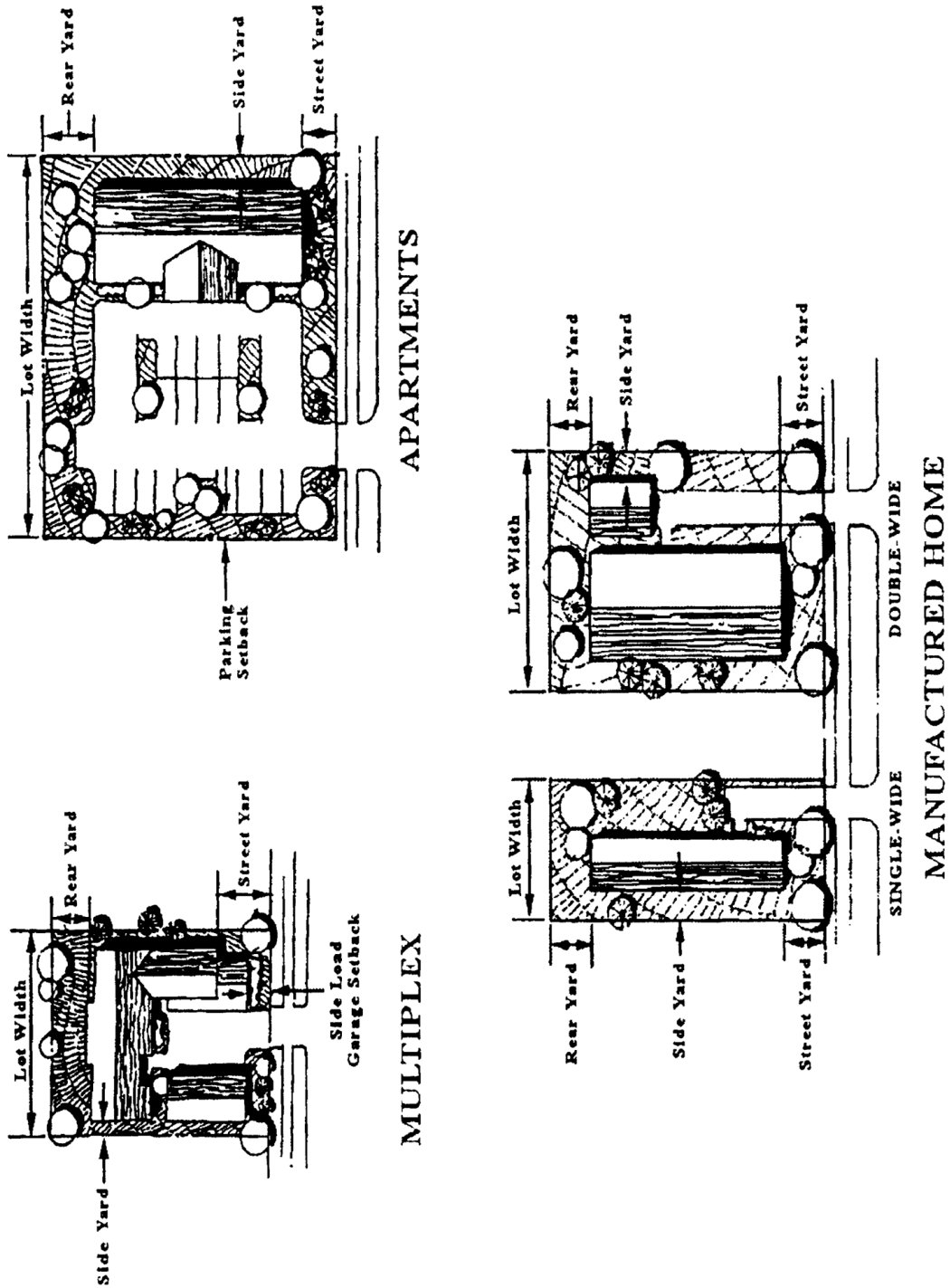
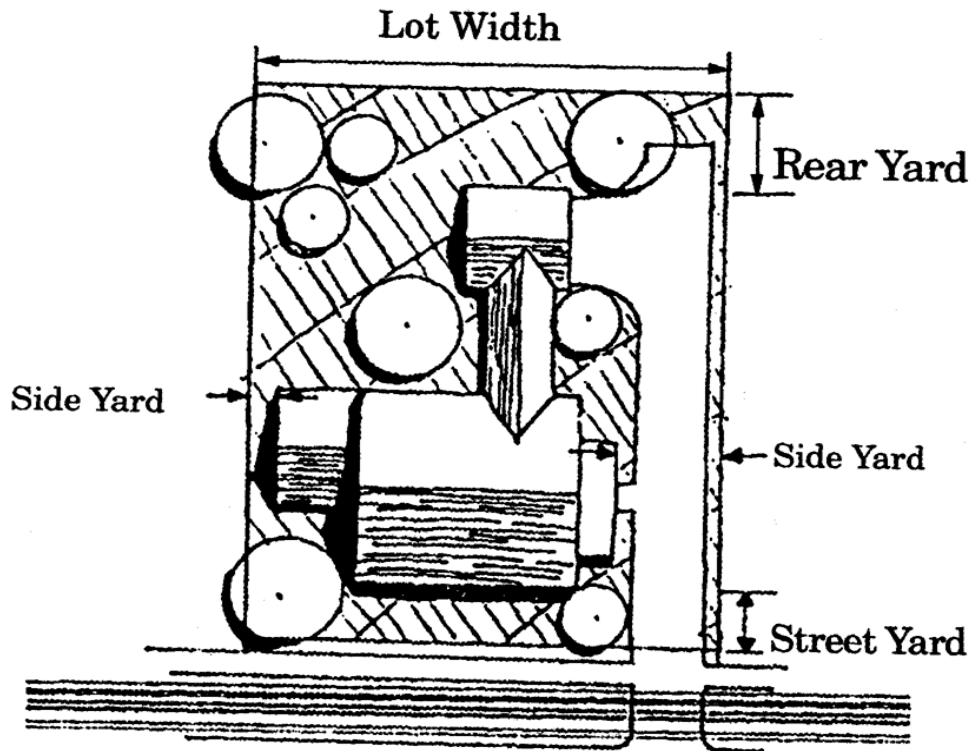


Figure 40.04.111
HOUSING TYPES AND LOT CONFIGURATIONS (Continued)



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Figure 40.04.111
HOUSING TYPES AND LOT
CONFIGURATIONS
(Continued)



(Ord. No. 97-172, § 3(ch. 13, § 04.111), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 04.111), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 99-084, § 3, 4-11-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 18-021, § 10, 7-10-2018; Ord. No. 21-065, § 6, 8-31-2021, Ord. No. 24-137, 12-10-2024, Ord. No. 24-130, § 1, 3-25-2025)

Sec. 40.04.112. Lot standards for other housing types.

Housing types used in open space planned developments and for attached or multi-family housing is contained in Table 40.04.112. Housing types and lot configurations are illustrated in Figure 40.04.111.

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Table 40.04.112 LOT STANDARDS FOR ATTACHED, POCKET NEIGHBORHOOD, AND OPEN SPACE PLANNED HOUSING TYPES

	Minimum							Maximum	Patio Minimums		Side Load Garage Setback (ft.)	Minimum Percent in Width Type	Setback to Parking/Paving: Street yard/ Other yard (feet)
Dwelling Unit Type	Site Area (sq. ft.)	Lot Area (sq. ft.)	Lot Width (ft.)	Front and Street Yards (ft)	Side Yard (ft.)	Building Spacing (ft.)	Rear Yard (ft.)	Height (ft.)	Area (sq. ft.)	Width (ft.)			
Single-Family Detached													
Single-family detached		12,000	85	25	6		30	36					25/2
Single-family detached		10,000	80	25	6		30	36					
Lot line		7,300	60	20 ¹	1@20	20	30	36			8	20	20
		8,000	65								8	40	
		8,600	70								8	remainder	
Village		4,800	48	12	6	na.	25 ²	36					20/2
		5,400	54										
		6,000	60										
Patio		5,000	55	8	patio	8	patio	36	1,000/48	20/6			20/2
Small Single-Family Dwelling		1,900	45	10	6		10	36					15/2
Single-Family Attached												Max Unit in a Row	
Twin	9,000	4,500	48	20	1@8	12	25	36				2	20/0
Atrium	9,000	3,000	45	0	0, 6' end unit	8	0	15	800/48	24/6		8	20/0
Weak-link townhouse	10,800	3,600	36	15	0, 6' end unit	10	25	40				8	20/0

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Townhouse	7,200	2,200 ²	22 ²	15	0, 6' end unit	10	20	40				8	20/0
Duplex	7,000	3,500	70	20	8	na.	30	36				na.	20/2
Quadraplex	8,000	2,000	80	20	6	12	15	36			5	na.	20/2
Multi-Family													
Apartment	10,000	1,800	100	25	12	30	20	50				na.	25/10
¹ Setback to garage from sidewalk.													
² Variable - See Section 40.04.121													

(Ord. No. 97-172, § 3(ch. 13, § 04.112), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 04.112), 9-22-1998; Ord. No. 99-075, § 1, 12-14-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 09-068, § 1(Exh. A), 11-10-2009, Ord. No. 24-137, 12-10-2024)

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Sec. 40.04.120. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 04.120), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.04.121. Townhouses.

The townhouse lot area and width standards in Table 40.04.112 are averages. The minimum width shall be eighteen (18) feet with a corresponding area one hundred (100) times the width (i.e., one thousand eight hundred (1,800) square feet for the eighteen (18) foot wide lot). Nothing shall prohibit the developer from selecting the lot area and then calculating the width with a different proportion between lot and depth. (The standards are based on one hundred (100) foot deep lots, thus a two thousand (2,000) square foot lot with a twenty-two (22) foot width would be ninety and nine-tenths (90.9) feet in depth.)

(Ord. No. 97-172, § 3(ch. 13, § 04.121), 12-31-1997)

Sec. 40.04.130. Dwelling unit mix requirements.

All open space planned developments shall meet the mix requirements (Table 40.04.130) regarding the number of different dwelling unit types that must be provided. The mix provides a variety of housing types to meet all residents' needs. If the development is to be phased, each phase shall contain a share of the largest unit types generally proportional to the percentage of the total dwelling units. Where more unit types are provided than required, the developer may determine the percentage of those types to be provided.

Table 40.04.130. DWELLING UNIT MIX REQUIREMENTS

Total Units in Project S Districts	Total Units in Project ST or TN Districts	Min. Number of Types	Max. % Any Type	Min. % Any Type
1—25	1—40	1	100	20
26—50	41—100	2	70	20
51—150	101—200	3	60	15
151—300	201—400	4	45	10
301—600	401—700	5	40	5
601 or more	701 or more	6	40	5

(Ord. No. 97-172, § 3(ch. 13, § 04.130), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Division 40.04.200. Landscaping.

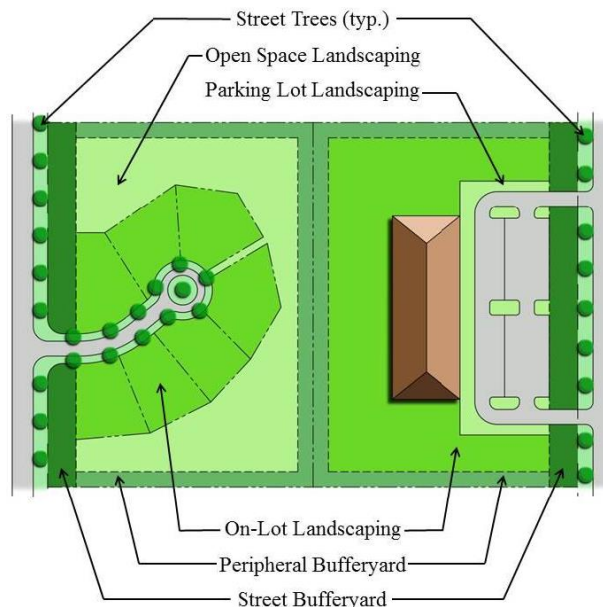
Sec. 40.04.210. Required landscaping.

- A. Landscaping is required on lots, in parking areas, in open spaces, along roads and streets, in scenic corridors, as a buffer between certain specified uses, and as a buffer between zoning districts.
- B. Figure 40.04.210 shows how a property is divided into planting areas for peripheral bufferyards, street bufferyards, on-lot landscaping, open space landscaping, street trees and parking lot landscaping.
 1. Each planting area must be measured to determine the amount of landscaping required.
 2. Where scenic corridors exist, such scenic corridor standards shall apply instead of the applicable street bufferyards.
 3. On-lot and parking lot planting areas may overlap on parcels one (1) acre or smaller. All other planting areas may not overlap.

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- C. Most landscaping standards are in plant units which include a combination of canopy, understory, evergreen trees, and shrubs that provide full coverage from ground to canopy. Alternative plant units, including size and type of plants, are contained in Table 40.23.110.
- D. All landscape material shall be installed and maintained in accordance with Division 40.23.200.
- E. Afforestation landscaping may be required under Table 40.04.241.

Figure 40.04.210
PLANTING AREAS



(Ord. No. 97-172, § 3(ch. 13, § 04.210), 12-31-1997; Ord. No. 18-021 , §§ 11, 12, 7-10-2018; Ord. No. 21-009 , § 1, 12-14-2021)

Sec. 40.04.220. Landscaping standards for lots and parking lots.

Table 40.04.111A establishes the required landscaping for the landscaped area of each lot, open space, and in parking lots. The landscaped area standards apply only to those areas of the lot or property not covered by buildings, road rights-of-way, parking, or bufferyards. The parking lot standard applies to the parking area.

- A. Table 40.04.111A lists nonresidential landscaping requirements in plant units per acre. The lot landscaping shall be based on the net area exclusive of required bufferyards and parking lot landscaping. See Figure 40.04.210. Bufferyards excluded from lot landscaping requirements shall not exceed the minimum width needed to achieve zero (0) plant units within the bufferyard. Residential landscaping is provided in plant units per lot or dwelling unit. For further detail, refer to Section 40.23.120 for on-lot landscaping.
- B. Parking lot landscaping shall be one (1) plant unit per number of parking spaces specified in Table 40.04.111. Any lot or site having a parking total that is less than half the number listed in Table 40.04.111 is exempt from the requirement to provide parking lot landscaping. Refer to Section 40.23.130 for parking lot landscaping.
- C. Where more than forty (40) parking spaces are provided, parking lot landscaping must be distributed within parking lot areas so there are no more than twelve (12) consecutive parking spaces in a row between landscaped parking peninsulas or islands.

(Ord. No. 97-172, § 3(ch. 13, § 04.220), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 04.220), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 18-021 , § 13, 7-10-2018)

Sec. 40.04.230. Reserved.

Editor's note(s)—Ord. No. 03-045, § 1(Exh. A), adopted July 8, 2003, repealed § 40.04.230 in its entirety. Formerly, said section pertained to required open space as enacted by Ord. No. 97-172, § 3(ch. 13, § 04.230), adopted Dec. 31, 1997; as amended. See the Unified Development Comparative Table.

Sec. 40.04.231. Landscaping standards for required open space.

All areas of open space shall be landscaped using one (1) of the following landscape treatments:

- A. Areas presently covered with natural vegetation shall be maintained in that natural state.
- B. Open space areas intended to be groomed or serve as a mowed lawn shall be planted with a minimum of four (4) plant units per acre. This provision shall not apply to open space areas that are designed as sports fields or recreational uses that require a paved or specially prepared surface. Golf courses shall provide three (3) plant units per acre.
- C. Areas disturbed, but scheduled to be returned to natural conditions, shall be planted as forest (reforestation or afforestation) or with such other plant material that will return the area to its natural condition. All proposed plant material used must be native.
- D. The design provisions discussed in Article 23 and the condition provisions enumerated in Article 27 shall be satisfied in addition to the above landscaping standards.

(Ord. No. 97-172, § 3(ch. 13, § 04.231), 12-31-1997; Ord. No. 21-009 , § 1, 12-14-2021)

Sec. 40.04.240. Scenic corridors.

Scenic corridors shall be provided as follows, and shall meet the criteria of Table 40.04.240:

- A. Major subdivision plans and major land development plans must provide a scenic corridor in accordance with this section. Scenic corridors shall be established along all arterial and collector roads in the Suburban Reserve (SR) District and in the Suburban (S) District land south of the C&D canal.
- B. Major and minor subdivision and major and minor land development plans for properties within six hundred sixty (660) feet of the right-of-way of a designated byway must provide a minimum 100-foot-wide scenic corridor. Applications that demonstrate compliance with Subsection 40.04.110.F are exempt from this Section.
- C. Scenic corridors for major plans shall be comprised of open space. Scenic corridors for minor plans shall be protected through on-lot conservation easements.

Table 40.04.240 SCENIC CORRIDOR STANDARDS	
Buffer Width	Landscape/Requirements
50'	Existing forest to be preserved
100' to 150'	6 plant units per 100 linear feet of street frontage
151' to 200'	5 plant units per 100 linear feet of street frontage
201' to 400'	3 plant units per 100 linear feet of street frontage
400' or greater	1 plant unit per 100 linear feet of street frontage
600' or greater	minimum 30 acres preserved for agricultural use (no landscaping required)

(Ord. No. 97-172, § 3(ch. 13, § 04.240), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 22-072 , § 4, 10-11-2022)

Sec. 40.04.241. Afforestation standards.

Major land development plans and minor nonresidential land development plans must provide afforestation. This Section establishes the requirement for forest or tree cover on sites that are not presently forested or where existing forest or tree cover is less than the afforestation ratio required by the associated zoning district.

- A. The afforestation ratio consists of the ratio of the total forest cover area or tree cover area to the entire site. Table 40.04.241 provides the minimum afforestation ratios for development in corresponding zoning districts. Areas of active cultivation may be excluded from the calculation for this requirement.

Table 40.04.241
AFFORESTATION RATIO

Zoning District*	Minimum Afforestation Ratio
SE; SR; NC2a	0.35
S; NC40	0.30
S*; NC6.5; NC10; NC15; NC21	0.25
ST; TN; NC5; NCsd; NCth; NCga; NCap	0.20
BP; ON; OR; CN; CR	0.15
I; HI	0.10
* S zoned parcels using an Open Space Planned Development option must provide a minimum 0.25 afforestation ratio	

- B. Forest cover consists of the area of all existing forest to remain or new forest to be planted. This includes reforestation and afforestation associated with riparian buffers, WRPA's or forest mitigation. Forest cover must be calculated concurrently with a conceptual landscape plan submission.
1. All protected areas shall be maintained in accordance with this Chapter.
 2. Areas of existing forest to remain shall be delineated in accordance with Articles 10 and 33 and Appendix 1.3 of this Chapter.
 3. Areas proposed to be reforested or afforested shall be delineated as new forest area under Section 40.23.240.
- C. Tree cover consists of the total tree protection area based on the critical root zone (CRZ) of existing trees to remain (outside of forest areas). Tree cover must be calculated concurrently with a conceptual landscape plan submission.
1. Proposed afforestation may take credit for tree cover associated with new landscaping plantings to achieve the required afforestation ratio.
 2. Tree protection areas shall be measured individually, with areas of overlap (either existing trees or proposed new landscape plantings) excluded from the sum total area.
 3. For new plantings, tree cover is calculated on the afforestation/reforestation requirements under Section 40.23.240.
 4. Green roof plantings may be used to satisfy afforestation requirements.
- D. Afforestation based on existing forest cover or tree cover may be used to satisfy afforestation requirements.
- E. Off-site afforestation may be permitted in the same watershed. A conservation easement must be established to identify maintenance responsibility and prohibit the disturbance of the afforestation area in perpetuity.

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- F. The applicant must demonstrate compliance with afforestation standards as part of the final landscape plan and open space certification as applicable.
- G. The maintenance escrow required by Section 40.27.220 must include maintenance funding for five (5) years for the afforestation/reforestation planting requirements.

(Ord. No. 21-009 , § 1, 12-14-2021)

Editor's note(s)—Prior to the reenactment of Section 40.04.241 by Ord. No. 21-009 , § 1, adopted December 14, 2021, Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed Sections 40.04.241—40.04.243 in their entirety. Formerly, said sections pertained to open space scenic corridors, open land scenic corridors and forested scenic corridors as adopted by Ord. No. 97-172, § 3(ch. 13, § 04.241), adopted December 31, 1997. See the Unified Development Code Comparative Table.

Secs. 40.04.242, 40.04.243. Reserved.

Note(s)—See editor's note at Section 40.04.241.

Division 40.04.300. Bufferyard performance standards.

This Division provides standards for bufferyards between uses and districts and for special purposes.

(Ord. No. 97-172, § 3(ch. 13, div. 04.300), 12-31-1997)

Sec. 40.04.301. Purpose.

Bufferyard requirements are designed to ameliorate nuisances between certain adjacent zoning districts or land uses. Bufferyards function to eliminate or minimize large changes in scale and potential nuisances such as dirt, litter, noise, glare of lights, unsightly buildings, parking areas, or signs. Bufferyards serve a similar function between streets and various land uses.

(Ord. No. 97-172, § 3(ch. 13, § 04.301), 12-31-1997)

Sec. 40.04.302. Bufferyards required.

Where required, bufferyards shall be located along the outer perimeter of a lot or parcel and shall extend to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Bufferyards shall not be part of the required lot area for lots less than one (1) acre. They may be part of a lot, but the minimum standards (Table 40.04.110) shall be exclusive of the bufferyard area. Bufferyard requirements are not applicable to minor residential subdivisions. Bufferyards are required under the following conditions (see Table 40.04.111):

- A. Along all arterial or collector streets and some minor streets as specified in Table 40.04.111.
- B. Along a property line where adjoining properties are in different zoning districts (zoning district boundary).
- C. Along a property boundary within the same zoning district for limited and special uses and parking buffers.

(Ord. No. 97-172, § 3(ch. 13, § 04.302), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.04.310. Opacity values of required bufferyards.

- A. Table 40.04.111 lists the opacity levels of the peripheral bufferyards required under specified conditions. Opacity levels present the buffering level to be provided by the use. Table 40.23.140 specifies the number of plant units required to achieve a level of opacity. A bufferyard that meets the opacity rating specified in Table 40.04.111 shall be approved as part of the plan or land development approval.

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- B. If a bufferyard standard for an adjoining parcel required by this Chapter is not satisfied because the parcel was developed or approved under the provisions of the former Code, the required bufferyard of a new proposed use shall be equal to that of the more restrictive bufferyard of the two (2) uses and the bufferyard shall be provided by the proposed use.
- C. Surety shall be required for the cost of completing the bufferyard. The Department shall require such surety be posted prior to the issuance of any certificates of occupancy. If buildings are completed at a time of the year where planting cannot be accomplished, the Department may issue a temporary permit and hold the surety until the landscaping is completed. Such surety shall become part of the development agreement required by this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 04.310), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 04.310), 9-22-1998; Ord. No. 99-075, § 1, 12-14-2000)

Sec. 40.04.320. Parking bufferyards required.

- A. Where parking spaces serving a nonresidential or multifamily use are adjacent to an existing residential use or residentially zoned land, the required bufferyard opacity between the parking lot and adjacent parcel shall be increased by 0.10 opacity beyond that which is otherwise required by Table 40.04.111. However, in the event a 0.50 or greater opacity is already required, the additional 0.10 need not be added.
- B. Where a parking structure is adjacent to an existing residential use, residentially zoned land, or street right-of-way, the required bufferyard opacity between the parking structure, the adjacent parcel, or the street right-of-way shall be increased by 0.20 opacity above that required by Table 40.04.111.

(Ord. No. 97-172, § 3(ch. 13, § 04.320), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 04.320), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 15-053, § 4, 7-28-2015)

Sec. 40.04.330. Bufferyard use.

Only the following uses are permitted in required bufferyards:

- A. Sidewalks, shared-use pathways and trails.
 - 1. Opacity may be reduced within frontage or street bufferyards as provided in Section 40.23.142.
 - 2. Opacity may not be reduced within side or rear bufferyards.
- B. Passive recreation.
- C. Golf courses. Where a golf course is installed in the bufferyard location, it shall be considered an adequate bufferyard provision. All other active recreation, such as swimming pools, tennis courts, and sports fields, shall be prohibited.

(Ord. No. 97-172, § 3(ch. 13, § 04.330), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021, § 14, 7-10-2018)

ARTICLE 5. SITE CAPACITY AND CONCURRENCY CALCULATIONS

Division 40.05.000. Purpose.

This Article establishes the actual development capacity of individual sites based on current adequacy ("concurrency") of roads, water, sewers, and schools. Concurrency for these facilities shall be obtained through compliance with this Article, Article 11, Article 12, and Article 14. Concurrency shall be obtained solely through the payment of an impact fee, in accordance with Article 14, for library, emergency medical, fire, parks and police services. Concurrency for drainage shall be achieved by compliance with Article 22.

This Article requires an applicant for a rezoning, subdivision development plan or land development plan to conduct a carrying capacity analysis which regulates the maximum intensity of development based on actual infrastructure capacity. The carrying capacity analysis is designed to ensure that the public health, safety, welfare and quality of life of the citizens of this County are protected by preventing development from exceeding the existing carrying capacity of public facilities needed to sustain the proposed development. The resource protection standards of Article 10 can also impact the intensity or density of a development so that calculation is integrated in Division 40.05.400. For purposes of this Article, the site's carrying capacity shall be based upon the following:

- A. *Transportation capacity.* The County has numerous areas of congestion that may limit the development potential of a site. Each proposed development is allocated capacity based upon a traffic impact study for the proposed development. The allocation of this capacity sets a maximum development potential for each site.
- B. *Sewer capacity.* County sewer service may represent a limiting factor for development. The County has conducted an analysis of various areas of the County to determine the sewer capacity of each area. In all sewer service areas in the County, sewer capacity shall be provided on a first come, first serve basis if and/or when sanitary sewer service becomes available, as determined by the Department of Public Works.
- C. *Water capacity.* Independent water companies supply water for development in the County. A water company must certify that it has adequate capacity to serve the areas being influenced by the development with water. The water company must certify that it can supply adequate pressure and fire volumes to support the new development or that the company has budgeted funds sufficient to provide adequate capacity.
- D. *Schools.* School districts are independent from the County. The school districts must certify that they have adequate capacity or have received resources sufficient to provide adequate capacity.
- E. *Natural resources.* The protection standards of Article 10 are included here in a calculation that indicates the acres of each resource that must be preserved and the maximum permitted density for residential or intensity for nonresidential development.

(Ord. No. 97-172, § 3(ch. 13, div. 05.000), 12-31-1997; Ord. No. 06-042, § 1, 7-25-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031, § 61, 4-24-2018)

Sec. 40.05.050. Applicability.

At the preapplication stage for a rezoning or a major or minor subdivision or land development proposal, the applicant shall comply with the requirements of this Article and shall submit a complete site carrying capacity analysis pursuant to Section 40.05.510, except as follows.

- A. A site resource capacity analysis pursuant to Division 40.05.400 need not be conducted for any site containing no natural resources listed within Section 40.05.420, or for any sites designated as a redevelopment plan or as a qualified Brownfield property.

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- B. The maximum gross floor area established by Table 40.05.422 of this Article shall not apply to mezzanine space in warehousing storage facilities.
- C. Any lot proposed for residential use which cannot be further subdivided, or which is buildable after floodplains or wetlands are taken into account but would not be buildable after other resource standards are applied, need not comply with the site resource capacity requirements of Division 40.05.400. However, such a lot shall be permitted only one (1) dwelling unit.
- D. Any land development plan proposing a nonresidential use less than twenty thousand (20,000) square feet of gross floor area (GFA), and which is buildable after floodplains or wetlands are taken into account but would result in no buildable area after other resource standards are applied, need not comply with all of the site resource capacity requirements of Division 40.05.400. The site capacity calculation shall be conducted for such lots applying only floodplain and wetland resources.
- E. A site resources capacity analysis pursuant to Division 40.05.400 need not be conducted where a parcel is to be subdivided into not more than five (5) residential lots. However, all resources required to be protected in Table 40.05.420 shall be mapped and protected under conservation easements. All lots shall also meet the minimum lot area requirements, excluding the area attributed to any protected resource.
- F. So long as the public health and safety would not be jeopardized as evidenced by an environmental report, Division 40.05.400 shall not apply to environmental conditions on a site that were altered by or resulted from an act of God that occurred after purchase of the property. However, any applicable State and federal requirements shall still be followed and any necessary permits or approvals obtained.
- G. Reserved.
- H. Proposed public facilities that are needed to support development such as schools, parks on government land, libraries, sewer, police, fire stations, or hospitals, shall be exempt from this Article, Article 10 (excluding floodplain or federal or State wetland regulations), Article 14, and Table 40.03.210, Table 40.04.111 (excluding lighting regulations), and Division 40.04.200. Such development shall comply with the provisions of Article 11, however, the Department and DelDOT shall determine on a case-by-case basis the time frame by which any mitigation must be completed.
- I. Division 40.05.100 of this Article and Article 11 shall only apply to rezoning and major subdivision or land development applications.
- J. Division 40.05.200 of this Article shall not apply to residential facilities or communities which are restricted by recorded covenants to provide housing or shelter predominately for individuals fifty-five (55) years of age or older pursuant to the provisions of the Federal Fair Housing Act, 42 USC § 3601, et seq.

(Ord. No. 97-172, § 3(ch. 13, § 05.050), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 05.050), 9-22-1998; Ord. No. 99-042, § 1, 6-22-1999; Ord. No. 2001-073, § 1, 1-8-2002; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-007, § 1, 3-28-2006; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 06-125, § 1, 1-23-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 6, 7-10-2018; Ord. No. 18-021, § 15, 7-10-2018; Ord. No. 20-074, § 1, 10-27-2020; Ord. No. 23-104, § 5, 1-9-2024)

Division 40.05.100. Transportation capacity.

Prior to receiving a rezoning or major record subdivision or land development final plan approval from the Department, the transportation capacity allocated to a proposed development shall be determined by Article 11.

(Ord. No. 97-172, § 3(ch. 13, div. 05.100), 12-31-1997; Ord. No. 19-005, § 1, 5-28-2019)

Sec. 40.05.110. Site capacity based on a traffic impact study.

The base capacity of a site is determined by the remaining capacity available as determined by the traffic impact study conducted pursuant to Article 11.

(Ord. No. 97-172, § 3(ch. 13, § 05.110), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.05.200. School capacity.

For residential development only. In accordance with 9 Del. C. § 2661(c)(1) (Adequate capacity; Voluntary School Assessment), prior to recording a major record subdivision plan, the applicant shall provide certification to the Department from the Secretary of the Department of Education after consultation with the superintendent of the appropriate individual school district that the school district has adequate capacity for the proposed development.

(Ord. No. 97-172, § 3(ch. 13, div. 05.200), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.05.210. Reserved.

Editor's note(s)—Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed § 40.05.210 in its entirety.

Formerly, said section pertained to school capacity certification as adopted by Ord. No. 97-172, § 3(ch. 13, § 05.210), adopted Dec. 31, 1997; as amended. See the Unified Development Comparative Table for a detailed analysis of amendments.

Division 40.05.300. Water and sewer capacity.

All developments shall have adequate water supply, public or private, or no building or zoning permits will be issued. Sewer service, either public or private (as may be permitted by this Chapter), is also required unless septic systems are permitted pursuant to Article 22. The adequacy of water capacity shall be determined by Section 40.05.310 and the adequacy of sewer capacity by Section 40.05.320. Developments that propose private on-site (septic) systems for each use or dwelling unit are exempt from sewer calculations if they can satisfy the septic system standards contained in Article 22. Development that is approved to use well water shall also be exempt from this Division.

(Ord. No. 97-172, § 3(ch. 13, div. 05.300), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.05.310. Water capacity calculation.

Prior to receiving a rezoning or record subdivision or land development final plan approval from the Department, the developer shall obtain from the water service provider the following form and certification (Form 40.05.310 Water Capacity Certification).

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Form 40.05.310 Water Capacity Certification				
1. Water Service Provider	Name:			
2. Development	Name:			
3. Service Standards				
	Residential	Commercial	Office	Industrial
Daily Peak - Lots less than 1 acre	400 gpd/detached du 250 gpd/attached du	0.5 gpd/sf.	0.3 gpd/sf.	0.5 gpd/sf. or actual whichever is more
Daily Peak - Lots 1 acre or more	500 gpd/du	0.5 gpd/sf.	0.3 gpd/sf.	0.5 gpd/sf. or actual whichever is more
Fire Flows gpm.*	500—1000 gpm	1000 gpm	1000 gpm	1500 gpm
Minimum Residual Pressure*	20 psi	20 psi	20 psi	20 psi
Minimum Service Pressure	25 psi	25 psi	25 psi	25 psi
4. Site Requirement	That the water supply system and proposed development improvements proposed by the subject development has met the service standards in 3.			
5. Storage Requirement	That the water storage and distribution facilities serving the proposed development can continue to provide service meeting the standards in 3 within the proposed development and all other areas served by those storage and distribution facilities.			
6. Line Requirement	That the distribution lines directly serving the proposed development can continue to provide service meeting the standards in 3 within the proposed development and all other existing and proposed future areas to be served by those distribution lines. (Proposed areas shall mean those areas for which a preliminary plan has been approved.)			
7. Supply Capacity	That the capacity of the water supply during a drought of record with stream flows meeting the prevailing flow standards (currently 7Q10) is adequate to serve existing customers and future customers as determined by the number of lots or square footage shown on an approved exploratory plan; that the capacity of the water supply from groundwater sources be of sufficient quantity and pressure (as monitored) or as determined by DNREC allocations of groundwater supply based on maximum regulatory drawdown limits to serve existing customers and future customers as determined by the number of lots or square footage shown on an approved exploratory plan; that imported water from other watersheds be of sufficient quantity (as reduced to account for periods during a drought of record) and quality to serve the existing and future customers of the watershed of origin as well as any areas outside said watershed. If the capacity of the existing water supply is inadequate to serve the demands of existing and future customers, describe the plans to provide additional water supplies.			

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8. Reduced Capacity (if applicable)	The analysis demonstrated that the maximum capacity of the site that meets 3—7 above is _____ dwelling units and/or _____ square feet of _____.	
9. Certification	I, (name) _____, (title) _____	
	Employed by the <u>water supplier</u> as an engineer.	
	I have analyzed the area and find that the standards in 3, 4, 5, 6 & 7 will be met after this development and any others approved in the area of influence are fully developed and occupied.	
	signature _____	seal _____
* See Chapter 6, Delaware State Fire Prevention Regulations, as may be amended.		

(Ord. No. 97-172, § 3(ch. 13, § 05.310), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 05.310), 9-22-1998; Ord. No. 09-066, § 3, 10-13-2009)

Sec. 40.05.320. Sewer capacity calculation.

Prior to receiving a rezoning or record subdivision or land development final plan approval from the department the developer must obtain verification from the Department of Public Works that sewer capacity is available or will be available at the time of the proposed development.

(Ord. No. 97-172, § 3(ch. 13, § 05.320), 12-31-1997; Ord. No. 18-031 , § 62, 4-24-2018)

Division 40.05.400. Site resource capacity.

The site capacity analysis requires measuring the resources on each site. The site capacity calculation ensures that the development does not exceed the site's resources.

(Ord. No. 97-172, § 3(ch. 13, div. 05.400), 12-31-1997)

Sec. 40.05.420. Calculation for total protected land.

Table 40.05.420 provides the procedure for calculating a site's total protected land. Step 1 determines the base site area. Steps 2—4 determine the land to be protected. All applicants, residential and nonresidential, must begin by completing this calculation. Where the site is in more than one (1) zoning class, or where the site is to be divided into residential and nonresidential uses, separate calculations are required. Any area excluded from the base site area shall not be included in the resource calculation. With approval from the Department, contiguous land of like kind may be purchased or restricted by a conservation easement to increase development potential.

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Table 40.05.420
CALCULATION FOR TOTAL PROTECTED LAND

Step 1	Enter gross site area as determined by actual survey.				ac.
	Subtract land within existing roads' ultimate rights-of-way; or land within major utilities' rights-of-way (minimum 50-foot width within subject property)				- ac.
	Subtract land cut off from use by railroad, highway, or water body				- ac.
	Subtract all water bodies having an area greater than 1 acre				- ac.
	Subtract land previously dedicated as open space				- ac.
	Equals Base Site Area				= ac.
Step 2	Measure all natural resources in the base site area and enter in the Acres Measured Column 2. If resources overlap, measure only that resource with the highest resource protection ratio. These numbers provide each resource's area of land. Multiply by Resource Protection Ratio for the district Columns 3 or 4, and insert result in column 5.				
			Multiply Column 2 by Resource Protection Ratio		
	Natural Resource	Acres Measured Column 2	CN, CR, ON, OR, BP, I, HI Districts Column 3	All other districts Column 4	Protected Land Column 5
	Floodplain/Floodway		1.00	1.00	
	Wetland		1.00	1.00	
	Cockeysville Formation Drainage Area - WRPA		0.50	0.50	
	Riparian Buffer		1.00	1.00	
	Drainageways		0.00	0.40	
	Cockeysville Formation - WRPA		0.50	0.50	
	Sinkhole		1.00*	1.00*	
	Wellhead - WRPA Class A		1.00*	1.00	
	Wellhead - WRPA Class B & C		0.50	0.50	
	Recharge Areas - WRPA		0.50*	0.50	
	Slope or Geologic Sites - CNA		1.00	1.00	
	Steep slopes (< 25%)		1.00	1.00	
	Steep slopes (15—25%)		0.25	0.50	
	Rare Species Site - CNA		1.00	1.00	
	Forests, Tier 1 - CNA**		1.00	1.00	
	Forests, Tier 1**		0.60	0.80	
	Forests, Tier 2 CNA**		1.00	1.00	
	Forests, Tier 2**		0.40	0.60	
	Forests, Tier 3 CNA**		1.00	1.00	
	Forests, Tier 3**		0.10	0.30	

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	Other CNA		1.00	1.00	
	Historic	See Article 15			
Step 3	Sum of Step 2 column equals Total Resource Land				
Step 4	Protected Resource Land equals sum of Protected Land column				
NOTES:					
* There are other standards of protection which include mandatory mitigation or construction in Article 10.					
** Any future developer shall be required to use the original forest cover as set forth in Sections 40.03.301C and E.					

(Ord. No. 97-172, § 3(ch. 13, § 05.420), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 05.420), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 14-126, § 2, 1-13-2015; Ord. No. 21-009, § 2, 12-14-2021; Ord. No. 22-101, § 1, 11-29-2022)

Sec. 40.05.421. Residential capacity calculation.

Table 40.05.421 provides the procedure for calculating the residential use's capacity based on natural resources. Table 40.05.422 shall be used to determine nonresidential uses. Calculations shall be rounded down to a whole dwelling unit in determining the capacity of the site.

Table 40.05.421
RESIDENTIAL CAPACITY CALCULATION

Step 1	Take Base Site Area (Table 40.05.420 Step 1)	= ac.
	Subtract Total Resource Land (Table 40.05.420 Step 3)	– ac.
	Equals Total Unrestricted Land	= ac.
	Multiply by Usability Factor	Suburban Reserve 0.015
		Suburban Estate 0.022 (includes NC2a)
		Suburban - Single Family, Pocket Neighborhood, and Open Space (includes NC40, NC21 and NC15) 0.049
		Suburban Transition - Single Family, Pocket Neighborhood, and Open Space (includes all other NC districts) 0.154
		Traditional Neighborhood - Single Family, Pocket Neighborhood, and Open Space 0.150
		Manufactured Homes 0.136
	Equals Usable Land	= ac.
	Add Protected Resource Land (Table 40.05.420 Step 4)	+ ac.
	Equals Site Protected Land	= ac.
Step 2	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Minimum Open Space Ratio (Table 40.04.110)	× ac.
	Equals Minimum District Required Open Space	= ac.

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Step 3	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Subtract Required Protected Land (Step 1 or 2, whichever is greater)	– ac.
	Equals Net Buildable Site Area	= ac.
	Multiply by Maximum Net Density (Table 40.04.110)	× ac.
	Equals Site Specific Maximum Density Yield	= du's
Step 4	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Maximum Gross Density (Table 40.04.110)	× ac.
	Equals District Maximum Density Yield	= du's
Step 5	Maximum Yield for Site (Step 3 or 4, whichever is less)	= du's

(Ord. No. 97-172, § 3(ch. 13, § 05.421), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-037, § 1, 10-13-2009, Ord. No. 24-137, 12-10-2024)

Sec. 40.05.422. Nonresidential capacity calculation.

Table 40.05.422 provides the procedure for calculating the capacity for nonresidential uses.

Table 40.05.422
NONRESIDENTIAL CAPACITY CALCULATION

Step 1	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Subtract Total Protected Resource Land (Table 40.05.420, Step 4)	– ac.
	Equals Buildable Land, Site	= ac.
Step 2	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Minimum Landscape Surface Ratio (Table 40.04.110)	×
	Equals Minimum Landscaped Area	= ac.
Step 3	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Subtract Minimum Landscaped Area (Step 2)	– ac.
	Equals Buildable Land, District	= ac.
Step 4	Enter Step 1 or 3, whichever is less	ac.
	Multiply by Maximum Net Floor Area Ratio (Table 40.04.110)	×
	Equals Floor Area	= ac.
Step 5	Enter Base Site Area (Table 40.05.420 Step 1)	ac.
	Multiply by Maximum Gross Floor Area Ratio (Table 40.04.110)	×
	Equals Floor Area	= ac.
Step 6	Maximum Gross Floor Area (Step 4 or 5 whichever is less)	ac.
Step 7	Minimum Landscaped Surface or Total Protection Land (Step 2), whichever is greater	= ac.

(Ord. No. 97-172, § 3(ch. 13, § 05.422), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 05.422), 9-22-1998)

Division 40.05.500. Site carrying capacity.

The site carrying capacity is the lowest site yield as determined by site resources, school district capacity, transportation capacity, sewer capacity, and water system capacity.

(Ord. No. 97-172, § 3(ch. 13, div. 05.500), 12-31-1997)

Sec. 40.05.510. Site carrying capacity calculation.

The site carrying capacity shall be determined as provided in Table 40.05.510 below.

Table 40.05.510
SITE CARRYING CAPACITY

Line	Action	Residential Yield (dwelling units)	Nonresidential Yield (floor area in sq. ft.)
Line 1	Enter Results from Traffic Impact Study		
Line 2	Enter Development Capacity of the Site as Determined Under Section 40.05.210 - School Capacity Certification		
Line 3	Enter Development Capacity of the Site as Determined Using Form 40.05.310 - Water Capacity Certification		
Line 4	Reserved.		
Line 5	Concurrency Capacity - Select the Lowest Intensity from Lines 1, 2 and 3		
Line 6	Maximum Resource Capacity Enter Results from Tables 40.05.421 and 40.05.422		
Site Carrying Capacity Enter lowest of Lines 5 and 6			

(Ord. No. 97-172, § 3(ch. 13, § 05.510), 12-31-1997; Ord. No. 06-042, § 3, 7-25-2006)

Sec. 40.05.520. Development options.

The analysis required in Section 40.05.510 may result in a reduction in density. If the limiting value of the site carrying capacity results from the maximum resource capacity determination, the developer shall build within those limits. If the limiting value of the site carrying capacity is established by the concurrency capacity determination, the following options are available to the developer:

- A. *Build at a lower density.* The developer may choose to develop the entire site at the density permitted by Table 40.05.510.
- B. *Build with future development reservation.* The developer may divide the development into two (2) phases. The first phase would use the entire development potential for the site, less one (1) dwelling unit. The remainder of the property would be planned with a restrictive covenant in favor of the County setting forth the capacity of the site and the potential for development that could be used, provided additional capacity was made available. For example, if capacity became available due to road improvements made by the State or other sources, the resulting trips per acre would be calculated for the improvement.

- C. *Make improvements.* The developer can make improvements for traffic as approved by the County and DelDOT. Improvements may be made to the sewer as determined by the Department of Public Works. In the Suburban zoning districts, sewer improvements may include the use of spray irrigation, provided that such a system has a minimum processing capacity of one hundred thousand (100,000) gallons per day and so long as the capacity of the system can be increased at a later time by an additional fifty thousand (50,000) gallons per day. Other types of large scale treatment systems may be permitted if approved by DNREC and the Department of Public Works. Such facilities shall only be permitted in Suburban zoning districts and shall only be constructed in accordance with the rules and regulations governing such systems as promulgated by DNREC and the Department of Public Works. All such systems shall be turned over to the County upon their completion and formal acceptance by the Department of Public Works. The developer may reach agreements with the school district or with a water supplier to make or fund improvements that would be available prior to occupancy.
- D. *Acquire development rights.* The landowner may acquire certain development rights from another owner of vacant land located in the same planning area as provided in Article 7. This is accomplished, in part, by submitting an application for the development of both parcels and determining the capacity of both. Provided the density is equal to or less than that permitted by the district and site resource capacity, the capacity may be transferred from one (1) site to another. A conservation easement shall be placed on the land from which the development potential is transferred. The conservation easement shall specify the following:
1. Any remaining development potential. This includes any reservation that may have been made in the initial transfer of development rights.
 2. The amount and type of development right permitted to be transferred.

(Ord. No. 97-172, § 3(ch. 13, § 05.520), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031 , § 63, 4-24-2018)

ARTICLE 6. SIGN REGULATIONS

Division 40.06.000. Applicability.

- A. With regard to Section 40.06.060 Schedule of Sign Restrictions, the following rules shall govern:
1. Neighborhood Conservation (NC), Suburban Reserve (SR), Suburban Estate (SE), Suburban (S), Suburban Transition (ST), and Traditional Neighborhood (TN) districts shall all be considered residential districts.
 2. Commercial Neighborhood (CN) shall be considered the same as former Code C-1.
 3. Commercial Regional (CR) shall be considered the same as former Code C-2 or C-3.
 4. Office Neighborhood (ON) shall be considered the same as former Code O-1.
 5. Office Regional (OR) shall be considered the same as former Code O-2.
 6. Business Park (BP), Industrial (I) and Heavy Industrial (HI) shall be considered the same as M-1, M-2 and M-3.
 7. Commercial or employment areas in hamlets and villages, or commercial areas in a TN District shall be considered as business districts and regulated as C-1 Districts.
 8. All signs in TN Districts shall be limited more strictly pursuant to the design guidelines which are required as part of the plan approval process in order to meet the character of the area.
- B. Signs in the State right-of-way are regulated by 17 *Del. C.* §§ 1107 (Prohibition on advertising within right-of-way of any highway) and 1108 (Location and condition of advertising).

(Ord. No. 97-172, § 3(ch. 13, div. 06.000), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 06.000), 9-22-1998; Ord. No. 01-026, § 1, 5-22-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.06.010. Compliance with Article.

Notwithstanding any other section in this Chapter, no sign shall be permitted, erected or used in any district except as permitted in this Article. Where other sign or outdoor advertising regulations are in effect and are more restrictive than the sections of this Article, the more restrictive sections shall prevail. The provisions of 17 *Del. C.* ch. 11 (Regulation of outdoor advertising) are hereby incorporated by reference, as if fully set out in this Article, and shall be enforceable as violations of this Article.

(Code 1983, § 23—73.6; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.06.020. Definitions.

All definitions appearing in Article 33 shall be applicable to this Article, except to the extent of inconsistency with any definition appearing in this Section. For the purposes of this Article, the following words, terms and phrases shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Bulletin board means a sign of permanent character, but with movable letters, words or numerals, indicating the names of persons associated with or events conducted upon or products or services offered upon the premises upon which such a sign is maintained.

Copy area includes the entire sign area, excluding trim, moldings, battens, cappings and nailing strips.

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Cutout means an appendage to a sign extending outside of the regular square or rectangular sign area. The area of a cutout shall not exceed ten (10) percent of the sign area. Cutouts shall be included in sign area calculations for the purposes of this Article, except in manufacturing districts.

Electronic variable message sign (EVMS) means a sign or portion thereof where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

Ground sign means a detached sign which shall include any sign supported by uprights, pylons, poles or braces placed upon or in or supported by the ground and not attached to any building.

Identification means a sign necessary to and located on the same premises as the business for which it advertises, such sign indicating the name of the business, the principal product or service and/or logo. Noncommercial signs which contain ideological, religious or political thoughts or messages shall be considered identification signs.

Instructional means a sign conveying instructions with respect to the premises on which it is maintained, such as the entrance or exit of a parking area, a trespassing sign, a danger sign and similar signs.

Marquee means any hood, canopy, awning or permanent construction projecting from the wall of a building above an entrance or existing over a thoroughfare, walkway or sidewalk.

Marquee sign means a sign attached to a marquee used for notice, advertisement or announcement purposes.

Maximum aggregate means the total of the sign area of all signs located on a parcel, excluding wall signs.

Nameplate means a sign indicating the name, address, profession or occupation of an occupant or a group of occupants.

Off-premises advertising means a sign directing attention to a business, commodity, service or product which is not conducted, sold or offered upon the premises where the sign is located.

Projecting sign includes any sign which is attached to a building and extends beyond the wall of the building to which it is attached or within the setback required for a building.

Right-of-way means land maintained, dedicated or reserved for construction of a street, road, court, place, square or lane.

Roof sign includes any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure, subject to the requirements in the definition of wall sign.

Setback means a stated minimum distance on a lot as measured from the street line within which no signs may be erected.

Shopping center means a retail and/or service commercial development designed, built or used as an integrated use with more than one (1) tenant or occupant and characterized by common parking, access, landscaping and utilities.

Shopping center identification sign means an identification sign accessory to and on the same property as the shopping center for which it advertises and which contains the name of the shopping center, names of tenants and/or changeable copy.

Sign means and includes any writing, figure, representation, emblem, flag, three-dimensional figure or model, device, letter, word, street clock and temperature announcement, and shall include any announcement, declaration, demonstration, display, illustration, name, identification, description or insignia used to advertise or promote the interest of any person, group or business when such is viewed by the general public. This definition shall not include interior sign displays (i.e., signs in windows) whether or not visible by the general public. This definition shall include any sign placed upon a vehicle or trailer when the location of the vehicle or trailer is reasonably construed as being placed for the display of advertising matter.

Sign area, except as otherwise defined under Section 40.06.070C.1., includes the entire sign, together with all trim, moldings, battens, cappings and nailing strips which are attached and are part of the sign proper or incidental to

its decoration. Sign area shall exclude a sign company or owner nameplate or logo located on the apron of the sign not more than one (1) square foot in area. When two (2) faces are placed back to back and are at no point more than sixty (60) inches from one another, the area of the sign shall be taken as the area of one face, if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area. When two (2) faces are placed in a "V" configuration no more than sixty (60) inches apart at the closest point and at an angle not greater than forty-five (45) degrees, the area of the sign shall be taken as the area of one face, if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area. "V"-configured signs shall be permitted only in manufacturing districts. Signs which are composed of letters, words or representations only and which follow no square or rectangular pattern shall be considered to include in sign area a square or rectangle as drawn at the outer limits of the letters, words or representations.

Street frontage means the linear measurement of a parcel along a street line, private road or right-of-way to which the parcel abuts. Street frontage shall not include any frontage on a roadway with less than ten thousand (10,000) average daily traffic, as defined in the traffic summary prepared by the State Department of Transportation.

Street line means a property line of a lot coincident with the line indicating the limits of a right-of-way, existing or proposed.

Wall sign means any sign, not including a marquee sign or nameplate sign, erected against the wall of any building or displayed with the exposed face thereof in a plane parallel to the plane of the wall. Wall signs shall include any business or advertising matter painted directly upon any wall. The definition of wall sign shall include any sign erected, constructed or maintained upon or over the roof of any building, provided that the maximum height of the sign shall not exceed the highest point of the supporting roof.

(Code 1983, §§ 23—73.6; Code 1995, § 40-742; Ord. No. 03-077, § 1, 11-18-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.06.030. Specifications.

A. *Generally.* General specifications for signs shall be as follows:

1. All signs shall have permanent foundations or permanent attachments to building walls unless specifically permitted as a temporary sign.
2. All signs erected must observe all setbacks, height and area restrictions of this Article.
3. Signs must be maintained in proper, safe condition.
4. The construction of all signs shall comply with applicable regulations of Chapter 6.
5. Gooseneck reflectors and lights shall be permitted on ground signs, roof signs and wall signs, provided that the reflectors shall provide proper shielding so as to prevent glare upon adjacent residential property and rights-of-way.
6. Notwithstanding any other sections of this Article, the maximum height above the ground for signs, including ground signs, roof signs and off-premise advertising signs, shall be limited by the height limitation for buildings in the zoning district in which the sign is erected or maintained, but no sign shall exceed forty-five (45) feet in height. Where a sign is oriented to an elevated roadway, the height of the sign shall be measured from the elevated road surface nearest the sign.
7. Subject to a zoning permit, any permitted sign can be replaced provided:
 - a. The replacement sign is of equal or lesser sign area than the existing sign;
 - b. If a variance was received for the existing sign, any alteration would need to be consistent with the Board of Adjustment written decision; and
 - c. The replacement sign is installed in the same location as the existing sign.

B. *Specifications by sign type.* Specifications for sign types shall be as follows:

1. *Ground sign.*

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- a. Notwithstanding any other sections of this Article, no ground sign greater than thirty-five (35) square feet in area shall be permitted within twenty (20) feet of any residential zoning district, and no ground sign greater than fifty (50) square feet in area shall be permitted within forty (40) feet of any residential zoning district.
 - b. Whenever two (2) or more ground signs are permitted to be placed side by side or abutting one another, the copy area of the signs shall be separated by at least sixteen (16) inches of space, trim, molding or border.
 - c. All ground signs shall have permanent foundations, shall be level and shall be constructed according to specifications approved by the County with the application for a sign permit.
 2. *Marquee sign.* A marquee sign shall not:
 - a. Project more than eighteen (18) inches beyond the marquee faces or edges.
 - b. Be less than eight and a half (8½) feet above the walkway, street or grade.
 3. *Projecting sign.*
 - a. A projecting sign may not project into the setback required for a ground sign.
 - b. No projecting sign shall be permitted which obstructs or interferes or in any way becomes a hazard to the orderly movement of pedestrian or vehicular traffic.
 - c. No projecting sign shall exceed in thickness eighteen (18) inches as measured between the principal faces of any projecting sign.
 - d. No projecting sign or part thereof shall be placed closer than ten (10) feet above the sidewalk, public way, etc., over which it is erected nor shall any such sign or part thereof extend more than four (4) feet above the wall to which it is attached at the point of attachment.
 4. *Roof sign.*
 - a. No roof sign shall be erected or maintained nearer than five (5) feet to the outside wall of the building on which it is maintained.
 - b. Roof signs shall observe all building setbacks, with no exception made for buildings with nonconforming setbacks.
 - c. No roof sign shall be oriented toward any residential use.
 5. *Wall sign.*
 - a. A wall sign may not extend more than eighteen (18) inches from the wall to which it is attached.
 - b. A wall sign may not extend beyond the wall to which it is attached.
 - c. A wall sign may be erected on a building wall which is nonconforming with respect to required setbacks, provided that such wall sign does not extend or project more than six (6) inches beyond a street line or more than six (6) inches into a required right-of-way or walkway.
 6. *Electronic variable message sign (EVMS).*
 - a. An electronic variable message sign may be substituted in lieu of other permitted signs pursuant to Section 40.06.060, Schedule of Sign Restrictions.
 - b. Portable or temporary EVMS are prohibited.
 - c. The EVMS shall be further restricted by the additional standards in this subsection and the lighting standards in Section 40.22.750.
 - d. With the exception of off-premises advertising signs, each EVMS is restricted to no more than fifty (50) square feet of sign area including where the overall sign is partly static signage and partly EVMS and is greater than fifty (50) square feet in total, and shall not be located within
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seventy-five (75) feet of any residential use. EVM off-premises advertising signage shall be subject to the standards set forth in Section 40.06.070. The setback shall include any right-of-way and shall be measured from the property line to the sign structure.

- e. With the exception of EVM off-premises advertising signs, the message displayed on the EVMS shall remain fixed for a minimum of thirty (30) minutes. The message displayed on EVM off-premises signage shall remain fixed for a minimum of ten (10) seconds.
- f. The following standards shall apply to all EVMS:
 - i. When the message is changed, the transition time between messages shall be instantaneous and without special effects such as dissolving, spinning, or fading in/out;
 - ii. The EVMS shall contain a default design that will freeze the sign in one (1) position if a malfunction occurs or in the alternative shut down; and
 - iii. With the limited exceptions allowable during a public emergency as addressed in Subsection f., the EVMS shall not display any message that moves, appears to move, scrolls, or changes in intensity during the fixed display period.
 - iv. Prior to the issuance of a zoning permit, the applicant for an EVM sign shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed five thousand (5,000) nits and that the intensity level is protected from end-user manipulation by password-protected software. No sign may be brighter than is necessary for clear and adequate visibility and shall not exceed a maximum of five thousand (5,000) nits during daylight hours and two hundred fifty (250) nits during nighttime hours. All EVM signs must be equipped with both a dimmer control and a photocell that automatically adjusts the display's intensity according to natural ambient light conditions. For purposes of this subsection a "nit" is a unit of visible light intensity commonly used to specify the brightness of a cathode ray tube, liquid crystal display, or LED device. The standard of luminance is measured as candela per square meter (cd/m^2).
- g. EVM off-premises advertising signs, in addition to being subject to the standards for off-premises advertising signs in Section 40.06.070, are subject to the additional location and spacing restrictions as set forth below:
 - i. EVM off-premises advertising signs shall only be located on and be oriented to interstate highways: I-95, I-295 and I-495; and state highway US-13 NB between SR-273 and US-40.
 - ii. EVM off-premises advertising signs along the same roadway and facing the same direction of travel shall not be located within two thousand five hundred (2,500) feet of another EVM off-premises advertising sign or within five hundred (500) feet of a static off-premise advertising sign, as measured along the centerline of the roadway.
 - iii. EVM off-premises advertising signs shall not be located within one thousand (1,000) feet of an interchange, an interstate junction of merging or diverging traffic, or an at-grade intersection. An at-grade intersection is defined for the purposes of this standard as any intersection of two (2) or more public streets or any signalized intersection of any public street with any ingress or egress from a nonresidential commercial use.
 - iv. EVM off-premises advertising signs shall not be placed along designated byways.
 - v. EVM off-premises advertising signs shall only be permitted as one (1) continuous sign and shall not be "double-stacked" or permitted as side-by-side signs.
 - vi. EVM off-premises advertising signs shall not display sequential messages that continue on a subsequent message.
 - vii. Prior to the issuance of a zoning permit, the applicant for an EVM off-premises advertising sign shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed seven thousand five hundred (7,500) nits and that the

intensity level is protected from end-user manipulation by password-protected software. No sign may be brighter than is necessary for clear and adequate visibility and shall not exceed a maximum of seven thousand five hundred (7,500) nits during daylight hours and one thousand (1,000) nits during nighttime hours. All EVM off-premises advertising signs must be equipped with both a dimmer control and a photocell that automatically adjusts the display's intensity according to natural ambient light conditions. For purposes of this Subsection a "nit" is a unit of visible light intensity commonly used to specify the brightness of a cathode ray tube, liquid crystal display, or LED device. The standard of luminance is measured as candela per square meter (cd/m^2).

- viii. Except as otherwise permitted pursuant to Section 40.06.030.6.a., an applicant for a new EVM off-premises advertising sign shall cause and show proof of the removal of one (1) existing static off-premises advertising sign within the unincorporated area of the County prior to the issuance of the permit for the new EVM off-premises advertising sign. If the new EVM off-premises advertising sign replaces an existing static sign, then no additional sign shall be removed.
- h. EVM signs may be used to display a public emergency announcement which includes weather alerts, national and local security events, Amber Alert's, and the like. In the event of a public emergency, announcements may scroll continuously until the public emergency message is no longer necessary. A public emergency announcement is not intended to include messages related to fire company social events, fire company annual meetings, National Fire Safety Week, time to change smoke and fire detector batteries, and other similar messages. It is strongly encouraged that owners of EVM off-premise advertising signs dedicate five (5) percent of the total time the sign is in operation per day to public service announcements.
- i. The owner, operator or lessee responsible for programming, operating and controlling the EVMS for a zoning permit shall certify in writing to the Department that the message (except for public emergency announcements) to be displayed on the sign shall remain static and shall not flash or scroll at any time and that the message will remain unchanged for the applicable minimum durational time.
- j. With the limited exceptions allowable during a public emergency as addressed in Subsection f., an EVMS shall not be used to attempt, or appear to attempt, to direct the movement of traffic or contain wording, color, shapes or likenesses of official traffic control devices.

(Code 1983, §§ 23-73.6; Code 1995, § 40-743; Ord. No. 03-077, § 2, 11-18-2003; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 05-064, § 1, 10-11-2005; Ord. No. 07-070, § 1, 11-13-2007; Ord. No. 08-056, § 1, 12-9-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-072, § 1, 10-22-2019; Ord. No. 22-072, § 5, 10-11-2022)

Sec. 40.06.040. Permitted signs; limitations on placement; prohibitions.

A. *Signs permitted without limitation:* The following signs shall be permitted in all districts:

- 1. Signs indicating public transportation stops.
- 2. Instructional signs giving information strictly for the purpose of direction, safety or convenience of the general public such as signs which identify public rest areas, public parking areas, entrances or exits, loading and no loading and the like, not to exceed four (4) square feet in surface area and must be set back at least two (2) feet from street lines.
- 3. Warning signs and no trespassing signs.
- 4. Memorial plaques, corner stones, historical tablets.
- 5. Signs required to be posted by law.

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6. Signs established by duly constituted governmental authorities, including but not limited to, traffic regulation signs, public notice signs and signs required to be maintained or posted by law or government order, rule or regulation.
 7. Flags or emblems of governmental, educational or religious organizations.
 8. Signs posted in conjunction with doorbells or mailboxes, not exceeding seven (7) square inches in surface area.
 9. Address signs, not more than one (1) for each principal building or use on a premises and not exceeding one hundred sixty (160) square inches in surface area, showing only the numerical address designations of the premises upon which they are maintained.
 10. Signs which are attached or which are an integral part of gasoline pumps or other dispensing or servicing devices, provided that such signs do not extend beyond the area of the pump, dispensing or servicing device to which they are attached.
 11. Permanent subdivision identification signs not exceeding twenty (20) square feet in area maintained on private property not to exceed one (1) per each street frontage.
 12. Noncommercial signs relating to ideological, religious or political thought, provided they do not exceed thirty-two (32) square feet in area.
- B. *Real estate sign.* A temporary sign(s) indicating the sale, rental or lease of a structure or property, limited to the following three (3) types:
1. *Lot-premises sign.* A sign conveying instructions with respect to the sale or rental of a lot, premises, dwelling, structure or a combination thereof on which it is maintained shall be permitted in all districts, with the following limitations:
 - a. Maximum six (6) square feet in area.
 - b. Minimum fifteen (15) feet setback from a street line.
 - c. One (1) permitted per each street frontage on which the premises abuts.
 - d. Except real estate signs maintained in office, commercial and manufacturing districts, which may be erected in accordance with the following:
 - i. Maximum sixty-four (64) square feet in area.
 - ii. Minimum forty (40) feet setback from a street line.
 - iii. One (1) permitted per each street frontage on which the premises abuts.
 2. *Development sign.* A sign advertising the sale or rental of structures under construction upon the land which is under development permissible in all zoning districts but limited to the following:
 - a. Maximum sixty-four (64) square feet in area in residential zones. Maximum one hundred (100) square feet in area in all other districts.
 - b. Minimum setback from the street line shall be the minimum distance required for the zoning district in which the sign is located.
 - c. One (1) sign permitted per each street frontage on which the premises abuts.
 3. *Open house sign.* A sign advertising the time and location of an "open house" for the inspection of a property for sale or rent, or a directional sign(s) for such open house, permitted in all districts. Each open house sign is limited to a maximum sign area of no more than six (6) square feet.
- C. *Temporary sign.* Any sign to be placed on a lot for a limited period of time to advertise for a grand opening, special event, sale and the like shall be permitted in any zoning district, subject to the following limitations.
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1. A permit may be issued by the Department for a period not to exceed one (1) month in any calendar year.
 - a. Maximum sign area is fifty (50) square feet in area.
 - b. Maximum ten (10) feet in height at the highest point.
 - c. Minimum twenty-five (25) foot setback.
 - d. Appropriate fees are paid.
 2. Any temporary sign for a period exceeding one (1) month shall be permitted by special use from the Board of Adjustment, provided the following conditions are met:
 - a. The sign is necessary for the length of time requested.
 - b. There will be no adverse effects on adjacent properties.
 - c. The sign will not interfere with vehicular or pedestrian movement.
 - d. Setback of twenty-five (25) feet.
 - e. Limited to one (1) year duration.
 - f. The Board of Adjustment may impose reasonable conditions.
 - g. Appropriate fees are paid in addition to hearing costs associated with the Board of Adjustment application.
- D. *Construction signs.* A temporary sign identifying those engaged in construction, limited to the following:
1. Maximum sixty-four (64) square feet in area.
 2. Minimum twenty-five (25) foot setback from a street line.
 3. One (1) permitted per each street frontage with a maximum of two (2) signs per construction site.
 4. Shall be permitted only while construction is actually in progress and shall be removed upon determination by the County that construction is completed.
- E. *Prohibited signs.* The following signs shall be prohibited:
1. Signs which flash by means of either nonelectric or electric mechanism or current. Any sign mechanism or representation which sparkles, glitters or twinkles, or by any product which produces intermittent reflection of rays of light, or by rotation which produces the effect of reflection. Electronic variable message signs (EVMS) are included in this prohibition, except where specifically permitted by Section 40.06.030 B.6. Date, time and temperature signs are excepted from this prohibition; provided that each message (time, temperature, and/or date only) shall remain fixed for a minimum of at least ten (10) seconds; and, further provided that the standards in Subsections 40.06.030 B.6.d.i, ii, and iii shall apply.
 2. Moving, movable or animated signs except as specifically permitted in Subsection E.1.
 3. Stereopticon or motion picture mechanism in conjunction with any outdoor advertising structure, accessory sign or advertising statuary used in such a manner as to permit or allow the images to be visible from any public street or sidewalk.
 4. Signs which produce noise or sounds capable of being heard even though the sounds produced are not understandable sounds.
 5. Signs which emit visible smoke, vapor, particles or odor.
 6. Signs erected in such a manner as to obstruct free and clear vision or, by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or which makes use of words "stop," "look," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse vehicular traffic.
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7. Signs erected, constructed or maintained so as to obstruct or be attached to any firefighting equipment, windows, doors or openings used as a means of ingress or egress or for firefighting purposes, or placed so as to interfere with any opening required for proper light and ventilation.
8. Flags, banners or twirling, A-type, sandwich type, sidewalk or curb signs and balloons or other air- or gas-filled figures.
9. Outdoor advertising of any kind or character where any live animal or person used as part of the advertising is visible from any public street or public place.
10. Any sign depicting specified sexual activities or specified anatomical areas as defined by Article 33.
11. Any sign using obscene or offensive language.
12. Any sign mounted upon a motor vehicle or trailer when that vehicle or trailer is used primarily for the purpose of advertising.
13. Notices, placards, bills, cards, posters, advertisements, or other signs mounted or placed in any fashion upon any lamppost, electric light, telegraph or telephone pole, hydrant, tree or tree box, or upon any piers or columns located on or along the public streets and highways of the County, except as such may be authorized or required by law.

(Code 1983, §§ 23—73.6; Code 1995, § 40-744; Ord. No. 03-077, § 3, 11-18-2003; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-070, § 2, 11-13-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.06.050. Administration.

- A. The Department shall inspect annually, or at such other times as deemed necessary by the Department, each sign maintained in the County for the purpose of ascertaining whether the same is secure or insecure and whether it is in compliance with this Article. Whenever the Department shall discover a sign required to be repaired or removed, the Department shall notify the appropriate person that such sign shall be repaired or removed within thirty (30) days, and if not repaired or removed, the Department shall remove the sign or take action to require prompt compliance with this Article. Where the owner of a sign is not known to the Department, notice may be made by posting upon the structure of the sign.
- B. For any permitted sign which is over one hundred fifty (150) square feet in area or over twenty-five (25) feet in height at its highest point, the Department may require review and approval of structural plans and designs, including the seal of a registered professional engineer licensed to practice in the State.
- C. All signs which employ electrical current of any means shall be reviewed and approved by the appropriate electrical inspector or agency empowered to operate in the State.
- D. The Department shall issue permits for signs which conform with this Article upon application by the owner or authorized agent of the property on forms to be supplied by the Department which detail the specifications of the sign, the setback and the zoning classification. The Department shall maintain records of all permits and fees issued pursuant to this Section. Issuance of a permit shall not estop the Department from challenging the conformance of a sign to the provisions of this Article.
 1. Every sign over twenty-eight (28) square feet in area, excluding wall signs, and every off-premises advertising sign, irrespective of size, erected or maintained shall have affixed to it in a conspicuous place thereon the permit issued by the Department, including the date of erection, the permit number, the voltage of any electrical apparatus used in connection therewith, and an annual inspection number as designated by the Department.
 2. The Department shall charge a fee for issuance of sign permits as specified in Chapter 6.
 3. Notwithstanding the definition of sign area in Section 40.06.020, for the purposes of this subsection, sign area shall be measured including both faces of signs placed back-to-back.
 4. Permits shall be required for all signs except the following types:

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- a. Real estate sign, lot-premises type.
 - b. Nameplate.
 - c. Instructional.
 - d. Temporary election sign.
- E. Nonconforming signs shall comply with the following:
 - 1. No legal nonconforming sign shall hereafter be relocated, replaced, removed, altered, or modernized unless it is in accordance with this Article.
 - 2. All signs legally existing that were rendered nonconforming on November 28, 1989 and which are located within greenways, shall be removed or brought into conformity by November 28, 1992.
 - 3. Owners of all signs legally existing that were rendered nonconforming on November 28, 1989 shall register such signs with the County by October 8, 1995. Signs not registered shall be deemed to have abandoned their nonconforming status and shall be brought into conformity immediately. Owners of signs seeking such nonconforming status shall submit with their registration proof satisfactory to the County that the sign legally existed prior to November 28, 1989.
 - 4. All nonconforming signs erected on or after November 28, 1989, shall be removed or brought into conformity with this Article immediately.
- F. *Abandoned signs.* When any sign advertises for a business or activity which is no longer conducted on the premises, it shall be removed within thirty (30) days of cessation of the business or activity. Such sign shall not be reused unless it complies with all requirements of this Article.
- G. *Historic signs.* Upon recommendation by the historic review board, the Board of Adjustment may grant variances to permit the continued use of signs made nonconforming by this Article. The granting of a variance is subject to a finding that the sign complies with the following criteria:
 - 1. The sign is at least twenty-five (25) years old.
 - 2. The sign is accessory to a use on the premises.
 - 3. The sign is structurally sound, in good repair or will be restored to its original condition.
 - 4. The original design and structural integrity of the sign is retained.
 - 5. The sign exhibits the craftsmanship involved in the use of materials such as wood, porcelain enamel, painted metal, stainless steel, aluminum, neon/glass tubing, or cararra/vitrolite glass.
 - 6. The sign is representative of the artistic or design style of a particular time period (e.g., art deco, streamline modern).

(Code 1983, §§ 23—73.6; Code 1995, § 40-745; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-072, § 1, 10-22-2019)

Sec. 40.06.060. Schedule of sign restrictions.

Signs shall be permitted in accordance with the following regulations and in accordance with other applicable Sections of this Article:

1. *Residence districts.*

a. R-1, R-2, R-3, R-3-SD, R-3-G and R-4.

i. Signs on premises of one- and two-family dwellings:

Type	Nameplate
Number	1 per dwelling unit
Maximum sign area	1½ square feet
Location	Wall or ground
Minimum setback	2 feet from street line

ii. Signs on premises of churches, schools, colleges, hospitals, YMCA's and comparable organizations; local community recreation or civic association buildings; libraries; museums; art galleries; golf courses; country and swimming clubs; parks; playgrounds and similar uses; greenhouses; nurseries; garden centers; hospitals; aviation fields; cemeteries; camps; riding clubs or stables; social, fraternal, union, civic organizations; veterinary hospitals; rail or bus stations; roadside stands for agricultural products; day care centers:

Type	Nameplate	Bulletin	Identification
Number	1/use	1/building	1/building section
Maximum	1½ square feet	20 square feet	20 square feet
Location	Wall or ground	Wall or ground	Wall or ground
Minimum setback	2 feet from street line	20 feet from street line	20 feet from street line

iii. Signs on premises of nursing homes, sanitariums and homes for the aged and similar uses:

Type	Identification
Number	1 per street frontage/lot
Maximum sign area	20 square feet
Location	Wall or ground
Minimum setback	20 feet from street line

iv. Signs on premises of cemeteries and public lands:

Type	Identification
Number	1 per street frontage per lot
Maximum sign area	20 square feet
Location	Wall or ground
Minimum setback	20 feet from street line

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- b. *R-3 and R-4.* Signs on premises of uses permitted under subsections 40-84(5—8) and under subsections 40-85(3—5):

Type	Nameplate	Identification
Number	1 per family	1 per family
Maximum sign area	1½ square feet	20 square feet
Location	Wall or ground	Wall or ground
Minimum setback	2 feet from street line	20 feet from street line

2. *Office and Research O-1 and O-2 Office Districts.* Signs on premises of office and office-research uses.

Type	Identification	Bulletin board	Nameplate
Number	1/building	1/building	1/use
Maximum sign area	75 square feet	20 square feet	2 square feet
Location	Wall or ground	Wall or ground	Wall or ground
Minimum setback	25 feet from street line	25 feet from street line	25 feet from street line

3. *Commercial zoning districts.*

- a. *C-1 Zoning District.*

Sign type	Single use	Shopping center
Wall sign:		
Area	2 sq. ft. per lineal foot of building wall to which it is attached(maximum 200 sq. ft.)	2 sq. ft. per lineal foot of building wall occupied by each business (maximum 200 sq. ft. each sign)
Ground sign:		
Number of signs	3 per lot	1 shopping center identification sign. A second sign is permitted on a different street frontage
Area	100 sq. ft.	250 sq. ft.
Height	35 ft.	35 ft.
Setback	50 sq. ft. and over or over 18 ft. in height - 40 ft. Less than 50 sq. ft. - 25 ft. 0 ft. - side yard (10 ft. to abutting residential district)	50 sq. ft. and over or over 18 ft. in height - 40 ft. Less than 50 sq. ft. - 25 ft. 0 ft. - side yard (10 ft. to abutting residential district)
Marquee sign:		
Number of sign	1 permitted in lieu of wall sign	1 permitted in lieu of wall sign
Projecting sign:		
Number of signs	1 permitted in lieu of ground sign	1 permitted in lieu of ground sign
Roof sign:		
	Not permitted	Not permitted
Maximum aggregate (excluding wall signs):	100 sq. ft. for lots up to 100 sq. ft. of frontage. 0.5 sq. ft. for each additional ft. of street frontage	100 sq. ft. for lots up to 100 sq. ft. of frontage. 0.5 sq. ft. for each additional ft. of street frontage

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b. *C-2 and C-3 Zoning Districts.*

Sign type	Single use	Shopping centers
Wall sign:		
Area	3 sq. ft. per lineal ft. of building wall to which it is attached (maximum 300 sq. ft.)	3 sq. ft. per lineal ft. of building wall occupied by each business (maximum 300 sq. ft. each sign)
Ground sign:		
Number of signs	3 per lot	1 shopping center identification sign. A second sign is permitted on a different street frontage. Additional ground signs permitted no greater than 75 sq. ft. in sign area, located 100 linear feet from any other signs, including off-premises advertising signs.
Area	150 sq. ft.	300 sq. ft. for the shopping center identification sign
Setback	50 sq. ft. and over or over 18 ft. in height - 40 ft. Less than 50 sq. ft. - 25 ft.	50 sq. ft. and over or over 18 ft. in height - 40 ft. Less than 50 sq. ft. - 25 ft.
Marquee sign:		
Number of signs	1 permitted in lieu of wall sign	1 permitted in lieu of wall sign
Projecting sign:		
Number of signs	1 permitted in lieu of ground sign	1 permitted in lieu of ground sign
Roof sign:		
Number	1 per lot in lieu of wall sign or ground sign	1 per shopping center in lieu of wall sign or ground sign
Area	Same as for wall sign	Same as for wall sign
Height	No more than ½ the height of the building	No more than ½ the height of the building
Setback	Must conform to building setbacks. No exception for nonconforming buildings.	Must conform to building setbacks. No exception for nonconforming buildings.
Maximum aggregate (excluding wall signs)	150 sq. ft. for lots up to 100 ft. of street frontage. 0.5 sq. ft. for each additional ft. of street frontage	150 sq. ft. for lots up to 100 ft. of street frontage. 0.5 sq. ft. for each additional ft. of street frontage

4. *M-1, M-2, M-3 and EX manufacturing and extraction districts.* Signs on premises of permitted uses:

Type	Identification
Maximum sign area	Wall signs - 3 sq. ft. per lineal ft. of building wall to which it is attached (maximum 300 sq. ft.) Ground sign - 100 sq. ft.
Maximum number of signs	1 ground sign per street frontage 1 wall sign per principal use. A roof, marquee or projecting sign is permitted in lieu of a wall or ground sign.
Minimum setback	50 sq. ft. and over or over 18 ft. in height - 40 ft. Less than 50 sq. ft. - 25 ft.

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5. *Publicly Conserved Lands & Parks (P) district.*

- a. Wall sign area: 2 square feet per lineal foot of building wall to which it is attached (maximum 200 sq. ft.)
- b. Ground sign:

Street Functional Classification	Minimum Distance from street lot line (feet)	Maximum Height (feet)	Maximum Area (square feet)	Maximum Aggregate
Local	15	25	40	80 square feet no more than 1 sign per street frontage
	25	30	50	
Collector	15	25	75	100 sf + 0.5 for each foot of street frontage not to exceed 150 sf
	25	30	100	
	40	45	125	
Arterial	15	25	150	100 sf + 0.5 for each foot of street frontage not to exceed 300 sf
	25	30	175	
	40	45	200	

(Code 1983, §§ 23-73.6; Ord. No. 19-072 , § 1, 10-22-2019, Ord. No. 24-130, § 1, 3-25-2025)

Sec. 40.06.070. Off-premises advertising.

- A. *Greenways.* The County Council may by ordinance establish greenways, which shall be defined as strips of land six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of all the roads, routes and waterways so designated, or such boundaries as are specifically delineated by ordinance of the council. In establishing such greenways, the County Council shall find that the area to be so designated meets the following standards:
 1. The area has unique scenic, historic or recreational character or value.
 2. The area is primarily residential or agricultural in character.
 3. Off-premises advertising signs are or would be an intrusion on the unique value of these areas and in conflict with the essential character of the area.
- B. *Prohibitions.* No off-premises advertising sign shall be permitted within the greenways established, and no off-premises advertising sign shall be erected oriented toward or situated to be observed from any greenway.
- C. *Standards.* The location, setback and permitted area for off-premises advertising signs shall be in compliance with the schedule of restrictions. In addition, all signs shall comply with the following:
 1. In C-2 and C-3 Zones, no off-premises sign shall exceed two hundred fifty (250) square feet in copy area. An additional fifty (50) square feet of trim, moldings, battens, cappings, nailing strips, latticing or platforms shall be permitted.
 2. In M-1, M-2 and M-3 Zones, no off-premises sign shall exceed sixty hundred seventy-two (672) square feet in sign area. No off-premises sign exceeding three hundred (300) square feet in area shall be located

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- along a street or oriented towards any street with less than twenty-five thousand (25,000) average daily traffic as defined in the traffic summary prepared by the State Department of Transportation.
3. No off-premises advertising sign shall be located within one hundred (100) feet of any residential zone, historic zone or public park as measured along the street right-of-way from the nearest edge of each sign.
 4. Off-premises signs located along any road shall be spaced no closer than three hundred (300) feet as measured along the roadway from the nearest edge of each sign structure. However, off-premises signs located along interstate highways shall be spaced no closer than five hundred (500) feet as measured along the street line from the nearest edge of each sign structure.
 5. The maximum height of any sign, including cutouts, shall not exceed the maximum building height for the zone in which the sign is located or forty-five (45) feet, whichever is less.
 6. All off-premises signs shall observe the building setbacks for the zone in which they are located.
 7. Notwithstanding any other Section of this Article, off-premises advertising signs shall be permitted at a rate not to exceed two (2) square feet in sign area for each foot of street frontage. For the purpose of calculating street frontage under this subsection, street frontage on streets with less than ten thousand (10,000) average daily traffic, as defined in the traffic summary prepared by the State Department of Transportation, shall not be included.

(Code 1983, §§ 23-73.6)

Sec. 40.06.080. Signs along designated byways.

The following standards apply to signs located within six hundred sixty (660) feet of designated byways.

- A. *Prohibited signs.* The following signs are prohibited:
 - 1. Electronic Variable Message Signs (EVMS);
 - 2. Marquee signs;
 - 3. Projecting signs;
 - 4. Roof signs;
 - 5. Window signs;
 - 6. Wall signs that project above a roofline; and
 - 7. Off-premises advertising.
- B. *Size.* All signs requiring a permit will be limited to fifty (50) percent of the sign area permitted in the zoning district.
- C. *Height.* All signs requiring a permit will be limited in height to fifteen (15) feet, or one-half ($\frac{1}{2}$) the height allowed in the zoning district, whichever is less.
- D. *Number of signs.* The number of signs on a lot is limited to one (1) ground sign per street frontage and one (1) wall sign per principal use.
- E. *Lighting.* If lit, the light source must be exterior to the sign using shielded, low wattage and diffuse white light. Back-lit and internally illuminated signs are prohibited.

(Ord. No. 22-072 , § 5, 10-11-2022)

ARTICLE 7. TRANSFER OF DEVELOPMENT RIGHTS AND OTHER INCENTIVES AND BONUSES

Division 40.07.000. Purpose.

- A. To meet certain land use objectives, positive incentives are needed to encourage developers to assist in broadening the selection of workforce housing. Two (2) types of incentives are contained in this Article: the allocation of development rights that can be transferred, and bonuses for certain types of development.
- B. The use of transferrable development rights allows development permitted on several properties to be concentrated on a single parcel, thus permitting several parcels to remain exclusively agricultural without significantly impacting the development value of the land.
- C. The preservation and renovation of historic resources serves to preserve the character and heritage of the County for future generations. It is anticipated that clustering, bonuses, and on occasion, transferable development rights, will be needed to ensure that these objectives can be met during the development process.
- D. Reserved.

(Ord. No. 97-172, § 3(ch. 13, div. 07.000), 12-31-1997; Ord. No. 07-150, § 1, 2-26-2008)

Division 40.07.200. Transferable development rights.

This Division governs the use and transfer of all development rights.

(Ord. No. 97-172, § 3(ch. 13, div. 07.200), 12-31-1997)

Sec. 40.07.205. Allocation of development rights.

Development rights may be used on site, or they may be transferred to another site. The development rights shall be allocated to another property only upon submission of a plan to the Department that describes and depicts their transfer. Because the allocation is identical to the development yield of the site, there is no need for a formal allocation process beyond the plan approval process. If a property develops using any optional form of development, that development extinguishes all development rights.

(Ord. No. 97-172, § 3(ch. 13, § 07.205), 12-31-1997)

Sec. 40.07.210. Noncontiguous development.

When development rights are transferred in the process of subdivision or land development, noncontiguous properties may be developed as a single unit pursuant to the provisions of this Article. The landowner shall provide the following information:

- A. At the time an exploratory plan is submitted a statement of intent to use development rights shall be included with the other application requirements. The statement shall indicate the number of development rights that are expected to be transferred to the site.
- B. Prior to exploratory plan approval a document indicating the pending sale of the development rights or common ownership of the noncontiguous parcels shall be part of the application. The document shall indicate rights available for transfer, those to be transferred, and any rights to remain on sending property.
- C. Except as provided in Subsection E, all the calculations required by Article 5 shall be submitted for both properties indicating the potential development rights of the two (2) parcels separately. In addition, a separate calculation shall be made for the site upon which the development rights are to be used according to the values in Table 40.07.221. These calculations shall determine:

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1. The base density of the site upon which the development rights are to be used.
 2. The number of rights available for transfer.
 3. The maximum development potential available if development rights are acquired.
- D. When a record plan is submitted, the following documents are required to consummate the transfer.
1. A site plan or plans showing the use of the transferred development rights.
 2. A conservation easement indicating the number of development rights that have been transferred and any reservation which would extinguish any development rights that would remain on the parcel transferring rights.
 3. A settlement document indicating that the development rights transferred become final with the recording of the conservation easement and record plan by the Department.
 4. The conservation easement shall permit all uses of open space by classes of land in Table 40.10.210, and any other open space uses specifically approved by the Department as being consistent with Article 10.
- E. For purposes of complying with Article 11, any traffic impact study shall be based upon the proposed density of the receiving property including the transfer of all development rights.

(Ord. No. 97-172, § 3(ch. 13, § 07.210), 12-31-1997; Ord. No. 09-066, § 4, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.07.220. Development rights use.

- A. In the Suburban Reserve and Suburban Districts, development rights may be transferred to concentrate development on one (1) property rather than having the permitted development occur on both properties. Both parcels shall lie within the same planning district.
- B. Development rights may also be transferred from the Suburban Reserve District to the Suburban District within the same planning district, but shall not be transferred in reverse. In a transfer from the Suburban Reserve District to the Suburban District, each such development right shall be counted toward the number of dwelling units as provided in Table 40.07.220. This table is designed to provide an incentive for transfers from Suburban Reserve to Suburban and to preserve the best agricultural land. Section 40.07.221 governs the development limits on the property. When such transfers are proposed, a soil map of the transferring property (certified by Department of Agriculture) shall be provided to verify the transfer bonus amount.

Table 40.07.220
DEVELOPMENT RIGHTS BONUS

Soil Class	Homes per Development Rights
I	2.00
II	1.30
All other	1.00

- C. Development rights may be transferred from any zoning district to another zoning district within the same planning district for historic preservation consistent with the purpose of Article 15. The approval of the Historic Review Board shall be required prior to all such transfers.

(Ord. No. 97-172, § 3(ch. 13, § 07.220), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.07.221. Suburban Districts.

In the Suburban Reserve and the Suburban Districts the maximum amount of development on a parcel shall be limited as follows:

- A. The density of development shall not exceed that permitted by the site capacity calculation in Article 5. If the transfer is from SR to S then the provisions of Section 40.07.220.B shall apply.
- B. On the property where development is to be concentrated, the standards in Table 40.07.221 for open space and density shall not be exceeded.

Table 40.07.221

Development Type	Minimum OSR	Maximum Gross Density	Maximum Net Density
SR - Open Space Subdivision	0.45	0.43	0.80
S - Open Space Planned	0.35	1.86	5.00

(Ord. No. 97-172, § 3(ch. 13, § 07.221), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.07.222. Transfers for concurrency purposes.

Where property is limited by sewer concurrence calculations in Article 5, landowners may transfer development rights within the same sewer service subarea so long as they are also located within the same planning district. The transfer may be accomplished provided the following standards are met:

- A. The density of development shall not exceed that permitted by the site carrying calculation in Article 5. Also, the total amount of open space required by Articles 4 and 5 shall not be reduced. Where an improvement is proposed that would alter the calculation, the calculation, plan, and bond (or other surety) for the improvement shall be submitted to the Department.
- B. The maximum density shall not exceed the resource site capacity density, and the total number of units built on both sites shall not exceed the densities in Subsection A.

(Ord. No. 97-172, § 3(ch. 13, § 07.222), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.07.223. Exception.

Land located in planning district 7 (M-O-T) that is zoned suburban reserve shall be exempt from the provisions of this Article for purposes of calculating the value of transferable development rights and shall be considered under all former Code provisions and restrictions on development if the following conditions are met by the applicant:

- A. The transfer of development rights are made from the suburban reserve in planning district 7 into the suburban area of planning district 7.
- B. The rights to be transferred derive from property submitted to the Department for subdivision approval on or before July 1, 1997 (or for which a hardship exception was granted pursuant to the requirements of Ordinance 97-064) and the application has not expired, or from property submitted to the Department for subdivision approval prior to the adoption of this Chapter if the application was not subject to the provisions of Ordinance 97-064 and the application has not expired.
- C. When calculating transferable development right values, lot sizes may be reduced to no less than one-half (½) acre per dwelling unit so long as the overall density of the site as set forth on the transfer plan is in accordance with former Code provisions and restrictions excluding the limit on overall development lot size and density for septic systems.

(Ord. No. 97-172, § 3(ch. 13, § 07.223), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.07.224. Limitations.

The development rights provided for in this Article do not create any additional property rights and shall be subject to change by amendment of this Article by County Council at any time. However, transferred development rights that make up part of the development depicted upon an approved exploratory plan may not be changed or altered by subsequent amendments of this Article unless the exploratory plan approval expires or the sunset provisions of this Chapter extinguish the record plan.

(Ord. No. 97-172, § 3(ch. 13, § 07.224), 12-31-1997; Ord. No. 09-066, § 5, 10-13-2009)

Division 40.07.300. Reserved.

Editor's note(s)—Ord. No. 14-108, § 1, adopted February 3, 2015, repealed the former Division 40.07.300, §§ 40.07.301—40.07.353 in its entirety, which pertained to workforce housing incentives, and derived from Ord. No. 97-172, § 3, adopted December 31, 1997; Ord. No. 98-080, § 1, adopted September 22, 1998; Ord. No. 07-150, § 1, adopted February 26, 2008; Ord. No. 08-113, § 2, adopted December 9, 2008; Ord. No. 08-121, § 1, adopted February 24, 2009; Ord. No. 09-066, §§ 6, 7, adopted October 13, 2009; Ord. No. 10-113, § 1(Exh. A), adopted January 18, 2011; Ord. No. 13-089, § 1, adopted January 28, 2014, and Ord. No. 14-083, § 1, adopted October 21, 2014.

Secs. 40.07.301—40.07.353. Reserved.

Division 40.07.400. Historic preservation bonus.

Sec. 40.07.410. Eligibility.

Land development applications that contain historic resources meeting the criteria for designation pursuant to Section 40.15.110 of this Chapter are eligible for bonuses to ensure the preservation of the historic resources.

- A. If the preservation of the required open space around historic properties as classified as an open context or enclosed context site, as defined in Subsection 40.15.111.B. or C., makes it impossible to plan the permitted number of lots, then the development is eligible for reduced lot sizes pursuant to Section 40.07.420, or transferable development rights.
- B. When a property is rezoned to an Historic overlay zoning district, the Historic Review Board may recommend to the Department that increased density to the development or transfer development rights be permitted. To receive such bonuses the developer must provide a preservation plan in accordance with the provisions of Subsection 40.15.310.B.

(Ord. No. 97-172, § 3(ch. 13, § 07.410), 12-31-1997; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-071, § 6, 10-27-2020)

Sec. 40.07.420. Open space developments.

The purpose for requiring open space around historic properties as classified as an open context or enclosed context site, as defined in 40.15.111.B. or C. is to ensure preservation of the historic setting within the open space required for the open space subdivision or open space planned development. A radius is used to determine the area to be protected and can be modified by Subsection A. Because there is a minimum lot size for open space subdivision developments, it may in some cases prove impossible to develop the permitted number of lots pursuant to Section 40.05.421 due to the increased amount of open space required. If that occurs, the Department is authorized to make corrections using Subsections B, C or D. In planned developments, the developer has flexibility in selecting housing types, so adjustments will be unusual; however, should adjustments be needed, the Department is authorized to use the provisions of Subsections C or D to achieve the permitted density.

- A. The Department may adjust the boundaries of the open space, provided the total size of the open space is not reduced for historic properties classified as an open context site in 40.15.11.B. At the discretion of

the Department, a different size buffer may be considered for historic properties classified as an enclosed context site in 40.15.111.C. The Department, upon recommendation from the Historic Review Board, shall consider traditional lotting patterns, land cover and vegetation, topography, views and view sheds, and pedestrian access in determining the shape of the protection area.

- B. The lot size and frontage for all or some of the lots may be reduced so that the developer may develop the permitted number of units.
- C. Depending on the historic character of the site, the open space may be used for detention or recreation, thus lowering the amount of open space required by Section 40.05.421.
- D. The site area requirement for planned developments shall be lowered so that a site which would not otherwise be eligible as a planned development may become eligible by using the planned option at the permitted open space subdivision density and without the increased open space.

(Ord. No. 97-172, § 3(ch. 13, § 07.420), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 07.420), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.07.430. Historic resources.

Historic resources that are preserved and restored for use shall not be counted as part of the maximum permitted development as determined by Article 5 of this Chapter.

- A. A residence that is preserved for detached single-family use shall not be counted as one of the permitted residential lots as determined by Article 5, but shall be a bonus unit if it is preserved and restored.
- B. Historic structures larger than two thousand (2,000) square feet in gross floor area, excluding garages, unfinished basements, enclosed mechanical and storage areas, may be converted to a duplex and shall not be counted as one of the permitted dwelling units as determined by Article 5.
- C. Residential units that are preserved for multifamily uses shall not be counted towards the permitted units as determined by Article 5, but shall be a bonus for preservation and historic rehabilitation or restoration.
- D. When structures are preserved for nonresidential uses, the gross floor area of the historic resource shall not be counted towards the permitted gross floor area as determined by Article 5, and shall be a bonus for preservation and historic rehabilitation or restoration at a percentage determined by the Historic Review Board and in concurrence with the Department of Land Use.
- E. The preservation and historic restoration or rehabilitation of historic resources determined to be either an open context site or an enclosed context site in accordance with Section 40.15.120, shall be eligible for the following where included in passive open space as approved by the Department:
 - 1. The open space may be sold for use as a developable lot. The lot must be subject to a conservation easement that prevents any improvement on the property which would detract from the historic setting.
 - 2. The open space may be split into a lot and open space to be maintained by the maintenance organization. The lot and open space must be subject to a conservation easement that prevents any improvement on the property which would detract from the historic setting.

(Ord. No. 97-172, § 3(ch. 13, § 07.430), 12-31-1997; Ord. No. 20-071, § 6, 10-27-2020)

Sec. 40.07.440. Historic preservation incentive.

A land development plan containing an historic resource meeting the criteria for designation pursuant to Section 40.15.110 may qualify for a bonus when the applicant proposes rehabilitation or restoration of such historic resource. To qualify for consideration, the applicant must submit with the land development application a pro-forma indicating the cost of the historic rehabilitation or restoration versus the fair market value of the restored or rehabilitated property.

- A. The Historic Review Board may recommend to the Department an appropriate bonus (if any) for the land development plan.
- B. Upon receiving a recommendation from the Historic Review Board, the Department shall consider the following bonuses for the land development application that provide incentives to rehabilitate, restore, and preserve the historic resources:
 - 1. Bonus of dwelling units in a major residential land development plan.
 - 2. Additional floor area for nonresidential properties.
 - 3. Transferable development rights.
 - 4. Impact fee reduction.
 - 5. Utilization of an historic Moderately Priced Dwelling Unit(s) (MPDU) in accordance with Section 40.15.320.

(Ord. No. 97-172, § 3(ch. 13, § 07.440), 12-31-1997; Ord. No. 20-071 , § 6, 10-27-2020)

Editor's note(s)—Ord. No. 20-071 , § 6, adopted October 27, 2020, changed the title of Section 40.07.440 from "Renovation incentive" to "Historic preservation incentive."

Division 40.07.500. Traditional Neighborhood Housing Program.¹

Sec. 40.07.501. Purpose and intent.

The intent of this Division is to promote moderately priced housing that is designed to be available to working families throughout the County, by requiring all major residential subdivisions with a rezoning application or variance application proposing an increase in density to include moderately priced dwelling units and to offer a density bonus for major residential subdivisions not requiring a rezoning if a portion of the dwelling units are designated as moderately priced. Any project that provides moderately priced dwelling units shall also make a designated contribution to the Housing Trust Fund to assist with the provision of affordable housing throughout the County. The primary purposes of this Division include:

- A. Implementing the housing strategies as defined in the New Castle County Comprehensive Development Plan and furthering the strategies identified in the five (5) year consolidated housing plan for New Castle County;
- B. Ensuring that diverse housing options exist throughout the County to accommodate a wide range of incomes; and
- C. Allowing working families to live in communities with better access to employment and educational opportunities and a range of housing types.

(Ord. No. 14-109 , § 1, 12-9-2014; Ord. No. 22-024 , § 2, 7-26-2022)

Sec. 40.07.510. Mandatory applicability.

Required Moderately Priced Dwelling Units ("MPDUs"). MPDUs shall be required subject to the following conditions.

- A. On all rezoning applications proposing twenty-five (25) or more dwelling units.

¹Editor's note(s)—Prior to the reenactment of Division 40.07.500 by Ord. No. 14-109 , § 1, adopted December 9, 2014, Ord. No. 09-037, § 1, adopted October 13, 2009, repealed the former Division 40.07.500, §§ 40.07.510 and 40.07.520, in its entirety, which pertained to the village employment bonus, and derived from Ord. No. 97-172, § 3(ch. 13, §§ 07.510, 07.520), adopted December 31, 1997.

1. If the number of dwelling units proposed with the rezoning are increased by one hundred (100) percent or more over the number of dwelling units under the base density of the existing zoning, the required MPDU set-aside shall be based upon the number of housing types shown on the proposed plan.
 - a. On plans proposing five (5) or more housing types, fifteen (15) percent of all dwelling units shall be set aside as MPDUs.
 - b. On plans proposing less than five (5) housing types, twenty (20) percent of all dwelling units shall be set aside as MPDUs.
 2. If the number of dwelling units proposed with the rezoning are increased by seventy (70) percent or more but less than one hundred (100) percent over the number of dwelling units under the base density of the existing zoning, fifteen (15) percent of all dwelling units shown on the proposed plan shall be set aside as MPDUs.
 3. If the number of dwelling units proposed with the rezoning are increased less than seventy (70) percent over the number of dwelling units under the base density of the existing zoning, ten (10) percent of all dwelling units shown on the proposed plan shall be set aside as MPDUs.
 4. Base density prior to the rezoning shall be determined by completing a site capacity calculation pursuant to Articles 4 and 5 of this Chapter. The site capacity calculations shall be based upon a by-right development type for the existing zoning district and minimum site area pursuant to Table 40.04.110. The calculations shall be based on the same or equivalent development type proposed by the rezoning.
 - a. If no equivalent development type exists under the existing zoning district, the calculation may be based upon the by-right development type that yields the greatest number of dwelling units.
 - b. If the rezoning application proposes a change from a non-residential zoning district to a residential zoning district, the number of dwelling units under the base density prior to the rezoning shall be calculated utilizing the Suburban (S) zoning district.
- B. Any variance application proposing an increase in density over the density permitted by-right shall be required to provide MPDUs subject to the percentages provided in Subsection A if the land development application proposes a total of twenty-five (25) or more dwelling units.
- C. Payment-in-lieu of MPDU construction. Where a developer can provide evidence that the inclusion of MPDUs within the rezoning plan poses a significant hardship or would not further the purpose or intent of this division, the Department may allow the payment of a fee-in-lieu of constructing MPDUs, as set forth below.
1. The Department may consider payment-in-lieu only if the developer can demonstrate that the mandatory community maintenance, membership and recreation fees will create a severe cost burden to a qualified household if the MPDUs were constructed as part of the rezoning application. For purposes of determining severe cost burden, the meanings and definitions promulgated by the United States Department of Housing and Urban Development ("HUD") shall control.
 2. The payment-in-lieu amount shall be the difference between the listed sales price of a market rate dwelling unit and the maximum sales price of an MPDU of the equivalent type.
 - a. The maximum sales price of an MPDU shall be based upon the County's Maximum Allowable Sales Price Calculation Chart at the time of payment of the in-lieu fee.
 - b. If the sales price of a market rate dwelling unit exceeds five hundred thousand dollars (\$500,000.00), the in-lieu fee amount shall be calculated using five hundred thousand dollars (\$500,000.00) as the listed sales price. This amount shall be increased by three (3) percent, compounded annually, beginning January 1, 2016.

3. The in-lieu fee shall be paid for each required MPDU that will not be provided.
4. All payments-in-lieu shall be deposited in the Housing Trust Fund.
- D. This section shall not apply to rezoning applications where dwelling units are required to meet the residential requirements of a mixed use development.
- E. This Section shall not apply to the acreage associated with the rezoning of historic resources to be preserved in accordance with Division 40.15.300.
- F. On a multifamily conversion application proposing twenty-five (25) or more residential units, ten (10) percent of all units must be set aside as MPDUs.
- G. On a mixed use or transit oriented development application proposing one hundred (100) or more residential units, ten (10) percent of all units must be set aside as MPDUs. On all Pocket Neighborhood (Division 40.25.333) and Hamlet and Village Design (Division 40.25.100) development plans proposing twenty-five (25) or more dwelling units fifteen (15) percent of all dwelling units shall be set aside as MPDUs.

(Ord. No. 14-109 , § 1, 12-9-2014; Ord. No. 17-094 , § 1, 3-27-2018; Ord. No. 20-071 , § 7, 10-27-2020; Ord. No. 24-057, 9-24-2024, Ord. No. 24-137, 12-10-2024)

Sec. 40.07.520. Voluntary applicability.

MPDUs may be provided on a voluntary basis subject to the following provisions.

- A. *Density bonus.* Any major subdivision proposing dwelling units may receive a density bonus if such plan provides MPDUs.
 1. The residential density incentive shall be up to twenty (20) percent of the base density.
 - a. Base density shall be determined by completing a site capacity calculation pursuant to Articles 4 and 5 of this Chapter. The site capacity calculations shall be based upon a by-right development type for the existing zoning district and minimum site area pursuant to Table 40.04.110.
 - b. The density bonuses shall be added to the yield produced by the site capacity calculations set forth in Article 5.
- B. *Set-aside.* The number of MPDUs that shall be set-aside shall be based upon a percentage equaling fifty (50) percent of the density bonus. If the density bonus is twenty (20) percent, ten (10) percent of all dwelling units shall be designated as MPDUs.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.530. Contribution to the Housing Trust Fund.

A contribution shall be made for all dwelling units that are not designated as MPDUs on all Traditional Neighborhood Housing Program plans. The contribution shall be twelve dollars (\$12.00) per one thousand dollars (\$1,000.00) of permit construction valuation and shall be payable at the time of issuance of a Certificate of Occupancy. All monies shall be deposited in the Housing Trust Fund.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.540. Location and appearance of on-site MPDUs.

- A. Alternative dwelling unit types may be used to accommodate MPDUs.
- B. MPDUs shall be dispersed and located throughout the development according to dwelling unit type and should not appear as noticeably segregated from the market rate dwelling units of the same type.

- C. The exterior appearance of the MPDUs should be similar to market rate dwelling units of the same type, by providing similar architectural style and similar exterior building materials, finishes, and quality of construction. Prior to exploratory plan approval, the applicant shall submit architectural renderings or design guidelines for the project that are in compliance with the standards of Article 25.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.541. Pre-application review and staging plan requirements.

- A. All Traditional Neighborhood Housing Program plans shall undergo a pre-application sketch plan review/conference and the submission of a concept plan showing the number, type, and location of all dwelling units and the general layout of site improvements.
- B. Prior to record plan submittal, the developer shall submit a staging plan that identifies the locations of the MPDUs. The location of off-site units also must be identified on the staging plan. The staging plan may be modified administratively and shall be considered a construction document for the purpose of record keeping.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.542. Off-site MPDUs.

It is the intent of this Division that MPDUs be located within Traditional Neighborhood Housing plans. However, MPDUs may be located off-site where the developer provides evidence that inclusion of MPDUs within the major subdivision plan would pose a significant hardship; or, locating the off-site unit serves a better public purpose than if the unit were to be located in the market rate development. The Department may approve off-site MPDUs subject to the following limitations.

- A. No more than fifty (50) percent of the total required MPDUs are located off-site.
- B. The MPDU is offered for ownership and not as a rental unit.
- C. The off-site MPDU is located:
 - 1. Within a Market Value Analysis ("MVA") market cluster equal or greater to the record plan site but no more than one letter less. Thus, if the record plan is located in MVA Cluster B, the offsite MPDUs shall be located in MVA A, B, or C. The MVA market clusters are identified in the Delaware Housing Needs Assessment 2015-2012, as may be amended and updated, issued by the Delaware State Housing Authority; or
 - 2. On a property that is residentially zoned and designated as a problem property or is otherwise abandoned or distressed.
 - a. A property is abandoned if: (a) property tax payments are at least ninety (90) days delinquent; (b) a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within ninety (90) days of a violation notice; or, (c) the property is subject to court ordered nuisance abatement related to property maintenance violations.
 - b. A property can be deemed distressed upon approval of the Department pursuant to its policies and procedures.
 - c. A property is considered a problem property if it is listed on the Department's problem property list.
- D. Any off-site unit that is not newly constructed pursuant to the standards and requirements of the current County building code, Chapter 6 of the New Castle County Code, must be improved to comply with the rehabilitation standards applicable to the New Castle County Neighborhood Stabilization Program.
- E. A private, public, for-profit or non-profit organization that has been building, rehabilitating and providing affordable housing units within the County or some other similar jurisdiction for at least five

(5) years may agree to develop the off-site MPDUs in partnership with the developer pursuant to a memorandum of agreement with the developer and for the benefit of New Castle County. Such agreement shall be approved by the Department and the Office of Law prior to record plan approval.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.543. Timing of MPDU construction and payment of in-lieu fees.

- A. MPDUs shall be made available for sale concurrently with the market rate dwelling units for the project. The issuance of building permits for market rate dwelling units shall be stopped at the levels indicated below:
 - 1. Twenty-five (25) percent pending the issuance of twenty-five (25) percent of building permits for MPDUs;
 - 2. Fifty (50) percent pending the issuance of certificates of occupancy for twenty-five (25) percent of the MPDUs;
 - 3. Seventy-five (75) percent pending the issuance of certificates of occupancy for fifty (50) percent of the MPDUs; and
 - 4. Ninety (90) percent pending the issuance of one hundred (100) percent of building permits for MPDUs.
- B. Payment-in-lieu fees shall be payable at the same percentage and at the same time MPDUs would have been made available. Issuance of building permits shall be stopped at the percentages designated in Subsection A until it is confirmed that payment is made.
- C. The Department may allow a variation to the stop levels listed above at the request of the applicant and based on good cause shown and unforeseen circumstances.
- D. If a private, public, for-profit or non-profit organization is providing the MPDUs subject to a memorandum of agreement with the developer, the timing of construction of the MPDUs shall be controlled by the memorandum of agreement.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.550. Income eligibility and pricing.

Income eligibility and pricing standards shall be based upon the current annual Area Median Income ("AMI") determined by income information and adjusted by household size published by HUD for Metropolitan Statistical Areas (MSA). New Castle County is within the Philadelphia-Camden-Wilmington Metropolitan Statistical Area as defined by the federal Office of Management and Budget.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.551. Homeownership MPDUs.

- A. *Maximum Sales Price (MSP)*. The MSP shall be established for unit size based on presumed household size and the qualifying level for the applicable AMI target. The MSP shall be reflected on Allowable Sales Price Calculation Charts maintained by the Department of Community Services.
- B. *AMI targets*. MPDUs designated for homeownership shall be made available to homeowners at two (2) income levels calculated as AMI.
 - 1. *Ninety (90) percent AMI target*. Fifty (50) percent of the MPDUs shall be affordable to qualified households with household income up to ninety (90) percent of AMI.
 - 2. *Seventy-five (75) percent AMI target*. Fifty (50) percent of the MPDUs shall be affordable to qualified households with household income up to seventy-five (75) percent of AMI.

(Ord. No. 14-109 , § 1, 12-9-2014; Ord. No. 17-094 , § 2, 3-27-2018)

Sec. 40.07.552. Rental MPDUs.

- A. Rental MPDUs shall be permitted as follows:
1. In land developments designed as rental communities such as apartment complexes or rental townhouse communities, one hundred (100) percent of the MPDUs may be rental.
 2. In land developments not designed as rental communities, up to fifty (50) percent of the MPDUs may be rental.
- B. MPDUs designated for homeownership may be designated for rental only when all reasonable efforts are made to sell the MPDU to an eligible income qualified household for no less than three hundred sixty-five (365) days and such efforts have failed to result in an offer by an eligible income qualified household for MSP.
1. Reasonable efforts shall mean listing the MPDU with a licensed real estate salesperson or offering the MPDU through continuous advertisement through a media generally accepted for the marketing of real estate.
 2. Any change in the sale or rental designation of a MPDU shall be documented on the staging plan.
 3. Documentation of reasonable efforts must be provided prior to modification of the staging plan.
- C. Maximum Allowable Rent (MAR). MAR shall be determined by the Department of Community Services upon the submission of the request for affordable rent determination form. MAR shall be established at rates affordable to qualified households with incomes equal to seventy-five (75) percent of AMI.
- D. Household eligibility. Rental MPDUs shall be made available only to qualified households with incomes up to seventy-five (75) percent of AMI.

(Ord. No. 14-109 , § 1, 12-9-2014; Ord. No. 17-094 , § 3, 3-27-2018)

Sec. 40.07.553. Qualification.

Qualified household. To determine whether a household is eligible to purchase or rent a MPDU, the household must complete a certification or developer process that has been approved by the Department of Community Services. At the time of purchase, the household must submit an owner-occupancy declaration to the Department of Community Services, declaring that it is income eligible and that the unit is its primary residence. The Department of Community Services will issue a certificate of qualification to a qualified household. All applicants must complete no less than eight (8) hours of HUD approved housing counseling prior to receiving a certificate of qualification.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.560. Affordability period and controls.

MPDUs established by a multifamily conversion, mixed use, or transit oriented development must remain subject to the restrictions contained in this Division for a fifteen (15) year affordability period calculated from the date of first sale or rental of each unit. All other MPDUs shall remain subject to the restrictions contained in this division for a ten (10) year affordability period calculated from the date of first sale. All resales during the affordability period shall be subject to the following restrictions:

- A. Resale Maximum Sales Price (RMSP). The RMSP of the MPDU shall be calculated as the sum of the original purchase price multiplied by the Consumer Price Index plus the cost of: (1) documented improvements at the time of sale, (2) customary closing costs, and (3) costs of real estate commissions paid by the seller if a licensed real estate salesperson is employed.
- B. All reasonable efforts shall be made to resell the MPDU to an eligible income qualified household for no less than one hundred eighty (180) days. If the MPDU is marketed for resale by a qualified household either through a licensed real estate salesperson or through documented and continuous advertisement

through a media generally accepted for the marketing of real estate, and the qualified household fails to receive an offer for maximum price as calculated pursuant to Subsection A above, the MPDU can be sold to any bona fide purchaser at an arms-length transaction. If the seller receives consideration for such transfer in excess of the RMSP, such amount shall be considered the resale profit. The seller and purchaser are jointly and severally liable for and agree to pay the resale profit, multiplied by one (1) minus a fraction, the numerator of which is the number of complete calendar months since the date that the initial purchaser purchased the MPDU, and the denominator of which is one hundred twenty (120) to New Castle County ("NCC's Resale Profit"). The NCC Resale Profit shall be reflected on HUD-1 Settlement Statement. In the event that the seller or purchaser fail to pay the NCC Resale Profit to the County on the date of transfer of title to the MPDU, the County shall have a lien against the MPDU for NCC's Resale Profit, plus interest thereon at the rate of ten (10) percent per annum. Any and all Resale Profit paid to the County shall be deposited into the New Castle County Housing Trust Fund. In the event that a seller or purchaser defaults on any term of the deed restrictions, the County may pursue default remedies in accordance with the terms of the deed restrictions deed rider.

- C. A private, public, for-profit or non-profit organization that has been building, rehabilitating and providing affordable housing units within the County or some other similar jurisdiction for at least five (5) years shall be exempt from following the controls if their own affordability controls that meet or exceed the requirements herein and obtain the approval of the Department of Community Services.

(Ord. No. 14-109 , § 1, 12-9-2014; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.561. Master development agreement.

Prior to record plan approval, the developer shall execute a master development agreement in favor of the County, which shall be recorded upon approval of the County's Office of Law.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.562. Buyer agreement.

Prior to the conveyance of an MPDU, the buyer shall execute a buyers agreement with New Castle County, acknowledging the buyer's acceptance and understanding of the terms and conditions of ownership subject to the Traditional Neighborhood Housing Program.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.563. Deed restrictions.

Restrictions to ensure continued affordability of MPDU's during the affordability period shall be contained in legally binding covenants and restrictions running with the MPDU property. The covenants and restrictions shall be recorded upon approval of New Castle County prior to the conveyance or rental of the MPDUs. The covenants and restrictions shall be recorded against the MPDU only.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.564. Sales and rental agreements.

A written agreement delineating the terms and conditions of the sale or rental shall be required for every sale or rental of a MPDU.

- A. Unless approved in writing by New Castle County, each sales or rental agreement shall reference that the dwelling unit is an MPDU and subject to the affordability controls contained in this Division.
- B. All sales and rental agreements shall be forwarded to the Department of Community Services with thirty (30) days of execution for as long as the affordability period applies to the MPDU.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.570. Reserved.

Sec. 40.07.580. Annual reporting and on-going evaluation.

The Department of Community Services shall provide County Council with an annual report on the use and effectiveness of this program which shall be discussed at a Council Committee Meeting open to the public. The annual report may recommend amendments to this Division and this Chapter. The report shall include details about how well the program is providing diverse housing options, how well MPDUs are being distributed throughout the County and what factors are contributing to the success or failure of the program. The recommendation report may include suggestions such as increasing or decreasing incentives, modifying restrictions, changing fees, imposing additional requirements or any other recommendation that would further the purpose of the Traditional Neighborhood Housing Program.

(Ord. No. 14-109 , § 1, 12-9-2014)

Sec. 40.07.590. Enforcement.

In addition to the County's remedies outlined in Article 31 and elsewhere in the New Castle County Code, the County may take any legal action at law or equity to void property transfers for MPDUs not sold to qualified income-eligible households during the designated affordability period.

(Ord. No. 14-109 , § 1, 12-9-2014)

Division 40.07.600. Development bonuses.

This Division provides incentives for developments that combat sprawl, enhance the viability of older commercial areas, provide employment opportunities, or encourage transit use.

(Ord. No. 97-172, § 3(ch. 13, div. 07.600), 12-31-1997; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.610. Eligibility.

The following development types shall be eligible for a development bonus.

- A. *Community Development.* These sites are located in areas identified by the Comprehensive Plan as Community Development Areas.
- B. *Corridor Redevelopment.* These sites are nonresidential zoned sites located in Type 1 Commercial Corridor Development Areas.
- C. *Transit oriented infill.* The site shall be within one thousand (1,000) feet of a transit stop, or have an agreement that a transit stop will be built within one thousand (1,000) feet based on a Delaware Transit Corporation certification that the facility is in the capital budget.
- D. *Employment infill.* The proposed infill project must be a generator of at least four hundred (400) jobs, and shall be located within one thousand (1,000) feet of a transit stop, or have an agreement that a transit stop will be built within one thousand (1,000) feet based on a Delaware Transit Corporation certification that the facility is in the capital budget. Further, the development shall be required to implement a travel demand management program approved by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 07.610), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 07.610), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-007, § 2, 3-28-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.620. Community Development incentive.

Except for uses identified in Section 40.33.270, a land development plan in an area identified as a Community Development Area and consistent with the Community Area Master Plan Key Recommendations in the Comprehensive Plan are eligible for the Community Development incentive. The following apply to land a development plan that includes the Community Development incentive:

- A. A nonresidential land development plan is reviewed as a redevelopment plan under Section 40.08.130.B.6 without the requirement to demolish GFA.
- B. The permitted density or floor area ratio is increased by fifteen (15) percent.
- C. The minimum open space ratio or landscape surface ratio in Article 4, Table 40.04.110A is reduced to 0.15.
- D. The development must include elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7.

(Ord. No. 97-172, § 3(ch. 13, § 07.620), 12-31-1997; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.630. Reserved.

Editor's note(s)—Ord. No. 06-007, § 3, adopted March 28, 2006, repealed § 40.07.630 in its entirety. Formerly, said section pertained to redevelopment bonus as enacted by Ord. No. 97-172, § 3(ch. 13, § 07.630), adopted Dec. 31, 1997.

Sec. 40.07.640. Corridor Redevelopment incentive.

Corridor Redevelopment occurs on developed nonresidential land identified by the Comprehensive Development Plan as a Type 1 Commercial Corridor Development Area. The following apply to land development plans that include the Corridor Redevelopment incentive:

- A. A nonresidential land development plan is reviewed as a redevelopment plan under Section 40.08.130.B.6 without the requirement to demolish GFA.
- B. The development must include elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7.

(Ord. No. 97-172, § 3(ch. 13, § 07.640), 12-31-1997; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.650. Transit oriented infill.

A bonus for transit oriented development shall be provided as follows:

- A. Rail transit oriented infill shall receive a bonus of up to thirty (30) percent to be granted pursuant to the rules of this Section.
 - 1. The development shall be zoned and built to Suburban Transition (ST), Commercial Neighborhood (CN), or Commercial Regional (CR) standards, except:
 - a. The minimum open space in Table 40.04.110 shall be reduced by twenty-five (25) percent to accommodate the extra density.
 - b. Mixed uses within four hundred (400) feet of the transit stop may go to five (5) stories or seventy-five (75) feet.
 - c. Multi-family developments shall meet the lot and bulk requirements of Table 40.04.112 except that the units may be five (5) stories or sixty (60) feet in height.
 - 2. The minimum parking for mixed use, higher density, attached or multi-family units is reduced by 12%.

3. The rail transit station may have structured parking and may be incorporated into a mixed use building. The Department may modify the mixed use requirements to provide the needed commercial and residential parking in close proximity to the station.
- B. Bus transit oriented infill, zoned for Suburban Transition, shall receive a bonus of up to twelve (12) percent and to be granted pursuant to the rules of this Section.
 1. The maximum open space in Table 40.04.110A shall be reduced from twenty (20) or twenty-five (25) percent to fifteen (15) or twenty (20) percent to accommodate the extra density.
 2. The highest intensities shall be located so as to have direct pedestrian access to the bus stop.
 3. Shall be located within one thousand (1,000) feet of the transit stop.

(Ord. No. 97-172, § 3(Ch. 13, § 07.650), 12-31-1997; Ord. No. 24-057, 9-24-2024)

Sec. 40.07.660. Employment infill.

An employment generator shall submit a travel demand management program that specifies the reduction of peak hour trips to be provided by the plan. Based on a parking and traffic analysis, the reduction in peak hour trips shall be translated into a lower trip generation rate. That lower rate shall be used in Table 40.05.110 to calculate the permitted floor area. Further, an additional ten (10) percent shall be granted if the project is a mixed use project. In granting the bonus the following shall be required:

- A. Total parking spaces shall be reduced to take into account the reduction in peak hour trips. A contingency plan to require structured or at grade parking shall be submitted that must conform to required landscape surface ratios.
- B. A special service district shall be created to ensure that the transit or other capital or fiscal elements of the plan are funded over time.

(Ord. No. 97-172, § 3(ch. 13, § 07.660), 12-31-1997)

Division 40.07.700. Age restricted residential development bonus.

In order to increase the quantity and suitable housing stock for older New Castle County citizens, and in recognition of the fiscal advantages of age-restricted communities, developments comprising of single-family detached and single-family attached housing types (including twins) intended for occupancy and use by individuals age fifty-five (55) and older pursuant to the provision of the Housing for Older Peoples Act (HOPA) of 1995 of the Federal Fair Housing Act, 42 U.S.C. § 3601 et seq. may, at the Department's discretion, receive up to a twenty (20) percent density bonus as indicated in the Age Restricted Development Options contained in Table 04.110 A. In addition, all of the following provisions shall be satisfied:

- A. The density bonus shall be applicable only to proposed residential developments in the S (Suburban) and ST (Suburban Transition) zoning districts.
- B. All provisions of the Federal Fair Housing Act (42 U.S.C. § 3601 et seq.) shall be complied with by the applicant to the satisfaction of the Department and County Council.
- C. All dwelling units that are to be part of the age restricted community shall be deed restricted to contain all necessary living arrangements on the first floor. This shall include at least one (1) bedroom and full sanitary facilities, including shower/tub installation, on the first floor of the dwelling.

(Ord. No. 00-011, § 2, 6-13-2000; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

ARTICLE 8. NONCONFORMING SITUATIONS

Division 40.08.000. Purpose.

- A. It is the purpose of this Article to provide for the regulation of lawfully nonconforming situations and to specify those circumstances and conditions under which such nonconforming situations shall be permitted to continue.
- B. The zoning regulations established by this Chapter control the future use of land by encouraging appropriate groupings of compatible and related uses. The regulations of this Article permit nonconforming situations that result from the adoption of this Chapter to continue under certain circumstances. While this Article permits nonconformities, it restricts further investments which would tend to make a nonconforming situation more permanent.

(Ord. No. 97-172, § 3(ch. 13, div. 08.000), 12-31-1997)

Sec. 40.08.010. Applicability.

This Article shall apply to legal land uses that became nonconforming following the adoption of this Chapter. This Article shall also apply to nonconforming situations that were legal nonconformities under any previously applicable ordinances or resolutions and that remain nonconforming under this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 08.010), 12-31-1997)

Sec. 40.08.020. Continuation permitted.

Except as otherwise specifically provided in this Article, any nonconforming situation may continue to remain as the same nonconforming situation.

(Ord. No. 97-172, § 3(ch. 13, § 08.020), 12-31-1997)

Sec. 40.08.030. Proof of nonconformance.

The burden shall be on the landowner to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects.

(Ord. No. 97-172, § 3(ch. 13, § 08.030), 12-31-1997)

Sec. 40.08.040. Ownership.

Any change of title or of right to possession shall not affect the continuation of a nonconforming situation, provided the change in ownership does not result in a change of use that is inconsistent with any of the provisions in this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 08.040), 12-31-1997)

Sec. 40.08.050. Manufactured/mobile homes.

Any manufactured home or mobile home sited and used for residential purposes in the County on an individual parcel or lot outside of a mobile home park or mobile home subdivision as of January 1, 1992, shall be considered a nonconforming use which may continue to be used for the same nonconforming purpose, provided that the manufactured home or the mobile home constitutes the only residential dwelling on the parcel or lot as of that date. The replacement of an existing nonconforming manufactured home or mobile home on a lot outside a mobile home park or mobile home subdivision shall comply with all applicable requirements of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 08.050), 12-31-1997)

Division 40.08.100. General regulations.

(Ord. No. 97-172, § 3(ch. 13, div. 08.100), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 08.100), 9-22-1998)

Sec. 40.08.110. Changes in use of land.

A nonconforming use shall not be changed to any other nonconforming use. Any change in use must be in compliance with the use provisions of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 08.110), 12-31-1997)

Sec. 40.08.120. Discontinuance.

Whenever a nonconforming use is discontinued for a period of six (6) months, irrespective of the reasons therefor, such use shall not thereafter be reestablished, and any future use shall be in accordance with this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 08.120), 12-31-1997)

Sec. 40.08.130. Alteration/enlargement/extension.

- A. *Nonconforming use.* Nonconforming use of a building or structure or lot shall not be extended or enlarged. A nonconforming use terminates when the building, structure or other improvement is destroyed in excess of fifty (50) percent of the assessed value of such building, structure or other improvement.
1. *Exception.* In Villages of Arden, Ardentown and Ardencroft, two (2) or more single family residential dwellings on one (1) lot that has been certified a legally nonconforming use may continue to be used and occupied as residential dwellings without the need for any special use permit or other Board of Adjustment variance. The dwelling(s) may be rebuilt in the same footprint if partially or wholly destroyed, provided there is no additional gross floor area added and no new nonconformities are created.
- B. *Nonconforming building, structure, or situation.* A nonconforming building, structure or situation other than a nonconforming use may be enlarged, extended or replaced only as provided below:
1. *Extension or enlargement.* Any new extension or enlargement must comply with this Chapter. For any new extension or enlargement five thousand (5,000) square feet GFA or greater in the OR, BP, I, or HI zoning districts or one thousand (1,000) square feet GFA or greater in all other zoning districts, the existing nonconformities must be brought into compliance proportional to the increase in the proposed development, provided the total site development complies with the site capacity requirements of Article 5, and further provided that:
- a. Improvements must be made to design elements such as, but not limited to, parking, buffers, landscaping, access, stormwater management, impervious cover, off-site transportation improvements/capacity, and mitigation of damage to, or enhanced protection for existing natural/environmental resources.
- b. Nonconforming building setbacks are not subject to this proportional improvement requirement.
- c. The Department will consider improvements to the development where they are most needed, are appropriate, and can be physically accommodated.
2. *Alteration.* Alteration of a building within an existing footprint is permitted, provided that the alteration does not increase the degree of nonconformity.
3. *Restoration.* Restoration of a building or structure destroyed less than fifty (50) percent of its replacement market value, as established by an appraisal prepared by a professional appraiser qualified to do business in the State of Delaware shall be permitted, provided that the restoration commences within twelve (12) months from the date of destruction. The commencement of restoration shall mean the acquisition of a building permit and commencement of construction within twelve (12) months from the date of destruction.

This time frame may be extended with the consent of the Department for circumstances beyond the control of the applicant.

4. *Replacement or repair.* The replacement or repair of portions of a building or structure declared by the County to be a hazard or unsafe shall be permitted provided the repairs or replacement do not increase the gross floor area of the building or increase the degree of nonconformity with the setback requirements and further provided that the portions declared unsafe do not exceed fifty (50) percent of the replacement market value of the whole structure, as established by an appraisal prepared by a professional appraiser qualified to do business in the State of Delaware.
5. *Reconstruction.* Any nonconforming building or structure destroyed more than fifty (50) percent of its gross floor area (GFA) or replacement market value may be reconstructed in accordance with the redevelopment standards in this Section or full compliance with this Chapter. In addition, any site that is certified as a Brownfield, regardless of any percentage of loss or destroyed replacement market value of any structure, may be developed in accordance with the redevelopment standards in this section. For purposes of reconstruction pursuant to the redevelopment standards of B.6, commencement of construction shall begin with the acquisition of a building permit no later than ten (10) years from the date of destruction.
6. *Redevelopment and Brownfields.*
 - a. *Purpose.* Redevelopment is intended to facilitate and encourage the continued viability of previously developed land by granting a credit for extractive use sites, Brownfields, and nonconforming nonresidential sites. The rehabilitation or restoration of existing structures is highly recommended. Redevelopment is also intended to facilitate and encourage the improvement of former or existing extractive use or Brownfield sites that may lack any current or prior GFA.
 - b. *Applicability.* Redevelopment of nonresidential uses and sites is subject to the following:
 - i. The site and all buildings on the site must be first evaluated for historical significance under Article 15.
 - ii. The applicant is permitted to utilize all legally established GFA for the site if the GFA is existing or has existed on the site. Unbuilt GFA may not be utilized.
 - iii. Except as otherwise provided in Subsection B.6.b.iv below, for Commercial Neighborhood (CN) and Office Neighborhood (ON) zoned sites, at least fifteen (15) percent of built GFA that is not determined to be historically significant must be demolished. For all other zoning districts, at least fifty (50) percent built GFA that is not determined to be historically significant must be demolished.
 - iv. Legally existing GFA on extractive use, Brownfield, or nonresidential sites identified by the Comprehensive Plan as either a Community Development Area or Type 1 Commercial Corridor Development Area need not be demolished for the site to be eligible for redevelopment.
 - v. For nonresidential zoned sites that are currently used for residential purposes and abut residentially zoned property, the applicant must provide the entire required buffer against the residential land.
 - vi. The redevelopment of a site under Subsection 40.08.130 B.6. permits the continuation of certain nonconforming situations, but prohibits the creation of any new nonconformity or the expansion of an existing nonconformity. In the event a plan proposes development that does not otherwise comply with this Chapter, the applicant may submit a variance application, if the plan includes elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7.
 - vii. Levels of proportional compliance are required to meet or exceed the provisions provided for in Subsection B.6.e. In lieu of this section, an applicant may choose to redevelop the site in full compliance with the UDC.

- viii. For sites requiring fifty (50) or more parking spaces, the maximum parking permitted for a redevelopment plan is one hundred and fifteen (115) percent of the minimum parking required by this Chapter.
- ix. For land identified by the Comprehensive Development Plan as a Corridor Area, the property owner must include elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7.
- x. Excluding parking structures, Commercial Regional (CR) zoned land within one thousand (1,000) feet of a parcel with a passenger rail station can only be redeveloped as a permitted or limited use.
- xi. The record plan must indicate that the plan has been reviewed and approved according to the redevelopment standards in this section with improvements to design elements noted on plan.
- c. *Redevelopment plans.* Redevelopment plans shall be reviewed as minor or major land development plans as defined in Article 33 unless the following criteria apply:
 - i. Minor redevelopment land development.
 - (a) The plan proposes GFA that does not exceed legally established GFA on the site. The credit for legally established GFA may exceed the permitted floor area ratio (FAR) in Table 40.04.110.
 - (b) The plan proposes credit for legally established GFA plus new additional GFA not exceeding fifty thousand (50,000) square feet provided the site does not exceed the permitted FAR in Table 40.04.110.
 - (c) The creation of a business park or industrial park regardless of the number of lots or square footage unless it is in conflict with Subsection B.6.e.7.
 - ii. Major redevelopment land development—With net increase. The plan proposes credit for legally established GFA plus additional new GFA of greater than fifty thousand (50,000) square feet but not to exceed the permitted FAR in Table 40.04.110 and provided no special studies are needed.
- d. *Review process.* All major redevelopment plans, including sites that qualify as a Brownfield and any plan that is also requesting a rezoning as part of the submission shall follow the review procedures of Article 31. All minor redevelopment plans shall be approved by the General Manager of the Department pursuant to Section 40.31.114.B. All major redevelopment plans shall be required to obtain County Council approval as part of the record plan review pursuant to Section 40.31.114.C.
- e. *Design element improvements.* Improvements toward further code compliance shall be made to design elements such as, but not limited to, parking, buffers, landscaping, access, setbacks, stormwater management, impervious cover, off-site transportation improvements/capacity, or mitigation of damage to or enhanced protection for existing natural/environmental resources. Improvements may also be proposed to the architecture of the structure. Emphasis shall be placed on improved landscaping and buffers particularly around parking lots and abutting conflicting land uses. In recognition of existing site conditions, the Department may require specific improvements to the development where they are most needed, are appropriate, and can be physically accommodated. These specific improvements may result in a total aggregate percent improvement greater than the minimum required.
 - i. The exploratory sketch plan must identify and quantify all of the existing nonconformities on a property. The property owner must propose improvements in selected design elements listed above, such that in totaling the individual design element improvements, the aggregate shall be equal to or greater than a four hundred (400) percent improvement. The applicant shall use Table 40.08.130.B to calculate the percent improvements proposed. Unless specific deficiencies are identified that warrant attention, a variety of improvements should be proposed throughout the

- site. Improvements that have only a limited effect may not be counted in the final aggregate improvement total.
- ii. The Department may require other site design improvements to the site that are not listed in Table 40.08.130.B and subsequently do not provide a direct comparison to this Chapter's numerical requirements. These include, but are not limited to, circulation design and access management, multi-story construction, cross-access agreements, architectural changes, forward location or build-to line for the new structure, etc. The Department will assign percent improvement values based upon the extent of the improvement and using sound and accepted planning principles.
 - iii. For a Brownfield site, the applicant must provide documentation from DNREC identifying and confirming the status of the site as part of the exploratory plan submission.
 - iv. The redevelopment of a Brownfield site in a floodplain must comply with Section 40.10.313 E.
 - v. Impact fees are only required for GFA that exceeds existing legally established GFA on the site (see Article 14).
 - vi. An operational analysis or a traffic impact study is required if requested by DelDOT or the Department. Proposed development that exceeds the legally approved GFA is subject to DelDOT transportation impact standards, and the County may limit or restrict development to less GFA if that is recommended by DelDOT. As a result, DelDOT may require transportation improvements as a condition of its letter of no objection. For major plans or rezonings, if an existing Level of Service (LOS) is A, B, C, or D, the proposed development may not cause that LOS to become E or F. If the existing LOS is E, the proposed development may not cause that LOS to become F.
 - vii. The redevelopment of a site within six hundred sixty (660) feet of the right-of-way of a designated byway must be designed in accordance with Article 18.
- f. *Permitted uses for Brownfields.* The I (Industrial) zoning district office use restriction of Section 40.03.321 shall not apply. General office uses will be permitted without limitation. In the HI district, the applicant may utilize the standards for lot size and setbacks from the I district. All uses permitted in the I district, including office use as enumerated above, shall be permitted in the HI district.
 - g. *Density bonuses.* A redevelopment density bonus in any zoning district not to exceed twenty-five (25) percent of the maximum nonresidential GFA or multifamily dwelling density allowed in Table 40.04.110 A or twenty-five (25) percent of the legally established nonresidential GFA or multifamily dwelling density on the site, whichever is greater, is permitted. Any redevelopment project that includes a density bonus as provided for in this Section shall be reviewed and evaluated under Appendix 7, Guiding Principles.
 - h. *Annual report.* The Department shall provide County Council with an annual report on the use and effectiveness of the redevelopment sections which shall be discussed at a Council Committee Meeting open to the public. The annual report may also recommend amendments to this Division and this Chapter based upon the success or failure of redevelopment plans to meet stated goals and objectives.
7. *Bridge reconstruction.* Any bridge declared unsafe by the County or State may be reconstructed provided there is no increase in the one hundred (100) year flood elevation.
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TABLE 40.08.130 B
Work Table to Calculate Value of Individual Design Element Improvements
and Total Aggregate Percent Improvement for Redevelopment Land Development Plans

(a) Improvement Design Elements (At least four (4) separate design element improvements shall be made.)	(b) UDC Site Specific Requirements and Standards	(c) Current or Existing Situation	(d) Proposed Improvement to Existing Situation	(e) Percent Improvement (d/b)	(f) Comments
Parking					
Number of required spaces					
*Bicycle parking					
*Handicap spaces					
Landscape area					
Plant units					
*Curbing					
Bufferyards					
Opacity					
- Street yard					
- Buffer width					
- Plant units					
- Rear yard					
- Buffer width					
- Plant units					
- Side yard(s)					
- Buffer width					
- Plant units					
Parking buffer					

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On-lot landscaping					
Landscape surface ratio					
*Street trees					
Reforestation and mitigation					
Additional standards for limited uses (Table 40.03.210)					
Riparian buffer area vegetation					
Mitigation and restoration of other natural resources					
Off-site transportation improvements and/or capacity					
Stormwater quantity management					
Stormwater quality management					
Historic preservation buffer					
Building setbacks					
- Street yard					
- Rear yard					
- Side yard					
Paving setbacks					
- Street yard					
- Rear yard					
- Side yard					
*Architectural					
** Guiding Principles					
* Energy efficient design					
Other					

Total Aggregate Percent Improvement (column e), must equal or exceed four hundred (400) percent =

* Maximum allowable percent improvement for these elements is fifty (50) percent.

** Not applicable for plans subject to Sections 40.08.130.B.6.b.vi and ix.

- C. *Resubdivision plans.* Resubdivision plans, as defined in Section 40.31.711, based upon major or minor plans recorded in compliance with regulations in effect prior to December 31, 1997, shall be processed under all regulations in effect as of December 31, 1997, provided, however, that the sunset provisions and impact fee provisions of this Chapter shall be applicable. Resubdivision plans proposing the reconfiguration of existing or proposed improvements that do not conform with the UDC may maintain the same degree of nonconformity but shall not result in a greater nonconformity. Any new improvements not depicted on the plan to be superseded must comply with the current regulations of this Chapter.
- D. *Water resource protection area district.* Any expansion or extension of a nonconforming situation located in a water resource protection area district shall be permitted subject to compliance with the standards established in Article 10.
- E. *Exception.* A structure that becomes nonconforming following destruction of more than fifty (50) percent of the structure may be rebuilt under applicable former Code provisions if the sole reason for the nonconforming situation is the applicability of the floodplain or riparian buffer standards of this Chapter. See also Section 40.10.311.

(Ord. No. 97-172, § 3(ch. 13, § 08.130), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 08.130), 9-22-1998; Ord. No. 01-098, § 1(Exh. A), 4-9-2002; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 01-098, § 1(Exh. A), 4-2-2002; Ord. No. 03-069, § 1, 10-28-2003; Ord. No. 04-054, § 1, 7-13-2004; Ord. No. 05-072, § 1, 9-13-2005; Ord. No. 06-007, § 4, 3-28-2006; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 08-001, § 1, 3-25-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 11-020, § 1, 7-26-2011; Ord. No. 22-072, § 6, 10-11-2022; Ord. No. 23-104, § 6, 1-9-2024; Ord. No. 24-057, 9-24-2024)

Sec. 40.08.140. Exceptions for existing lots.

- A. Any lot legally existing at the time of its creation, but which has been substantially made nonconforming as to lot area and/or lot width may be developed or further developed without the need for a lot area or lot width variance from the basic district standards in Section 40.04.110, provided all other applicable requirements of this Chapter are met.
- B. Existing residential uses. Any legally existing residential dwelling which use is rendered nonconforming because of a change in the applicable zoning district designation shall be considered to be permitted by right. As such, the property is subject to the same rights and privileges as other landowners with residential dwellings on conforming lots with regard to rebuilding, remodeling, extensions, expansions and enlargements to the dwelling and accessory structures and uses. The existing lot area and width of an affected lot and the surrounding residential character and zoning, if any shall be the basis for the Department to determine the applicable bulk and area standards from Table 40.04.110 using the zoning district and use category that most closely matches the affected lot.

(Ord. No. 98-080, § 1(ch. 13, § 08.140), 9-22-1998; Ord. No. 00-004, § 1, 5-9-2000; Ord. No. 01-019, § 1, 5-22-2001; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.08.220. Government action.

When in the public interest and where loss or damage has occurred to property including land or buildings occupied by a nonconforming situation, and where such loss or damage has occurred through no fault of the owner of such property but by the action of a governmental agency, the Board of Adjustment may approve as a special use

the nonconforming situation to continue. The Board of Adjustment may further limit but shall not extend such nonconforming situation to include the size and location of the land of any reconstructed buildings, the modification of existing buildings, and the use of the property either on the same lot or on a contiguous lot under the same ownership at the time of enactment of the 1954 County Zoning Code or a subsequent amendment hereto.

(Ord. No. 97-172, § 3(ch. 13, § 08.220), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Division 40.08.300. Certification.

Sec. 40.08.310. Certification of nonconforming status.

The status of any nonconforming situation may be determined by the Department after public notice or the Board of Adjustment after public hearing. An applicant may choose to apply either to the Board of Adjustment or the Department for a confirmation of nonconforming use. An applicant for Department certification shall submit a written request for the certification of legal nonconforming status, which shall include a fee as set forth in Appendix 2 of this Chapter and the submission of evidence to substantiate the legal existence of the nonconforming situation. The Department shall cause notice of the request to be posted on a web page established for legal notices on the County's website. The notice shall provide that the general public shall have twenty (20) days from the date of posting to submit written comments regarding the existence of the nonconforming situation to the Department. The Department shall also notify by regular mail, adjacent property owners, who shall have twenty (20) days from the date of the notice to submit written comments regarding the existence of the nonconforming situations to the Department. The Department may, at any time during the certification process, determine that the request and evidence submitted in support thereof is not sufficient to permit a finding that the applicant has established an entitlement to a lawful nonconforming situation. When such a finding is made, and upon the payment of the required fee, an applicant may request that the Board of Adjustment consider the nonconforming status issue.

(Ord. No. 97-172, § 3(ch. 13, § 08.310), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 22-053, § 3, 10-25-2022)

Division 40.08.400. Procedures for mitigating a nonconformity.

Sec. 40.08.410. Purpose.

This Division sets forth provisions for nonconforming uses, structures, or lots and provides procedures for making a nonconformity conform.

(Ord. No. 97-172, § 3(ch. 13, § 08.410), 12-31-1997)

Sec. 40.08.420. Procedure.

Any nonconforming use or structure may apply for a special use permit to mitigate the nonconforming stature of the use or structure. The owner of property may apply to the Board of Adjustment to mitigate the nonconforming status of that use.

(Ord. No. 97-172, § 3(ch. 13, § 08.420), 12-31-1997)

Sec. 40.08.430. Criteria for approval.

In addition to the criteria for a special use approval set forth in Article 31, the following requirements shall be met:

- A. The applicant must demonstrate that the use has minimal incompatibilities that have been integrated into the neighborhood's function. Factors to evaluate this criteria include:
 1. That the neighborhood residents patronize or are employed at the location of the use.

2. That management practices eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts.
 3. That the use has no history of verifiable complaints.
 4. That the use has been maintained in good condition or that the nonconformity represents a disincentive for such maintenance.
- B. The Board of Adjustment shall review the application and recommend in writing any conditions relative to the expansion of bufferyards, landscaping, or other site design. The review may also contain use limitations believed necessary to address any concerns that, as a conforming use, it may become a nuisance.
- C. The Department shall submit a list of all the nonconforming conditions of the property to the Board of Adjustment.
- D. The Board of Adjustment shall first determine whether the use is generally integrated into the neighborhood and any adverse impacts. Upon a finding that the use is integrated and has only minimal adverse impacts, the Board of Adjustment may grant the use and attach conditions as it deems necessary to ensure that the use remains an acceptable use.
- E. Sign mitigation shall not be permitted under any circumstance.

(Ord. No. 97-172, § 3(ch. 13, § 08.430), 12-31-1997)

Sec. 40.08.431. Effect.

Granting the special use makes the use or structure conform to the specifics of the approval, eliminating the nonconformance.

(Ord. No. 97-172, § 3(ch. 13, § 08.431), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

ARTICLE 10. ENVIRONMENTAL STANDARDS

Division 40.10.000. Purpose.

This Article establishes the basic performance standards to protect natural resources. Developments are required to conduct a carrying capacity analysis (Article 5) which regulates the maximum intensity based on actual site conditions. The site carrying capacity analysis ensures that public health, safety, general welfare and quality of life is protected and preserved for future generations. This Article establishes the protection standards used in Article 5 and sets additional standards for activities in areas of natural resources or the mitigation of resource areas that are disturbed.

(Ord. No. 97-172, § 3(ch. 13, div. 10.000), 12-31-1997)

Division 40.10.100. Resource protection standards.

Sec. 40.10.110. Resource protection standards.

- A. The protection of natural resources is achieved in three (3) ways. First, specific open space standards are proposed to protect each natural resource by insuring that some portion of the area remains undisturbed. Secondly, site capacity calculation (Article 5) is provided to regulate development of sites to that which is consistent with the level of protection. Lastly, specific use, protection, and mitigation standards are provided for each resource.
- B. Natural resources are protected by requiring the preservation of a minimum amount of the resource as open space. Such open space shall be part of the open space ratio in residential developments and part of the landscape surface ratio in nonresidential developments. Unless otherwise permitted in this Article or Table 40.10.210, the open space shall remain undisturbed. Resource protection levels are specified in Table 40.10.010 and must be met within any development. The development intensity may be modified by the site capacity calculations in Division 40.05.100. Natural resource definitions are described in Division 40.33.300.

Table 40.10.010
RESOURCE PROTECTION LEVELS

Natural Resource	Resource Protection Levels	
	CN, CR, ON, OR, BP, I, HI Districts	All Other Districts
Floodplain/floodway	1.00	1.00
Wetland	1.00	1.00
Cockeysville Formation Drainage Area - WRPA	0.50	0.50
Riparian buffer	1.00	1.00
Drainageways	0.00	0.40
Cockeysville Formation -WRPA	0.50	0.50
Sinkhole	1.00	1.00
Wellhead - WRPA Class A	1.00	1.00
Wellhead - WRPA Class B & C	0.50	0.50
Recharge areas - WRPA	0.50	0.50
Slope or geologic sites - CNA	1.00	1.00
Steep slopes (> 25%)	1.00	1.00
Steep slopes (15-25%)	0.25	0.50
Rare species site - CNA	1.00	1.00
Forests, Tier 1 - CNA	1.00	1.00
Forests, Tier 1	0.60	0.80
Forests, Tier 2 - CNA	1.00	1.00
Forests, Tier 2	0.40	0.60
Forests, Tier 3 - CNA	1.00	1.00
Forests, Tier 3	0.10	0.30
Other CNA	1.00	1.00
Historic	See Article 15	

(Ord. No. 97-172, § 3(ch. 13, § 10.110), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.110), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 14-126 , § 4, 1-13-2015; Ord. No. 21-009 , § 3, 12-14-2021; Ord. No. 22-101 , § 2, 11-29-2022)

Sec. 40.10.115. Additional resource standards.

The following Sections set forth additional standards that protect natural resources or permit mitigation. For all protected resources, stormwater outfalls shall be permitted, provided that the discharge complies with the standards for adequate conveyance established by Chapter 12 of the New Castle County Code. Green technology stormwater best management practice methods shall be used to convert concentrated flow to uniform, shallow sheet flow, filter sediments, and control erosion.

(Ord. No. 97-172, § 3(ch. 13, div. 10.300), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126 , § 4, 1-13-2015; Ord. No. 18-020 , § 7, 7-10-2018)

Note(s)—Former Division 40.10.300.

Sec. 40.10.120. Wetlands.

- A. The one hundred (100) percent protection level for preservation of wetlands established in Table 40.05.420 and Table 40.10.010 may be reduced when a permit from the United States Army Corps of Engineers is issued for filling or disturbance. Wetland mitigation shall be that for which a permit has been issued by the United

States Army Corps of Engineers. In addition, any mitigation approved by the United States Army Corps of Engineers is also subject to approval by the Department before any mitigation may occur. Permits from the State may also be required.

- B. Exception. Nonjurisdictional wetlands that are man-made, including but not limited to industrial ponds, sewage lagoons, irrigation ditches, stormwater management basins and other artificial features with a similar ability to evolve into wetlands may be disturbed at the Department's discretion. Except for stormwater management facilities, the Department will require review by RPATAC and mitigation of the site when in the opinion of the Department the disturbance to these areas is more than de minimus.

(Ord. No. 97-172, § 3(ch. 13, § 10.320), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.320), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.320.

Sec. 40.10.125. Riparian buffer areas (RBA).

The water body buffers shall meet the following standards which are intended to preserve and enhance existing vegetation and to revegetate disturbed areas.

(Ord. No. 97-172, § 3(ch. 13, § 10.330), 12-31-1997; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.330.

Sec. 40.10.126. RBA Design standards.

The riparian buffer shall be mapped to delineate the resource for Table 40.10.010. Existing native vegetation shall be preserved to the maximum extent possible. All RBA areas shall be classified as old field, disturbed land, or meadow, and planted in accordance with this Section where native vegetation is not present. The mapping of RBA's shall be supplied with the exploratory plan and at subsequent plan submissions to meet the standards of this Chapter.

- A. Old fields shall be planted with canopy trees appropriate for the soil conditions in accordance with the plant list in Appendix 3 to this Chapter installed at the rate of four (4) canopy trees having a two (2) inch caliper per one thousand (1,000) square feet of disturbed area.
- B. Meadows shall meet the reforestation standards of Section 40.23.240, except that no shrubs need to be provided.
- C. Disturbed land shall meet the reforestation standards of Section 40.23.240.
- D. All planting shall be done by zone. The zone closest to the stream, Zone 1, shall consist of species native to the riparian zone and selected for their value in stream bank stabilization. A mix of species that provides prolonged stable leaf fall necessary to meet energy and pupation needs of aquatic insects shall be selected. Management shall be limited to stream bank stabilization and removal of invasive vegetation. Logging and other overland equipment shall be prohibited except at permitted stream crossings.
- E. In Zone 2, the species shall be matched to the existing habitat. Recommended plant species are found in Appendix 3 to this Chapter.
- F. Planting plans shall be prepared jointly by a landscape architect in consultation with other professionals having a practical knowledge of riparian ecosystems (including wetlands specialists, wildlife biologists or ecologists from the U.S. Fish and Wildlife Service, DNREC, or the Natural Heritage Program). All planting plans shall include a planting schedule that summarizes the quantity, type, size, and root condition of all plantings. State agencies conducting or supervising wetlands plantings are exempt from submitting plans.

- G. The locations, dimensions, and spacing of enhancement plantings shall be adequate for their proper growth and maintenance, considering the sizes of such plantings at maturity, and their present and future environmental requirements, such as soil, moisture, and sunlight. Site preparation should focus on the removal of exotic species such as honeysuckle and multiflora rose, if present. (See Appendix 3 to this Chapter for list of exotics that should be removed when enhancement activities are undertaken.) Weed control is essential during establishment of the RBA and for the survival and growth of trees and shrubs.

(Ord. No. 97-172, § 3(ch. 13, § 10.331), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.331), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.331.

Sec. 40.10.127. Surface water bodies.

A. *Non-water-supply water bodies.*

1. No septic systems shall be allowed within an RBA.
2. All developments shall maximize the drainage amount conducted in natural swales rather than storm sewers. A stormwater system's discharge to streams or watercourses shall be by sheet flow through a grassland or discharged from a stormwater management facility having a wetland or aquatic bench.
3. Stormwater runoff from all parking areas shall be directed to a stormwater management facility before it is discharged into an RBA.

B. *Public water supply surface storage reservoir.*

1. All developments which drain on the surface or underground to existing public water supply reservoirs shall be limited to ten (10) percent impervious coverage. Public water supply reservoirs (or reservoir watersheds) are depicted on the three (3) map series "Water Resource Protection Areas for the City of Newark, City of Wilmington, New Castle County, Delaware," prepared by the Water Resources Agency for New Castle County that is dated 1993, or as may be amended.
2. No septic systems shall be allowed within six hundred (600) feet of the water supply surface storage reservoir.
3. All developments shall maximize the drainage amount conducted in natural swales rather than storm sewers. A stormwater system's discharge to streams or watercourses shall be by sheet flow through a grassland or discharged from a stormwater management facility having a wetland or aquatic bench.
4. No industrial or commercial parking shall be permitted within three hundred (300) feet of the public water supply surface storage reservoir.

(Ord. No. 97-172, § 3(ch. 13, § 10.332), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.332), 9-22-1998; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.332.

Sec. 40.10.130. Steep slopes.

- A. *Public purpose.* The public purpose of this Section is to protect the public health, safety and welfare. To this end, this Section is intended to protect the environment through the preservation of natural resources and to complement the sections relating to open space. This Section is designed to encourage the sensitive treatment of hillsides and their related soil and vegetation resources in an effort to minimize adverse environmental impacts. The following objectives serve to complement these specific purposes and the overall purposes of this Section, and the objectives shall be to:

1. Conserve and protect steep slopes from inappropriate development, such as excessive grading, land form alteration and extensive vegetation removal.

2. Avoid potential hazards to property and the disruption of ecological balance which may be caused by increased runoff, flooding, soil erosion and sedimentation, blasting and ripping of rock and landslide and soil failure.
 3. Encourage the use of steep slopes for open space and other uses which are compatible with the preservation of natural resources and protection of areas of environmental concern.
 4. Avoid public expenses of repair and restoration of damage to downhill sites caused by the improper development of steep slopes.
- B. *Standards and criteria.* The following practices shall be required when developing in a precautionary steep slope area:
1. All grading shall be minimized, and no grading shall be undertaken within any area of the steep slope area except where approved.
 2. Disturbance of steep slopes must consider unique characteristics of topographic, soil and vegetation resources and the techniques proposed to mitigate potential adverse environmental impacts.
 3. The effect the development of the steep slope would have on adjacent properties.
 4. The compatibility of the proposed uses with public purposes.
 5. No other alternative location within the subdivision being considered is feasible or practical.
 6. Earth-moving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation or unstable soil conditions.
 7. Mitigation techniques will be utilized, including but not limited to retaining walls, tree wells, the establishment of ground covers and/or low spreading shrubs, the use of erosion control fabric and the like.
 8. The proposed buildings or structures shall be of sound engineering design. Footings shall be designed in response to the site's slope, soil and bedrock characteristics.
 9. Disturbance to particularly sensitive features of the site shall be minimized; special emphasis in planning for the site should be given to the protection of:
 - a. Soils with seasonal high water table, as listed in appendix I, Table C of Chapter 12 of this Code pertaining to drainage.
 - b. Underlying geology which comprises or contributes to a major groundwater resource including the flow of existing springs.
 10. Disturbance shall be minimized where the length of area of steep slope, both on the site and on adjacent lands within two hundred (200) feet of the site, is extensive.
 11. The proposed development, any impervious ground cover and the resultant disturbance to the land and existing vegetative cover will not cause runoff and/or related environmental problems off the site.
 12. Removal of or disturbance to existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, recharge of stormwater and existing drainage patterns.
 13. Road construction shall follow the natural topography, with cuts and grading minimized; the location of any proposed point of access to an activity or use on the lot shall reflect the need to avoid steep slope disturbances.
- C. In a prohibitive steep slope area, roads and driveways shall only be permitted if no viable alternative alignment or location is feasible provided that such roads and driveways are aligned predominately parallel to the contours as demonstrated by an environmental impact assessment report.
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- D. Permits shall require all earth work to be conducted so as to be concluded one month prior to the end of the planting seasons (i.e., April 30th and September 30th). This practice will enable a ground cover to be established after work completion.
- E. A ground cover shall be placed on all exposed surfaces prior to the end of the planting season, or as the work is completed prior to that date. The Department is authorized to permit temporary cover in limited situations where unusual weather or the type of project requires earth work beyond a planting season. Surety may be required for remedial work if temporary cover is to be used.
- F. All slopes exceeding fifteen (15) percent or where water flows can be anticipated shall have a protective cover to hold the seed or plants in place. All protective covers shall be approved by the Department.
- G. All plant materials should be approved by the Department as suitable for the area's soils and exposure, growth, and coverage rate.

(Ord. No. 97-172, § 3(ch. 13, § 10.340), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126 , § 4, 1-13-2015)

Note(s)—Former Section 40.10.340.

Sec. 40.10.135. Forests.

Where a forest exists within a project boundary that will be disturbed by development or construction activities, a Forest Habitat Value Assessment as set forth in Appendix 1.3 is required.

The forested areas containing the highest habitat value, as determined by the Forest Habitat Value Assessment, will be given the highest priority for preservation. Forests may be cut or cleared over a greater area than permitted in Table 40.05.420 only if mitigation is provided and the following standards are met:

- A. A Forest Habitat Value Assessment shall be conducted by a qualified professional landscape architect, forester, arborist, botanist, plant or wildlife ecologist, or other licensed or certified professional in the applicable environmental discipline.
- B. Where landscaping can occur, the protection level given forests after mitigation shall not be less than in Table 40.10.135. The acres of mitigation required is expressed as a ratio (acres planted to acres disturbed). In no case shall the increased cutting lead to a revision of the density permitted by the site resource capacity calculation in Division 40.05.400.
- C. An applicant may be permitted to reduce the protection level with mitigation set forth in Table 40.10.135, provided the mitigation ratio is maintained and the area to be reforested is either on the same parcel or on an adjoining parcel. Any reduction of this standard shall require the approval of the Department and County Council.

Table 40.10.135
FOREST MITIGATION PROTECTION AND RATIOS

Forest Tier (Zone)	Protection Level	Protection with Mitigation	Mitigation Ratio
Tier 1 (CN, CR, ON, OR, BP, I, HI districts)	0.60	0.50	1.5:1
Tier 1 (all other districts)	0.80	0.70	2:1
Tier 2 (CN, CR, ON, OR, BP, I, HI districts)	0.40	0.30	1.25:1
Tier 2 (all other districts)	0.60	0.50	1.5:1
Tier 3 (CN, CR, ON, OR, BP, I, HI districts)	0.10	0.05	1.25:1
Tier 3 (all other districts)	0.30	0.20	1.5:1

(Ord. No. 97-172, § 3(ch. 13, § 10.350), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.350), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 14-126 , § 4, 1-13-2015; Ord. No. 21-009 , § 3, 12-14-2021; Ord. No. 22-101 , § 2, 11-29-2022)

Note(s)—Former Section 40.10.350.

Sec. 40.10.136. Standards for mitigation of forests, old fields and meadows.

In forests, old fields and meadows where over fifty (50) percent of existing plants are listed as "Plants to Avoid" in Appendix 3 to this Chapter, mitigation shall be required. The developer shall submit a mitigation plan by a qualified forester or landscape architect. At a minimum, the plan shall provide for the following:

- A. Elimination of invasive plant species (see Appendix 3 to this Chapter).
- B. Under planting with native plants in accordance with Section 40.23.240 and the planting rates listed in Table 40.23.240 (see Appendix 3 to this Chapter).
- C. Long-term management program including, initial action, follow-up in first three (3) years, and a long-term maintenance plan. This shall focus on the eradication of invasive plant species that interrupt growth of newly-planted stock and will be required prior to final open space approval.
- D. Planting of an indigenous herbaceous forest or meadow groundcover (see Section 40.23.240 and Appendix 3 to this Chapter).
- E. The plant types (trees, shrubs, etc.) used in mitigation shall be similar to those removed and be of native or indigenous species as approved by the Department (see Appendix 3 to this Chapter).

(Ord. No. 97-172, § 3(ch. 13, § 10.351), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 4, 1-13-2015; Ord. No. 18-021, § 16, 7-10-2018; Ord. No. 21-009, § 3, 12-14-2021)

Editor's note(s)—Ord. No. 18-021, § 16, adopted July 10, 2018, changed the title of Section 40.10.136 from "Standards for mitigation of forests" to "Standards for mitigation of forests, old fields and meadows." The historical notation has been preserved for reference purposes.

Note(s)—Former Section 40.10.351.

Sec. 40.10.140. Drainageways.

In addition to the open space protection, the drainageway area protected shall be kept open to provide continuous drainage corridors. Positive surface drainage in these areas shall be preserved. The protected area may be regraded and reshaped to provide for stormwater management and drainage. The following standards shall apply:

- A. The drainageways shall be used as a natural positive surface drainage system. Enclosed storm drainage to connect areas of drainageways shall be prohibited, except that culverts shall be installed at all road crossings.
- B. The areas shall be restored to a natural state using seed mixes approved and specified on the Department's lists.
- C. Where the protected area is to be used for a permitted open space use (Table 40.10.210), the use shall not interrupt the positive surface drainage flows.
- D. The following standards shall govern the design of stormwater management or surface drainage systems in drainageways in conjunction with the Delaware Department of Natural Resources and Environmental Control (DNREC):
 - 1. The drainage shall be designed to slow the time of concentration on the site and retain maximum ground infiltration.
 - 2. Where flows permit, the channels shall be designed as grassed swales, wetlands, or mesic grasslands encouraging sheet flow, except in forests.
 - 3. All permanent pool stormwater management ponds shall be designed to have aquatic benches planted with approved plant materials (Section 40.23.280).

(Ord. No. 97-172, § 3(ch. 13, § 10.360), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 14-126 , § 4, 1-13-2015)

Note(s)—Former Section 40.10.360.

Sec. 40.10.145. Critical Natural Areas (CNA).

Where a development is in a CNA, the developer shall be notified at the preapplication conference. The application for an exploratory plan shall include a report indicating how the plan meets the standards of this Chapter and concerns and comments on the plan from the DNREC. Where the developer can preserve greater areas of open space in the plan without losing density this may be required on the advice of DNREC.

If a variance from applicable resource protection standards is sought within a designated CNA, the applicant will be required to conduct an Environmental Impact Assessment (EIA) as outlined in Section 40.10.701. If the variance is granted, mitigation shall be required at a four to one (4:1) ratio to replace habitat in an area contiguous with the impacted CNA.

(Ord. No. 97-172, § 3(ch. 13, § 10.370), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126 , § 4, 1-13-2015; Ord. No. 22-101 , § 2, 11-29-2022)

Note(s)—Former Section 40.10.370.

Sec. 40.10.150. Sinkholes.

- A. The natural runoff rate reaching sinkholes shall be reduced or maintained in order to stabilize the feature. All new stormwater runoff shall be diverted around the sinkhole in lined channels or stormwater pipes that eliminate infiltration to the groundwater.
- B. If water is permitted to drain to the sinkhole, all swales shall be protected with triple siltation fence barriers and a vegetated siltation basin to protect the sinkhole from sediments.
- C. No drainage from nonresidential uses shall be permitted to enter the drainage to the sinkhole.

(Ord. No. 97-172, § 3(ch. 13, § 10.382), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 14-126 , § 4, 1-13-2015)

Note(s)—Former Section 40.10.375.

Sec. 40.10.160. Water Resources Protection Areas (WRPA).

- A. Water resource protection areas are the Cockeysville Formation, Cockeysville Formation drainage area, wellheads, and recharge areas. All such areas are as depicted on the three (3) map series "Water Resource Protections Areas for the City of Newark, City of Wilmington, New Castle County, Delaware," prepared by the Water Resources Agency for New Castle County that is dated 2011, or as amended. These areas shall be protected as required by the following Sections to protect the County's water resources from contamination and pollution and to insure adequate water quantity for future needs.
- B. No development shall be permitted to have more than twenty (20) percent impervious surface ratio without an environmental impact assessment report and a recommendation from RPATAC supporting a greater than twenty (20) percent impervious surface ratio. The environmental impact assessment report shall be certified by a State-registered professional geologist or professional engineer with technical expertise in hydrogeology. The impervious surface ratio and open space ratio operate independently and are based on the base site area.
- C. The Department may permit the expansion of existing nonconforming sites within WRPAs, which exceed the twenty (20) percent impervious cover standard, provided the proposed expansion of the site will reduce the existing impervious cover by a minimum of five (5) percent for sites of two (2) acres or less, a minimum of ten (10) percent for sites greater than two (2) acres and less than five (5) acres, and a minimum of twenty (20) percent for sites greater than five (5) acres and larger.

- D. The Department may consider, with the recommendation of RPATAC, the transfer of development rights of a Recharge Area WRPA to another Recharge Area WRPA. A conservation easement shall be established to prohibit the disturbance of the WRPA in perpetuity.

(Ord. No. 97-172, § 3(ch. 13, div. 10.380), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 10.380), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 4, 1-13-2015; Ord. No. 18-020, § 8, 7-10-2018)

Note(s)—Former Division 40.10.380.

Sec. 40.10.161. Cockeysville Formation.

Special on-site investigation as required by Section 40.22.110.

- A. The County shall require a subsurface investigation report on the stability of the rock formation and likely contamination risks.
- B. In addition, surface drainage shall be designed to prevent infiltration that could lead to increased erosion of supporting rock. The County may require lined channels or stormwater pipes that decrease the level of infiltration to the groundwater.
- C. In determining whether development may be permitted beyond the twenty (20) percent impervious surface ratio limitation of this Division, the contribution of like land by the applicant to be preserved in the Cockeysville Formation shall be considered as a factor in the environmental study and report.

(Ord. No. 97-172, § 3(ch. 13, § 10.381), 12-31-1997; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.381.

Sec. 40.10.162. Wellheads protection areas (public water supply wells).

- A. Wellhead protection areas.
 - 1. Type A wellhead areas shall be one hundred (100) percent open space within three hundred (300) feet of the wellhead. Within that area, impervious surface shall be limited to building and access associated with the well and distribution and treatment facilities and their maintenance. In the case where the three hundred (300) foot required open space cannot be attained on the same lot as the wellhead, a conservation easement on one or more adjacent lots shall be necessary.
 - 2. Type B and C wellhead areas shall be limited to twenty (20) percent impervious surface ratio within three hundred (300) feet of the wellhead.
- B. The resource protection area around a public water supply well which draws from a confined aquifer as interpreted by the Delaware Geological Survey (DGS), DNREC, or a State-registered professional geologist with approval by DGS and DNREC shall be one hundred fifty (150) feet. The protection area around a well not interpreted as drawing from a confined aquifer may be reduced below three hundred (300) feet where an environmental impact assessment report is approved demonstrating that a minimum sixty (60) day time of travel from a potential contaminant to the public water supply well is maintained. In no case shall the protection area for unconfined aquifers be less than one hundred fifty (150) feet. The assessment reports shall be based on an on-site hydrogeologic study.

Notwithstanding any other provisions of this Chapter, the minimum lot area required for a public water supply well and related facility drawing from a confined aquifer shall be one acre; and, the minimum lot area required for a public water supply well and related facility drawing from an unconfined aquifer shall be two (2) acres. In the case where the minimum lot area cannot be met, because the public water supply well and related facility is proposed on an existing lot less than the minimum required, and where the total wellhead protection area required is not wholly owned by the public water utility, a conservation easement on one or more adjacent properties shall be necessary to satisfy the appropriate public water supply well minimum wellhead protection areas. The terms of the conservation

easement shall prohibit any activity detrimental to the public water supply well. The owner of the public water supply well shall be responsible for monitoring the property pursuant to the terms of the easement.

- C. The natural runoff flowing into wellhead areas shall be allowed and all new stormwater runoff shall be diverted around the wellhead protection areas wherever practical.
- D. Stormwater runoff from developed impervious areas must be managed by a best management practice before discharge into a wellhead WRPA.
- E. The replacement of any existing public water supply well that was not required to meet this wellhead protection requirement at the date of its original installation and that has failed shall be exempt from meeting this wellhead protection requirement.

(Ord. No. 97-172, § 3(ch. 13, § 10.383), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.383), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 4, 1-13-2015; Ord. No. 18-020, § 9, 7-10-2018)

Note(s)—Former Section 40.10.383.

Sec. 40.10.163. Recharge areas and Cockeysville Formation drainage areas.

- A. When impervious cover is proposed by the applicant at a rate greater than twenty (20) percent of the site, the applicant shall be required to demonstrate that the quality of stormwater run-off is equal to or greater than pre-development conditions and the quantity of stormwater run-off is equal to or less than pre-development conditions.
- B. Those areas of open space not currently forested, shall have a minimum of twenty-five (25) percent of their area reforested pursuant to Section 40.10.351. The Department may reduce this requirement where the applicant prepares an Environmental Impact Assessment Report demonstrating to the satisfaction of the Department that reforestation will result in more than a twenty (20) percent loss in groundwater recharge due to the soils and hydrogeologic conditions of the site. The report shall include an annual water budget compiled on a month by month basis comparing existing and post-development mature forest conditions. Applicants shall submit information regarding the types of trees evaluated, soil conditions (including percolation rates), pH types, assumptions regarding rainfall events, and topography. The report shall also include a water quality analysis comparing the water quality benefits of forest cover to the proposed alternative ground cover.

(Ord. No. 97-172, § 3(ch. 13, § 10.384), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.384), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 14-126, § 4, 1-13-2015; Ord. No. 21-009, § 3, 12-14-2021)

Note(s)—Former Section 40.10.384.

Sec. 40.10.164. Boundary determination.

- A. All subdivision and land development plans depicting development or land disturbance submitted for County review shall be evaluated for the existence of water resource protection areas by scaling the distances shown on the water resource protection area map. If existing, the boundaries of the areas shall be delineated on the plan.
- B. When there appears to be a conflict between the mapped boundary and actual site conditions, the applicant may engage the services of professional practitioners set forth in this Section to prepare a report intended to determine more accurately the precise boundary of the water resource protection area, which report shall be submitted to the Department with the detailed findings necessary to indicate the location of the boundary in conformance with the definitions given in Article 33, including:
 - 1. A detailed topographic layout of the subdivision and/or area to be developed and prepared by a State-registered professional land surveyor or professional engineer;

2. For floodplain and erosion-prone slopes boundary determinations, a revised surface soils map of the subdivision and/or area prepared by a DNREC-licensed soil scientist including a written report of the on-site field inspection and test boring data;
 3. For reservoir watershed, Cockeysville Formation, wellhead and recharge boundary determinations, a site-specific geological and hydrogeological analysis shall be performed by a State-registered professional geologist or professional engineer with a background in hydrogeology and shall be based upon thorough site investigation, subsurface testing and other testing as may be determined appropriate by the Department; and
 4. Evidence derived from a site-specific investigation which may include aquifer testing, test borings, test pits, observation wells, groundwater elevations and topography surveys as appropriate for the type of water resource protection area to clearly demonstrate that the area in question does not meet the definition of a water resource protection area as defined in this Division.
- C. Reserved.
- D. The Department, with the advice of the Delaware Geological Survey and the Water Resources Agency, may adjust the boundary or area designation based thereon. Such adjustments shall have the effect of exempting the subject parcel from the use regulations of this Chapter and shall have the effect of amending the limits of the water resource protection area. However, when the water resource protection area map is updated or amended, the Department shall review each of the exemptions approved since the last map revision to determine if a district boundary should be amended to reflect the findings of the geologic analysis performed at the time of the exemption.
- E. Notwithstanding any other section of this Chapter, if an owner initiates a precise boundary delineation pursuant to this Section, any and all time review limitations shall be stayed pending the submission of the report contemplated by this Section. Following submission of the report, the Department shall have twenty (20) days to finally approve or disapprove the exploratory sketch plan submission or such further time as deemed necessary by the Department, but not to exceed an additional twenty (20) days.

(Ord. No. 97-172, § 3(ch. 13, § 10.386), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.386), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 14-126, § 4, 1-13-2015)

Note(s)—Former Section 40.10.386.

Sec. 40.10.165. Uniform standards and criteria.

- A. The following standards and criteria shall be applicable to any limited use, special use or other use requiring an environmental impact assessment report permitted pursuant to this Division:
1. Stormwater management facilities shall be designed and constructed in accordance with DNREC "Delaware Sediment and Stormwater Regulations," effective November 11, 2014 or as later revised.
 2. With the exception of floodplain and erosion-prone slope water resource protection areas, stormwater management and recharge facilities shall be designed with the goal of maintaining the quantity and quality of groundwater recharge at predevelopment levels.
 3. In order to establish the predevelopment standards required by Subsection A.2, a study shall be prepared under the supervision of a State-registered professional geologist or professional engineer with a background in hydrogeology. The report of the study shall be submitted to the Department, the Delaware Geological Survey and the Water Resources Agency and shall be reviewed in accordance with the procedures set forth in Article 30 for environmental impact reports.
 4. In wellhead water resource protection areas all development shall be maintained at a minimum sixty (60) day horizontal time of travel from any public water supply well as established by the on-site hydrogeologic study required by Subsection A.3 or three hundred (300) feet from the public water supply well, whichever is less.

5. When facilities are proposed to augment groundwater recharge, to ensure that the quality of groundwater recharge shall be maintained, a groundwater quality monitoring program shall be established as part of the report prepared pursuant to Subsection A.3. The program shall establish the number of wells to be installed, as well as the duration and frequency regarding the monitoring of the wells to be installed. The wells shall be installed and secured in accordance with DNREC "State of Delaware Regulations Governing the Construction of Water Wells." All laboratory test results shall be submitted to the Water Resources Agency to ensure the County that satisfactory water quality is maintained.
6. Provisions for the maintenance of groundwater recharge facilities and the frequency of groundwater quality testing and monitoring shall be established by a water management agreement between the property owner and the County. The agreement shall not be amended without the approval of the County.
7. In water resource protection areas, sanitary sewer systems which utilize land application of treated effluent shall be required to use extended aeration and disinfection. Treated wastewater shall not be applied to the ground at a rate that saturates soils. Crops or vegetation to which treated wastewater is applied shall be harvested periodically to prevent a build-up of metals or other constituents in the soil or groundwater.

(Ord. No. 97-172, § 3(ch. 13, § 10.385), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.385), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 4, 1-13-2015; Ord. No. 18-020, § 10, 7-10-2018)

Note(s)—Former Section 40.10.385.

Division 40.10.200. Open space regulations.

Table 40.10.010 provides the protection levels for natural resources measured in the site resource capacity calculation in Division 40.05.400. Section 40.10.210 indicates the uses for which open space may be used. This Article also contains additional performance standards and mitigation requirements.

(Ord. No. 97-172, § 3(ch. 13, div. 10.200), 12-31-1997)

Sec. 40.10.210. Uses in required open space.

Table 40.10.210 lists uses that may be permitted in open space when required elsewhere in this Chapter. The uses listed are narrower subsets of the use categories listed in Table 40.03.110. In so doing, a closer match of the permitted uses to the resources' tolerance is provided. Any use not listed shall be considered prohibited.

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ARTICLE 10. ENVIRONMENTAL STANDARDS

Table 40.10.210
USES IN REQUIRED OPEN SPACE **

Y = Permitted; N = Prohibited; L = Limited Use; S = Special Use; I = Environmental Impact Assessment Report (See Section 40.10.410)														
Use	Natural Resource Area Open Space***	Community Area Open Space***	Floodway	Floodplain	Wetland	Riparian Buffer		Drainage-ways	Cockeysville Formation	Sinkhole	Wellhead/Recharge Areas	Steep Slopes	Forests	Historic
						Zone 1	Zone 2							
Agricultural														
Apiaries	I	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Clearing	L	L	L	N	N	N	N	L	L	N	L	I	N	L
Game farms/fish hatcheries	I	Y	I	I	I	N	I	I	N	N	N	N	N	N
Field crops	I	Y	N	Y	N	N	N	Y	Y	N	Y	N	N	Y
Orchards	I	Y	N	Y	N	N	Y	Y	Y	Y	Y	Y	N	Y
Pasture	I	Y	Y	Y	N	N	Y	N	Y	N	N	Y	N	Y
Stables	N	Y	N	N	N	N	N	N	Y	N	N	N	I	Y
Nursery	N	Y	N	L	N	N	L	Y	Y	N	Y	Y	N	Y
Recreation and Amusement: Outdoor Recreation														
Ball fields	N	Y	N	Y	N	N	N	Y	Y	N	Y	N	N	N
Day camps	N	L	N	L	N	N	L	Y	Y	N	L	N	L	L
Fishing areas	N	N	Y	Y	Y	Y	Y	Y	L	L	L	L	L	L
Hunting ares	N	N	L	L	L	L	L	L	L	L	L	L	L	L
Golf course/driving ranges	N	N	N	L	L	N	L	Y	Y	L	Y	L	L	Y
Natural area	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Nature center	N	Y	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y
Picnic area/playground	N	Y	N	L	N	N	L	Y	Y	N	Y	Y	Y	Y
Pools/courts	N	Y	N	L	N	N	N	Y	Y	N	Y	N	N	Y
Shooting and archery ranges	N	N	L	L	N	N	L	L	L	L	L	N	N	N
Trails	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Water dependent use	N	N	L	L	L	L	L	Y	N	N	N	N	N	N
Utilities, Community/Region														
Public roads, bridges and appurtenances	I	N	I	I	N	I	I	Y	Y	N	L	L	L	N
Remedial or other activities mandated by State or Federal law	I	I	I	I	I	I	I	I	I	I	I	I	I	I
Private roads	I	N	I	I	N	I	I	Y	Y	N	L	L	L	N

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Parking lots	I	L	N	N	N	N	N	L	L	N	L	N	N	L
Essential access	I	I	I	I	I	I	I	L	L	N	S	S	L	N
Sewer/water/utilities	Y	Y	L	L	L	L	L	Y	Y	N	S	S	L	Y
Land application of treated effluent	I	N	N	N	I	N	Y	N	N	N	I	N	Y	Y
Sewage & water treatment plants/pumping stations/dams and flood control structures	N	N	I	I	N	I	I	N	N	N	N	N	N	N
Stormwater management practices	Y	Y	N	I	N	N	Y	Y	I	N	I	N	Y	Y
Temporary Uses														
Public interest event	N	Y	N	N	N	N	N	Y	Y	N	Y	N	N	Y
Special event	N	Y	N	N	N	N	N	Y	Y	N	Y	N	N	Y
*Subdivisions less than fifty (50) acres will utilize the community area open space criteria.														
**For resource standards for limited uses, refer to Division 40.10.300 and Division 40.10.400.														
***Permitted uses for natural resource area open space and community area open space not containing any specific natural resources. If the protection standards differ, between natural resource area open space and/or community area open space and specific resource categories, the stricter of the two will govern.														

(Ord. No. 97-172, § 3(ch. 13, § 10.210), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.210), 9-22-1998; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-058, § 1, 10-5-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.10.220. Standards for open space uses.

Table 40.10.210 permits limited and special uses to occur in open space areas. The uses may present potential threats to the natural resource involved. This Division sets forth the standards required for approval.

(Ord. No. 97-172, § 3(ch. 13, div. 10.400), 12-31-1997; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Division 40.10.400.

Sec. 40.10.225. Natural resource area and community area open space.

All uses indicated as "limited" within natural resource area and/or community area open space shall be permitted pursuant to Department approval. The Department shall consider the appropriateness of the proposed use within the context of the proposed plan, its open space management plan and/or the principles of conservation design.

(Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Section 40.10.405.

Sec. 40.10.230. Clearing.

All natural resources. Clearing shall be permitted only under the following conditions:

- A. To prepare land for a use permitted by this Chapter; or
- B. As a reforestation measure, or to enhance or improve the quality of existing vegetation or as a means to eliminate dead, diseased, or hazardous tree stands.

Where a clearcutting operation is deemed permissible for one of the reasons stated in this Subsection, it shall be consistent with the terms of a forest management plan approved by the Department, following review and comment by the State Department of Agriculture Division of Forest Services.

(Ord. No. 97-172, § 3(ch. 13, § 10.421), 12-31-1997; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Section 40.10.421.

Sec. 40.10.231. Nurseries.

Floodplains and riparian buffers. Nurseries shall be permitted only for raising wetland species. The area shall be disconnected from adjoining wetland areas. The disturbance level requires the area be diked off from the adjoining wetlands to control the water flow or sediment movement from the nursery to the surrounding wetlands. The following shall be required:

- A. A water control structure shall permit backflow into the nursery area.
- B. Water shall be discharged through a channel, grassed channel, or new wetland.

(Ord. No. 97-172, § 3(ch. 13, § 10.422), 12-31-1997; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Section 40.10.422.

Sec. 40.10.232. Hunting and fishing areas.

Hunting and fishing shall be permitted pursuant to State regulations.

(Ord. No. 97-172, § 3(ch. 13, § 10.423), 12-31-1997; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Section 40.10.423.

Sec. 40.10.233. Golf courses.

Golf courses shall be permitted on floodplains, wetlands, steep slopes, forested areas, or riparian buffer areas provided that the following standards are met:

- A. *Floodplains.* Golf courses shall be permitted provided that there is no change in the flood elevation due to the construction. Tees and greens shall be above flood elevation.
- B. *Steep slopes.* Areas of protected steep slope may be used as part of the golf course provided this does not involve the cutting of forest cover. If natural grass cover is to be disturbed, the earth work should be finished in less than sixty (60) days and a new vegetative cover installed immediately. Erosion control matting shall be used to reduce erosion and prevent the seed from washing out.
- C. *Forests.* No area of protected forest shall be used for golf courses if the tree cover is to be disturbed.
- D. *Riparian buffer areas.* Golf courses shall be permitted within a riparian buffer area provided that it meets the requirements of Subsections A, B and C, and provided that the requirements of Subsection C apply to areas planted with new vegetation.

(Ord. No. 97-172, § 3(ch. 13, § 10.424), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 5, 1-13-2015)

Note(s)—Former Section 40.10.424.

Sec. 40.10.234. Playing courts and pools.

Only playing courts shall be permitted in the floodplain; pools shall be prohibited. Swimming in natural or artificial ponds shall be permitted. The playing courts shall be designed and located so as not to trap debris resulting in floodwater backups. No fill shall be permitted.

(Ord. No. 97-172, § 3(ch. 13, § 10.425), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.425), 9-22-1998; Ord. No. 14-126, § 5, 1-13-2015)

Note(s)—Former Section 40.10.425.

Sec. 40.10.235. Roads, parking lots and utilities.

- A. *All resource areas.* Protected resources shall not be disturbed with roadways, parking lots or utility lines. The applicant must demonstrate no possible alternative to crossing the resource exits and the route selected must be the least disruptive.

(Ord. No. 97-172, § 3(ch. 13, § 10.427), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 10.426), 9-22-1998; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 14-126, § 5, 1-13-2015)

Cross reference(s)—Streets and roads, ch. 30; stopping, standing and parking, ch. 34, art. 2; utilities, ch. 38.

Note(s)—Former Section 40.10.427.

Sec. 40.10.236. Essential access.

Essential access shall be permitted only upon finding (in the Environmental Impact Assessment Report) that the access cannot avoid crossing a protected resource area. If several properties in the area suffer the same problem, then the essential access shall be designed to serve all properties, and access easements shall be provided. The Department shall make every effort to gain the cooperation of all property owners, including financial sharing of costs. If adjoining property owners do not cooperate, the landowner making the improvements may submit a certified billing on the cost of the access. Subsequent essential access requests in the area shall be denied. The landowners shall be required to use the initial access and pay for their share of the documented expenses based on the number of dwellings or lots served. In the review of developments the County shall seek to identify areas of adjoining properties that might qualify and provide stub streets so as to eliminate the need for this type of mitigation.

(Ord. No. 97-172, § 3(ch. 13, § 10.428), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 14-126 , § 5, 1-13-2015)

Note(s)—Former Section 40.10.428.

Division 40.10.300. Floodplain management regulations.¹

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of New Castle County. Special flood hazard areas are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. Development that is inadequately elevated, improperly floodproofed, or otherwise unprotected from flood damage also contributes to flood loss.

New Castle County agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on December 3, 1971. Subsequent to that date or the initial effective date of the New Castle County Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with New Castle County's floodplain management regulations in effect at the time of construction, and all development, new construction, and substantial improvements subsequent to the effective date of these regulations shall be compliant with these regulations and, as applicable, the flood load and flood-resistant construction provisions of the building code, including specific amendments adopted by the New Castle County.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.301. General.

- A. This Division shall be known as the "floodplain management regulations."
- B. Applicability. This Division shall apply to all special flood hazard areas within the unincorporated territory of New Castle County as identified in Section 40.10.302 and may apply to incorporated municipalities if by appropriate action of its governing body, any such governing body elects to be included in its application.
- C. Interpretation. In the interpretation and application of these regulations, all provisions shall be:
 - 1. Considered as minimum requirements.
 - 2. Liberally construed in favor of the governing body.
 - 3. Deemed neither to limit nor repeal any other powers granted under state statutes.
 - 4. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.
 - 5. Where a provision of these regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence, where more restrictive.
- D. Warning and disclaimer of liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside of the special flood hazard areas or uses that are permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of New Castle County, any officer or employee thereof, or the Federal Emergency Management Agency, for

¹Editor's note(s)—Ord. No. 14-126 , §§ 4, 6, adopted January 13, 2015, amended Division 40.10.300 in its entirety to read as herein set out. Formerly, Division 40.10.300, §§ 40.10.300—40.10.388, pertained to additional resource standards. See the Code Comparative Table for a complete derivation.

any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

- E. Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:
1. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 2. Minimize flooding of water supply and sanitary sewage disposal systems.
 3. Maintain natural drainage.
 4. Reduce financial burdens imposed on the community, its governmental units and its residents, by discouraging unwise design and construction of development in areas subject to flooding.
 5. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
 6. Minimize prolonged business interruptions.
 7. Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges.
 8. Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions.
 9. Minimize the impact of development on adjacent properties within and near flood prone areas.
 10. Provide that the flood storage and conveyance functions of the floodplain are maintained.
 11. Minimize the impact of development on the natural and beneficial functions of the floodplain.
 12. Prevent floodplain uses that are either hazardous or environmentally incompatible.
 13. Meet community participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.302. Basis for establishing special flood hazard areas.

For the purposes of this Division, and for the purpose of establishing flood hazard areas in the Building Code Section 1612.3 and the Residential Code Table R301.2(1), the following are adopted by reference as a part of these regulations and serve as the basis for establishing special flood hazard areas:

- A. The FEMA Flood Insurance Study for New Castle County, Delaware and Incorporated Areas dated February 4, 2015 and all subsequent amendments and/or the most recent revision thereof.
- B. The FEMA Flood Insurance Rate Map for New Castle County, Delaware and Incorporated Areas dated February 4, 2015, and all subsequent amendments and/or the most recent revision thereof.
- C. Other hydrologic and hydraulic engineering studies and/or maps prepared pursuant to these regulations or for other purposes, and which establish base flood elevations, delineate one hundred (100) year floodplains, floodways or other areas of special flood hazard.
- D. New Castle County may identify and regulate new local flood hazard or ponding areas. These areas should be delineated and adopted on a "local flood hazard map" using best available topographic data and locally derived information such as flood of record, historic high water marks or approximate study methodologies.
- E. Where field surveyed topography indicates that ground elevations are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a flood hazard map, the area shall be considered as special flood hazard area.

- F. Maps and studies that establish special flood hazard areas are on file at the New Castle County Land Use Department, New Castle, Delaware 19720.
- G. Nondelineated floodplains. Those areas subject to a one hundred (100) year flood, for which FEMA has not delineated a floodplain, adjacent to a watercourse that is also identified by a blue line on the National Hydrographic Dataset (NHD) utilized by the United States Geological Survey or adjacent to watercourse that is defined as a "stream" in the detailed maps of the New Castle County Soil Survey. These areas shall be identified by the submission of a flood study from the applicant using one of the following methodologies as designated by the Department:
 - 1. Where the specific one hundred (100) year elevation cannot be determined using the sources established in this Subsection, the applicant for the proposed development shall submit his or her suggested determination of this elevation in accordance with accepted hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analysis shall be performed only by a professional engineer with a background in hydraulics and hydrology, who shall certify to the Department that the technical methods used correctly reflect currently accepted technical concepts. The applicant shall submit studies, analyses, computations, etc. in sufficient detail to allow a thorough technical review. The studies shall designate the one hundred (100) year flood elevations established by the County based on existing applicable codes. It is the applicant's responsibility to incorporate or refute the findings of any flood study previously accepted by the County into an updated submission.
 - 2. U.S. Department of Agriculture, Soil Survey Manual for New Castle County (1970) or as later amended. Soils considered to be evidence of a nondelineated floodplain are those designated as flood hazard soils (including tidal flooding) or high water table soils on table 7 (estimated degree and kinds of limitations for nonfarm uses) therein. This method shall not be used for delineating a manmade floodplain.
 - 3. All floodplain Surface Water Resource Protection Areas as depicted on the three (3) map series "Water Resource Protection Areas for the City of Newark, City of Wilmington, New Castle County, Delaware", prepared by the Water Resource Agency for New Castle County dated 2011, or as later amended.
 - 4. Recorded high water marks from past floods based on historical data, including, but not limited to, photographic documentation and water marks on vegetation or structures.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.310. Designation and duties of the Floodplain Administrator.

- A. The Floodplain Administrator, as designated pursuant to Section 40.30.440, is authorized to:
 - 1. Administer and implement these regulations.
 - 2. Fulfill the duties and responsibilities set forth in these regulations.
 - 3. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees.
 - 4. Enter into a written agreement or written contract with another jurisdiction or agency, or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
 - 5. Perform any duty or responsibility identified in Section 40.30.440.B of this Chapter.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.311. Floodplain permits required.

- A. It shall be unlawful for any person or entity to begin construction or other development which is wholly within, partially within, or in contact with any identified special flood hazard area, including but not limited to: subdivision of land, filling, grading, or other site improvements and utility installations; placement or replacement of a manufactured home; recreational vehicles; installation or replacement of storage tanks; or alteration of any watercourse, until a permit is obtained from the Department of Land Use. These regulations are intended to be administered and enforced in conjunction with the building code. No permit shall be issued until the requirements of these regulations and the flood load and flood-resistant construction provisions of the building code have been met.
- B. Application required. Application for a permit shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual start of construction. An application shall include the contents delineated in Appendix I of this Chapter. For applications for buildings and structures, these required minimum contents of the application are in addition to the requirements of the building code.
- C. Right to submit new technical data. The applicant has the right to seek a Letter of Map Change and to submit new technical data to FEMA regarding base maps, topography, special flood hazard area boundaries, floodway boundaries, and base flood elevations. Such submissions shall be prepared in a format acceptable by FEMA and the Floodplain Administrator shall be notified of such submittal. Submittal requirements and processing fees shall be the responsibility of the applicant.
- D. Requirement to submit new technical data. The Floodplain Administrator shall notify FEMA of physical changes affecting flood hazard areas and flooding conditions by submitting technical or scientific data as soon as practicable, but not later than six (6) months after the date such information becomes available. The Floodplain Administrator has the authority to require applicants to submit technical data to FEMA for letters of map change.
- E. Review. The Floodplain Administrator shall:
 - 1. Review applications for development in special flood hazard areas to determine the completeness of information submitted. The applicant shall be notified of incompleteness or additional information required to support the application.
 - 2. Review applications for compliance with these regulations after all permit application information identified and required by this Chapter or the Floodplain Administrator has been received.
 - 3. Review all permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits, including but not limited to: permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the United States Environmental Protection Agency or DNREC under Section 401 of the Clean Water Act, and any other permit required by the State of Delaware.
 - 4. Approval criteria. Consider following public, health, safety and welfare criteria when reviewing an application.
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b. The danger that materials may be swept onto other lands or downstream to the injury of others or property.
 - c. The proposed water supply and sanitation systems and the ability of these systems to avoid causing disease, contamination, and unsanitary conditions.
 - d. The expected heights, velocities, duration, and sediment transport of the floodwater expected at the site during the one hundred (100) year storm event to determine whether the proposed activity will aggravate flood damage in the community.

- e. The proposed activity's undue alteration of natural water flows and whether adequate drainage conveyance has been provided to minimize the flood hazard.
 - f. Any permitted development is subject to all applicable State and federal rules and regulations.
 - g. The susceptibility of the proposed use to flood damage. New structures are located and designed to minimize the potential for flood damage.
 - h. The protection of individuals who might choose, despite the flood dangers, to develop or occupy land on the floodplain; or protection of other landowners from damages resulting from the development in a floodplain and the consequent obstruction of the floodwaters; or the protection of the entire community from individual choices of land use which requires subsequent public expenditures for public works and disaster relief; or protection of the quality of surface and subsurface water supplies adjacent to and underlying floodplain areas.
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - j. The likelihood that the proposed use will result in extraordinary public expense, will create nuisances or will conflict with existing County ordinances or regulations.
- F. Approval or disapproval. The Floodplain Administrator shall approve applications that comply with the applicable requirements of these regulations and satisfy the criteria for approval. The Floodplain Administrator shall disapprove applications for proposed development that do not comply with the applicable provisions of these regulations and shall notify the applicant of such disapproval, in writing, stating the reasons for disapproval.
- G. Expiration of permit. A permit is valid provided the actual start of construction occurs within one hundred eighty (180) days of the date of permit issuance. If the actual start of construction is not within one hundred eighty (180) days of the date of permit issuance, requests for extensions shall be submitted in writing. Upon reviewing the request and the permit for continued compliance with these regulations, the Floodplain Administrator may grant, in writing, one or more extensions of time, for periods not more than one hundred eighty (180) days each.
- H. Start of construction. For the purposes of this Division start of construction shall mean the date of issuance of permits for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days after the date of issuance. The actual start means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings, or construction of columns. Permanent construction does not include land preparation (such as clearing, grading and filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.312. Inspections.

The Floodplain Administrator shall make periodic inspections of development permitted in special flood hazard areas, at appropriate times throughout the period of construction in order to monitor compliance. In addition to the inspections required by the building code, such inspections may include:

- A. Stake-out inspection, to determine location on the site relative to the special flood hazard area and floodway.
- B. Foundation inspection, upon placement of the lowest floor and prior to further vertical construction, to collect information or certification of the elevation of the lowest floor.
- C. Enclosure inspection, including crawlspaces, to determine compliance with applicable provisions.

- D. Utility inspection, upon installation of specified equipment and appliances, to determine appropriate location with respect to the base flood elevation.
- E. Storage of materials.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.313. Submissions required prior to issuance of a certificate of occupancy.

The following certifications are required to be submitted by the permittee for development that is permitted in special flood hazard areas prior to the issuance of a certificate of occupancy:

- A. For new or substantially improved residential structures or nonresidential structures that have been elevated, an elevation certificate that shows the ground elevation and finished elevations (identified in Section C of the elevation certificate as "finished construction").
- B. For nonresidential structures that have been dry floodproofed, a Floodproofing Certificate based on "finished construction" (identified in section II of the floodproofing certificate).
- C. For all development activities seeking the right to submit new technical data, a letter of map revision shall be provided.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.314. Flood insurance rate map use and interpretation.

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of special flood hazard areas, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of special flood hazard maps and data:

- A. In FEMA-identified special flood hazard areas where base flood elevation and floodway data have not been identified and in areas where FEMA has not identified special flood hazard areas, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used. When a preliminary flood insurance rate map has been provided by FEMA to identify base flood elevations where such elevations were not previously shown, the base flood elevations on the preliminary flood insurance rate map shall be used.
- B. Special flood hazard area delineations, base flood elevations, and floodway boundaries on FEMA maps and in FEMA studies shall take precedence over delineations, base flood elevations, and floodway boundaries by any other source that reflect a reduced special flood hazard area, reduced floodway width and/or lower base flood elevations.
- C. Other sources of data shall be reasonably used, with the approval of the Floodplain Administrator, if they show increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies.
- D. Where field surveyed topography indicates that ground elevations are below the base flood elevation, even in areas not delineated as a special flood hazard on a flood hazard map, the area shall be considered as special flood hazard area.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.320. Requirements in all special flood hazard areas.

The general requirements of this Section apply to all development proposed within special flood hazard areas.

- A. No development or building or structure shall be permitted in special flood hazard areas; however, the Department may approve development, a building or a structure in the special flood hazard areas for approved uses listed in Table 40.10.210 or as approved as a beneficial use pursuant to this Chapter. No development or construction shall start without a floodplain permit.

B. Brownfields.

1. All uses and development occurring within a special flood hazard areas in areas determined to be a brownfield are permitted only upon approval of the Department with the consent of County Council by resolution.
2. All new construction or substantial improvements to nonresidential structures located in a brownfield area shall meet all of the requirements of this Division and the following:
 - a. Substantial improvements to structural buildings associated with an existing operational petroleum underground storage tank (UST) or above ground storage tank (AST) facility are permitted, provided the impetus for the owner of said UST or AST facility in upgrading or replacing all or a portion of the UST or AST system is to achieve compliance with the State Regulations Governing Underground Storage Tank Systems and Regulations Governing Aboveground Storage Tanks as established under 7 Del. C., ch. 74 and 74A.
 - b. All new construction or substantial improvements to nonresidential structures located in a designated brownfield area must have the lowest floor elevation equal to or above the base flood elevation or must be dry floodproofed to the base flood elevation.

C. Subdivisions and land development.

1. No new residential lots shall be created in a special flood hazard area without sufficient buildable area outside of the floodplain.
2. All subdivision and land development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
3. All subdivision and development proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
4. All subdivision and developments proposals shall have adequate drainage provided to reduce exposure to flood damage.
5. All subdivision proposals and development proposals containing at least five (5) lots or at least five (5) acres, whichever is the lesser, in FEMA-delineated special flood hazard areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway delineations. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant.
6. All record subdivision plans approved pursuant to this Chapter shall incorporate all special flood hazard areas into the required open space. Floodplain permit applications for land disturbing activities and structures in the floodplain will only be reviewed for uses listed as L (limited use), I (environmental impact assessment), S (special use) and Y (permitted uses) in Table 40.10.210 or as approved as a beneficial use.

D. Protection of water supply and sanitary sewage systems.

1. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
3. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

E. Buildings and structures. All new construction of buildings and structures, including placement of manufactured homes and substantial improvements to existing buildings and structures, that are to be located, in whole or in part, in special flood hazard areas shall comply with flood load and flood-

resistant construction requirements of the building code. Freeboard shall be a minimum of eighteen (18) inches above base flood elevation. All new construction of buildings and structures, including placement of manufactured homes and substantial improvements to existing buildings and structures that are located within the Limit of Moderate Wave Action (LiMWA) shall be constructed per coastal high hazard areas (Zone VE) building standards.

F. Fill.

1. No proposal to fill shall result in a net loss of floodplain storage of the subject parcel(s).
2. Compensatory storage shall be hydraulically equivalent as demonstrated through hydrologic and hydraulic engineering analysis. Compensatory storage shall drain freely to a conveyance system. A restriction on modification of the compensatory storage shall be provided on deed restrictions encumbering the property and running in favor of New Castle County.
3. Disposal of fill, including but not limited to rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
4. Where permitted by the building code (Zones A, AE, and AO), fill placed for the purpose of raising the ground level and to support a building or structure shall meet the following requirements:
 - a. Extend laterally from the building footprint to provide for adequate access, as a function of use; the Floodplain Administrator may seek advice from the State Fire Marshal's Office and/or the local fire services agency.
 - b. Placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling.
 - c. Consist of soil or rock materials only.
 - d. Sloped no steeper than one vertical on two (2) horizontal, unless approved by the Floodplain Administrator.
 - e. Designed with provisions for adequate drainage and no adverse effect on adjacent properties.
5. Fill placed for a purpose other than to support a building or structure shall meet the requirements of Subsections 40.10.320.F.4.b—e.
6. Any filling in the FEMA floodplain in conflict with the FEMA FIRM panel, whether previously authorized or unauthorized, shall not be recognized by the Department until FEMA certifies a new floodplain limit so that no development occurs in violation of this Chapter.
7. Where homes existing as of the date of adoption of this Article can be protected from existing flooding conditions by filling and grading activity not exceeding twenty (20) cubic yards per lot, such filling may be permitted by the Department provided all the requirements of Subsections 40.10.320.F.4.b—e are met.
8. All areas where fill is added or removed shall fully comply with Chapter 12 of the New Castle County Code.

G. Historic resources. As specified by the building code, repair, alteration, or rehabilitation of historic resources shall be subject to the requirements of the building code unless a determination is made that compliance will preclude a building or structure's continued designation as a historic resource and a variance is granted in accordance Article 31 and such variance is the minimum necessary to preserve the historic character and design of the building or structure.

H. Recreational vehicles.

1. Recreational vehicles in special flood hazard areas shall be fully licensed and ready for highway use, and shall be placed on a site for less than one hundred eighty (180) consecutive days.

Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than one hundred eighty (180) consecutive days, shall meet the requirements for manufactured homes.

2. For the purposes of this Division, recreational vehicle means a vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light duty truck, and designed primarily not for use a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
- I. Gas or liquid storage tanks.
1. Underground tanks in special flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
 2. Above-ground tanks in special flood hazard areas shall be elevated and anchored to or above the base flood elevation plus eighteen (18) inches or shall be anchored at-grade and designed and constructed to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
 3. In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - i. At or above the base flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood.
 - ii. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- J. Manufactured homes.
1. Elevation. All new and replacement manufactured homes to be placed or substantially improved in a flood hazard area shall be elevated such that the bottom of the lowest horizontal structural supporting member of lowest floor of the manufactured home is elevated a minimum of eighteen (18) inches above the base flood elevation.
 2. Foundations. All new and replacement manufactured homes, including substantial improvement of existing manufactured homes, shall be placed on permanent, reinforced foundations that are designed in accordance with Section R322 of the residential code based on the applicable flood zone identified on the FIRM.
 3. Anchoring. All new and replacement manufactured homes to be placed or substantially improved in a special flood hazard area shall be installed using methods and practices which minimize flood damage. Manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. The anchor and tie-down specifications of the manufacturer are permitted, provided such specifications are specific to installation in special flood hazard areas. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 4. Enclosures. Fully enclosed areas below elevated manufactured homes shall comply with the requirements of Section R322 of the residential code based on the applicable flood zone identified on the FIRM.
 5. Protection of mechanical equipment and outside appliances. Mechanical equipment and outside appliances shall comply with the requirements of Section R322 for protection of mechanical and electrical systems.
 6. For the purposes of this Division manufactured home shall mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
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K. Storage, material, and equipment.

1. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
2. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.330. Requirements in all special flood hazard areas other than coastal high hazard areas.

In addition to the general requirements of Section 40.10.320, the requirements of this Section apply to all development proposed in special flood hazard areas other than coastal high hazard areas. These areas include Zones A, AE, and AO.

- A. *Accessory structures, freestanding decks and in-ground pools.* Accessory structures that have a footprint of no more than two hundred (200) square feet, freestanding decks and in-ground pools may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements (for additional guidance, see FEMA Technical Bulletin #7 - Wet Floodproofing Requirements):
1. Accessory structures may be useable only for parking or limited storage.
 2. Constructed with flood damage-resistant materials below the base flood elevation.
 3. Constructed and placed to offer the minimum resistance to the flow of flood waters.
 4. Firmly anchored to prevent flotation, collapse, and lateral movement.
 5. Electrical service and mechanical equipment elevated to or above the level of the base flood elevation.
 6. Equipped with flood openings that meet the requirements of Section R322.2.2 of the residential code.
- B. *Development in floodways.* Within any floodway area designated on the flood insurance rate map, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted.
- C. *Development in areas with base flood elevations but no floodways.* For development activities in a special flood hazard area with base flood elevations but no designated floodways, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting the proposed activity and shall submit such analyses and data to the Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant. The proposed development activity may be permitted if the analyses demonstrate that the cumulative effect of the proposed development activity, when combined with all other existing and potential special flood hazard area encroachments will not increase the base flood elevation more than one-tenth (0.1) foot at any point.
- D. *Deliberate alterations of a watercourse.* For the purpose of these regulations, a watercourse is deliberately altered when a person causes a change to occur within its banks. Deliberate changes to a watercourse include, but are not limited to: widening, deepening or relocating of the channel; installation of culverts; construction of bridges, and excavation or filling of the channel or watercourse banks. For any proposed deliberate alteration of a watercourse, the applicant shall develop hydrologic and hydraulic engineering analyses and technical data reflecting such changes and submit such technical data to the

Floodplain Administrator and to FEMA. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a conditional letter of map revision or letter of map revision. Submittal requirements and processing fees shall be the responsibility of the applicant. The proposed alteration of a watercourse may be permitted upon submission, by the applicant, of the following:

1. Documentation of compliance with regulations for development in the floodway or regulations for development if the alteration is in a watercourse with base flood elevations but no floodway, as applicable.
2. A description of the extent to which the watercourse will be altered or relocated as a result of the proposed development.
3. A certification by a licensed professional engineer that the bankfull flood-carrying capacity of the watercourse will not be diminished.
4. Evidence that adjacent communities, the U.S. Army Corps of Engineers, and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship) have been notified of the proposal and evidence that such notifications have been submitted to the Federal Emergency Management Agency.
5. Evidence that the applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with New Castle County specifying the maintenance responsibilities; if an agreement is required, the permit shall be conditioned to require that the agreement be recorded on the deed of the property which shall be binding on future owners.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.340. Additional requirements in coastal high hazard areas (Zone VE).

See Subsection 40.10.320.E for the requirement that building and structures comply with the flood load and flood-resistant construction requirements of the building code.

- A. The placement of structural fill for the purpose of elevating buildings is prohibited.
- B. Buildings shall be located landward of the reach of mean high tide.
- C. Generally, any reduction in the dimensions of dunes increases the potential for flood damage. Site preparations shall not alter sand dunes unless an engineering analysis demonstrates that the potential for flood damage is not increased.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.350. Nonconforming structures and use in the floodplain.

The following shall regulate nonconforming structures and uses within the special flood hazard area:

- A. The substantial improvement or repair of a nonconforming structure in a special flood hazard area must be authorized and approved by the Department pursuant to the standards specified in this Division.
- B. Any existing nonconforming building, structure, or use which is proposed to be expanded or enlarged in the special flood hazard area may be permitted upon approval of a floodplain permit application, provided that such expansion or enlargement does not result in an increase to the footprint (foundation) of the building or structure.
- C. Replacement or substantial improvement of a building or structure in the floodway is prohibited.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.360. Beneficial uses in floodplains.

All applicants seeking approval under a Beneficial Use permit application shall provide a floodplain application permit that demonstrates compliance with the requirements of this Division. Additionally:

- A. The standards for beneficial use in Division 40.31.600 shall be met.
- B. If a variance from the provisions of this Division is necessary to achieve the requested beneficial use of the property, a floodplain variance application shall be submitted concurrently with the beneficial use permit application.
- C. A beneficial use permit application will not be considered for any applications proposing fill or structures in the floodway.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.370. Floodplain variances.

The Board of Adjustment shall have the power to authorize, in specific cases, such variances from the requirements of these regulations and the flood load and flood-resistant construction of the building code, not inconsistent with Federal regulations.

- A. Application for a variance. Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- B. At a minimum, such application shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request. Each variance application shall specifically address each of the considerations in Section 40.31.451.
- C. RPATAC review. RPATAC shall review any request for a variance from the standards of this Division and provide a recommendation to the Board of Adjustment.

(Ord. No. 14-126 , § 6, 1-13-2015)

Sec. 40.10.380. Enforcement of floodplain management regulations.

- A. Compliance required. No structure or land development shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations.
- B. Failure to obtain a floodplain permit shall be a violation of these regulations.
- C. Floodplain permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that is contrary to that authorized shall be deemed a violation of these regulations.
- D. It shall be a violation of this Chapter where there is a failure of a structure or other development to be fully compliant with these floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in these regulations is presumed to be in violation until such time that documentation is provided.
- E. Areas where unauthorized land disturbance, building construction, filling activities, or development have occurred and are determined to be in violation of this Division shall be restored to their pre-violation grade and vegetative cover. All work to address a violation of this Article must be done pursuant to an approved floodplain permit.

(Ord. No. 14-126 , § 6, 1-13-2015)

Division 40.10.400. Reserved.²

Secs. 40.10.405—40.10.428. Reserved.

Division 40.10.500. Air quality.

In conjunction with standards contained in this Article regarding forest preservation, reforestation, landscape buffering and screening, and open space protection, all which contribute in some manner to a reduction in particulate matter, dust, auto-emissions and other toxic pollutants, the following performance standards are designed to maintain, restore, and enhance air quality in the County.

(Ord. No. 97-172, § 3(ch. 13, div. 10.500), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 10.500), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.10.510. Air pollution.

No site disturbance or construction activity, as regulated herein, may cause the emission of any air contaminants which violate the provisions of this Chapter. The following provisions apply:

- A. *Grading, excavation, land clearing and demolition.* Land clearing, land grading (including grading for roads), excavation or demolition shall not be permitted unless methods are employed to control dust emissions. Emissions shall not be permitted beyond the lot line of the source of the emission. Methods for controlling dust may include the application of water or the use of other techniques approved by the Department.
- B. *Material movement.* Visible particulate emissions from any material being transported by a motor vehicle are prohibited.

(Ord. No. 97-172, § 3(ch. 13, § 10.510), 12-31-1997)

Sec. 40.10.520. Transportation.

It is strongly encouraged that all businesses located in the County consider participating in or establishing ride share programs in an effort to reduce auto-emissions and fossil fuel use. It is also strongly encouraged that businesses located in the County promote the use of mass transit where accessible and convenient to employees, as well as other alternative modes of transportation.

(Ord. No. 97-172, § 3(ch. 13, § 10.520), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.10.530. State and federal regulations.

Specific uses and emissions thereof which have the potential to negatively impact air quality shall be regulated per applicable State and federal clean air requirements, as adopted and/or amended. Such requirements include, but are not limited to, State of Delaware regulations governing the control of air pollution (pursuant to Title 7, Delaware Code, Chapter 60, as amended) and the federal Clean Air Act. No equipment having the potential to discharge contaminants into the air shall be permitted to operate unless furnished with approved pollution control equipment; where applicable under State or federal law, specific uses shall be required to utilize best available control

²Editor's note(s)—Ord. No. 14-126 , §§ 5, 7, adopted January 13, 2015, redesignated the provisions of former Division 40.10.400, §§ 40.10.405—40.10.428, which pertained to standards for open space uses, as various sections of Division 40.10.200. See the Code Comparative Table for a complete derivation.

technology (BACT). No requirements contained herein shall relieve the applicant of the need to obtain State or federal permits or adhere to the regulations pursuant to State or federal law.

(Ord. No. 97-172, § 3(ch. 13, § 10.530), 12-31-1997)

Division 40.10.600. Storage of hazardous substances and petroleum products.

The storage, maintenance, use, or sale of substances listed in 40 CFR 116 as an aggregate quality equal to or greater than a reportable quality as defined in 40 CFR 117 shall be governed by the following provisions. Petroleum products shall also meet the requirements of this Section.

- A. All such activities are prohibited in floodplains, floodways, wellhead class A, B or C, the Cockeysville Formation, drainageways, recharge areas, steep slopes, critical natural areas, wetlands, riparian buffers and sinkholes, unless such substances are used in the process of public water supply and treatment and sewer treatment facilities.
- B. The replacement of existing underground petroleum storage tanks in any area other than a WRPA shall be permitted provided all State and federal regulations are met. The replacement of existing underground petroleum storage tanks in a WRPA where an upgrade is required by DNREC shall be permitted provided all State and federal regulations are met and secondary containment is provided.
- C. In all other area where permitted, above ground storage shall be permitted provided such facilities are designed so that all spills are fully contained in a secondary containment facility that is designed such that there is no spill into soils, surface waters, sewers. The replacement of existing above ground storage facilities in any area shall be permitted provided the State Fire Marshall's Office provides the Department with written approval and all other applicable State and federal regulations are met and secondary containment is provided. Secondary containment shall not be required for above ground storage used exclusively for private residential purposes when located on the residential lot within the setback lines.
- D. In all other areas where permitted, underground storage shall be permitted only for petroleum products, provided all State and federal regulations are met.

(Ord. No. 97-172, § 3(ch. 13, div. 10.540), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 10.600), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.10.700. Compliance.

Sec. 40.10.701. Environmental impact assessment report.

If a proposed use requires an environmental impact assessment report, the applicant shall have such a report prepared and certified by a qualified professional engineer, geologist, landscape architect, environmental consultant, botanist, plant or wildlife ecologist, forester, certified wetlands delineator or other certified professional in the applicable environmental discipline. The report shall contain the following information:

- A. *Site character.* Identify all on-site sensitive environmental resources and concerns and any potential impacts on adjoining land uses and populations.
- B. *Avoidance.* Identify alternative sites or routes that would not damage the resource or would result in less resource disturbance. Justification shall be provided for not using these alternative sites or routes.
- C. *Minimization.* Demonstrate that the plan minimizes the impact of the use on the resource. The applicant shall also demonstrate that the areas impacted shall be the lowest quality and result in the least damage to the resource.
- D. *Resource mitigation.* A mitigation plan must be submitted that describes the site conditions of the area to be mitigated, the required size of the area of mitigation, detailed plans for monitoring and long-term maintenance, and the mitigation area boundaries.

1. On-site replacement is the most acceptable for of mitigation. However, mitigation can include restoration and enhancement of the existing resource.
 2. Mitigation cannot be used where the conflict can be avoided or minimized.
 3. Mitigation by replacement on another site shall be at a ratio of two to one (2:1), except for CNA impacts which shall be at a ratio of four to one (4:1) and geographically contiguous to the impacted CNA.
 4. Mitigation may also include enhancement; this ratio shall be four to one (4:1).
- E. *Conservation design.* Any use proposed within natural resource area open space shall demonstrate how the principles of conservation design will be implemented, how they will be advanced, and how the proposed use will be addressed in the natural resource area open space management plan.
- F. *Endangered species.* Prepare an inventory of federal and state threatened and endangered plant and animal species (as well as candidates for such designation) on-site and within five hundred (500) feet of the site, determination of the proposed development's impact, and identification of any mitigation.
- G. *Cultural and scenic resources.* Prepare an inventory of federal, state or locally identified irreplaceable historical, archaeological, paleontological or scenic resources on site and within five hundred (500) feet of the proposed site, determination of the proposed development's impact on the resources and identification of any mitigation.

(Ord. No. 14-126 , § 8, 1-13-2015; Ord. No. 21-009 , § 4, 12-14-2021; Ord. No. 22-101 , § 2, 11-29-2022)

Sec. 40.10.702. Resource Protection Area Technical Advisory Committee (RPATAC).

- A. The purposes and duties of RPATAC are defined in Article 30.
- B. Neither the Board of Adjustment, nor the Planning Board shall consider any application for a variance from this Article until the RPATAC has had an opportunity to review the application and make a written recommendation to the respective board. Any application for a variance from this Article shall be transmitted to the RPATAC, which shall have forty-five (45) days from the filing of the application to review and issue its recommendation.

(Ord. No. 14-126 , § 8, 1-13-2015)

ARTICLE 11. TRANSPORTATION IMPACT¹

Division 40.11.000. Purpose.

The purpose of this Article is to:

- A. Ensure that development occurs only where there are adequate transportation facilities in place, or programmed for construction;
- B. Ensure that development regulation:
 - 1. Is based on sound and equitable planning principles that avoid unnecessary congestion of transportation facilities, and
 - 2. Is coordinated with local, regional and state transportation planning and funding decisions; and
- C. Ensure coordination with the Delaware Department of Transportation ("DelDOT"), which funds and manages the State's transportation improvements.

(Ord. No. 97-172, § 3(ch. 13, div. 11.000), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 19-005 , § 2, 5-28-2019)

Division 40.11.100. Transportation capacity.

Sec. 40.11.105. Applicability.

No major land development or rezoning shall be permitted if the proposed development exceeds the level of service ("LOS") standards set forth in this Article or a Transportation Improvement District ("TID") or a Complete Community Enterprise District ("CCED") transportation master plan.

(Ord. No. 19-005 , § 3, 5-28-2019)

Sec. 40.11.110. Transportation capacity calculation.

- A. The transportation capacity for a proposed development shall be based upon the available capacity as determined by a traffic impact study ("TIS").
- B. The applicant shall follow the methodology set forth in this Article to determine the transportation impacts of the site.
- C. The TIS shall involve:
 - 1. A TIS prepared by the applicant, reviewed by DelDOT and approved by the County; or
 - 2. A TIS prepared by DelDOT on behalf of the applicant; or
 - 3. A transportation master plan prepared to support a TID or a CCED, as provided in Division 40.11.300.

(Ord. No. 97-172, § 3(ch. 13, § 11.110), 12-31-1997; Ord. No. 19-005 , § 3, 5-28-2019)

Sec. 40.11.120. Need for traffic analysis.

- A. Except as exempted elsewhere in this Chapter, an applicant shall submit the following traffic information for all major plans and rezonings.

¹Cross reference(s)—Traffic and vehicles, ch. 34.

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1. Approximate vehicle trips per day during the week and the weekend, and the a.m. and p.m. peak hour trips generated by the proposed development;
 2. Road conditions and access geometry including roadway surface, horizontal, and vertical alignment conditions associated with the access location(s) to the adjoining roadway;
 3. Accident and roadway safety summary from DelDOT;
 4. Existing peak hour level of service at intersections in the area of influence of the proposed development, if available;
 5. Names and dates of previous traffic studies of intersections and road segments in the area of influence of the proposed development, if available;
 6. Existing travel time information for roadway segments within the area of influence, where available.
- B. In order to expedite the review of the above information, the applicant may, at its option, provide it to the Department and DelDOT in advance of the scheduled preapplication conference.
- C. If the Department and DelDOT find, based upon the information supplied by the applicant pursuant to Subsection A and the standards set forth in this Section, that a proposed rezoning, subdivision, or land development could generate significant traffic impacts, the Department shall require the applicant to prepare and submit a traffic impact study to the Department and DelDOT. Traffic impacts are considered significant if any of the following conditions exist.
1. The proposal exceeds two thousand (2,000) projected average daily trips ("ADT").
 2. The proposal is projected to generate more than fifty (50) peak hour trips, including trips that are diverted from existing traffic.
 3. The subject property is located near roadway segments and intersections, which are operating below the level of service specified in Section 40.11.210.
 4. The proposed development causes the total development within the area traffic analysis zone and the adjacent zones to exceed the totals in the WILMAPCO Regional Transportation Plan or a Land Use and Transportation Plan or master development plan prepared in accordance with Division 40.11.300.
 5. The proposed development will impact roadways that are not capable of providing adequate and safe circulation, or adequate stopping sight distances, or that contain other geometric deficiencies that would result in safety problems if the development were built.

(Ord. No. 97-172, § 3(ch. 13, § 11.120), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 09-066, § 8, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-005, § 3, 5-28-2019)

Sec. 40.11.121. Traffic impact study waiver.

The requirement for a traffic study and the evaluation of the level of service will be waived provided the Department finds:

- A. That a traffic impact study was completed for a similar subdivision or land development on the parcel no more than three (3) years before the submission of the current subdivision or land development application, that there has been no significant change in circumstances, and that the subdivision and land development activity within the area of influence are consistent with the size and type of development evaluated in the traffic impact study; or
 - B. The parcel is subject to deed restrictions requiring that the proposed subdivision or land development be phased to coincide with improvements to the transportation system, or phased by a reduced rate of build out, so long as the time frame set forth in any deed restriction for completion of the development has not expired; or
 - C. The proposed development is located within and has trip generation consistent with a TID or a CCED and meets the criteria established in Division 40.11.300.
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(Ord. No. 97-172, § 3(ch. 13, § 11.121), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 19-005, § 3, 5-28-2019)

Sec. 40.11.122. Scoping meeting.

Within thirty (30) days after the Department or DelDOT determine that a traffic impact study is necessary, the Department and DelDOT shall meet with the applicant to establish the area of influence and all parameters used in the study. Once established, no substantial modification to the area of influence and study parameters shall be made by the applicant without the approval of the Department and DelDOT. Such approval shall be given only if the applicant can demonstrate to the satisfaction of DelDOT and the Department that the data relied upon to determine the area of influence and study parameters was flawed or otherwise inaccurate.

(Ord. No. 97-172, § 3(ch. 13, § 11.122), 12-31-1997; Ord. No. 19-005, § 3, 5-28-2019)

Sec. 40.11.124. Area of influence.

- A. The area of influence shall extend beyond the site entrance(s) to include further intersections to the extent that the projected site traffic (Vehicle Trip Ends on an average weekday or weekend day, whichever is greater) exceeds:
 - 1. One (1) percent of the annual average daily traffic on the intersecting road if it is an arterial road,
 - 2. Five (5) percent of the annual average daily traffic on the intersecting road if it is a collector road, or
 - 3. Ten (10) percent of the annual average daily traffic on the intersecting road if it is a local road.
- B. Subsection A notwithstanding, the following rules shall also apply:
 - 1. The study area shall always include the site entrances.
 - 2. If the site would have access on two (2) or more intersecting roads, the study shall include their intersections.
 - 3. The study area shall not extend more than three (3) intersections beyond the site entrance(s) in any one (1) direction, unless it is determined by the Department or DelDOT that the proposed development would have a greater than normal impact upon the transportation system.
 - 4. For the purposes of this Section, average weekday vehicle trip ends generated by retail commercial uses shall be reduced by the following amounts to account for pass-by traffic.
 - a. Restaurants, forty (40) percent.
 - b. Convenience markets and service stations, sixty (60) percent.
 - c. Other retail uses thirty (30) percent.
 - 5. For uses that operate on an event basis (e.g., stadiums and arenas) the Department and DelDOT shall substitute professional judgment for Subsection A in determining the area of influence.

(Ord. No. 97-172, § 3(ch. 13, § 11.124), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.11.130. Traffic impact study requirements.

- A. A traffic impact study shall be prepared by individuals or firms that perform traffic engineering and the study shall be reviewed and sealed by a professional engineer. The content and format of the study shall be as prescribed by Chapter 2 of DelDOT's Development Coordination Manual, or any amendments thereto, and include all of the following additional requirements:
 - 1. The anticipated trip generation of the land use including vehicle trips per day during the week and the weekend, and the a.m., p.m., and weekend peak hour trips generated by the proposed development.

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2. New traffic counts will be required for all intersections in the area of influence of the proposed development. If other traffic impact studies have been done in the area within one (1) year, the traffic counts from these traffic impact studies or other traffic counts may be used with the approval of the Department and DelDOT.
 3. Currently planned traffic mitigation programs and transportation improvements, including, without limitation, projects awarded or under construction, projects in DelDOT's Capital Transportation Program (CTP) and their completion dates, and projects and corridor needs in the adopted WILMAPCO Regional Transportation Plan.
 4. The existing and projected peak hour level of service after the proposed development is completed, with and without specified traffic mitigation measures.
 5. A geometric assessment of any roadways or plan features identified as having deficiencies likely to result in potential safety or design problems; e.g., turning radii, access location.
 6. Multi-modal transportation information for the area of influence including:
 - a. The location of existing and planned sidewalks, shared-use pathways, bicycle lanes, transit routes, transit stations or bus stops, park and ride lots, and layover stations;
 - b. Significant pedestrian and bicycle safety issues, such as crosswalks, highway lanes to be crossed, and roadway hazards to bicycles (such as storm grates or railroad rails in pavements); and
 - c. Needed pedestrian and bicycle amenities, such as sidewalks, lighting, or bus shelters.
 7. Future traffic shall be projected by including trip generation from committed developments and a growth factor for background traffic.
 - a. "Committed developments" are the following developments that are approved by the County but which have not yet been constructed:
 - i. Developments with recorded plans, major plans and plans with rezonings not initiated by the County that have exploratory plan approval; and
 - ii. Developments having had a zoning change approved within a three (3)-year prior period; and
 - iii. Developments containing deed restrictions requiring phasing to coincide with improvements to the transportation system.
 - b. Future traffic also shall be projected by the inclusion of trip generation based upon a growth factor for background traffic.
 - c. The traffic impact study shall include all committed development in unincorporated New Castle County within a two-mile radius of the exterior boundaries of the project and any additional committed developments that the Department, at the scoping meeting determines will substantially affect traffic conditions in the area of influence.
 8. A statement indicating whether the peak hour level of service calculated for each road segment and intersection will exceed the acceptable level of service for the type of roadway segment and intersection pursuant to Section 40.11.210.
 9. Recommendations regarding what, if any, transportation improvements or trip reduction/transportation demand management (TDM) measures would be necessary to attain an acceptable level of service. If the report indicates that level of service will be exceeded, a Traffic Mitigation (TM) Agreement shall be submitted detailing the infrastructure improvements to be made.
 10. A statement signed by the applicant and referenced on the plan certifying that:
 - a. The project information in the study is true and correct;
 - b. The traffic analysis was conducted in accordance with the requirements of this Chapter.
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(Ord. No. 97-172, § 3(ch. 13, § 11.130), 12-31-1997; Ord. No. 00-102, § 2, 11-28-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-066, § 9, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-005, § 3, 5-28-2019)

Cross reference(s)—Level of Service (LOS) waivers and Traffic Mitigation (TM) Agreements, § 40.11.230.

Sec. 40.11.140. DelDOT report required.

- A. Upon receipt of a final traffic impact study, DelDOT shall have ninety (90) days to review the traffic impact study pursuant to this Article and submit written comments to the Department. DelDOT, the applicant, and the Department may extend these time frames by mutual agreement. The review of the traffic impact study shall include the following:
1. A statement indicating whether a traffic impact study was previously submitted and evaluated for the same or a substantially similar rezoning, subdivision, or land development application, and if so, the results of that evaluation, including any recommended mitigation measures. The statement also may contain an evaluation and findings of any other concurrent TIS for applications in the immediate area;
 2. A statement assessing the ability of the existing and planned transportation system to support the proposed rezoning, subdivision, or land development;
 3. A statement describing the extent to which the proposed rezoning, subdivision, or land development is consistent with the adopted WILMAPCO Regional Transportation Plan;
 4. A statement describing the extent to which any proposed transportation improvements, trip reduction/TDM measures are consistent with the adopted WILMAPCO Regional Transportation Plan and the State Capital Transportation Program ("CTP") and transportation capital budget;
 5. A statement describing the extent to which the proposed rezoning, subdivision, or land development complies with applicable DelDOT standards or regulations for access and subdivision design, and with the standards in Section 40.11.210; and
 6. A statement certifying the adequacy of the recommended traffic mitigation measures to bring the network back to the desired level of service in Section 40.11.210.
- B. If DelDOT does not complete its review of the traffic impact study within the above provided time frame, the applicant shall have the option to request that the traffic impact study be reviewed by individuals or firms that perform traffic engineering that are approved by the Department. Such reviews shall be examined and sealed by a professional engineer also approved by the Department. The applicant shall pay the cost of this review to the Department prior to submission of the final traffic impact study to the individual or firm by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 11.140), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 19-005, § 3, 5-28-2019)

Sec. 40.11.150. Subdivision or land development traffic impact study plan approval.

- A. Upon receipt of the traffic impact study and comments from DelDOT or individual or firm approved by the Department as provided in Section 40.11.140B, the Department shall review the traffic impact study with regard to the following:
1. The accuracy, completeness, and thoroughness of the traffic impact study as well as whether the study was conducted in conformance to the study parameters set by the Department and DelDOT.
 2. DelDOT's comments and recommendations when DelDOT reviewed the traffic impact study.
 3. The level of service requirements of this Article.
 4. Appropriateness and adequacy of any proposed mitigation measures.

5. Compatibility with regional and State transportation plans and nearby development proposals.
 6. Design principles and standards as described in this Chapter (e.g., interconnectivity, transit/pedestrian accessibility and street design).
- B. Based upon the above criteria, the Department shall approve, approve with conditions or disapprove the traffic impact study. The Department shall approve the project when the traffic impact study demonstrates that acceptable levels of service will be maintained for roadway segments and intersections within the area of influence of the project as defined by Section 40.11.210. The project shall not be approved if it will result in an unacceptable level of service for a roadway segments or intersection(s) within the area of influence of the project. If the study is not approved the applicant may take one (1) of the following actions:
1. The applicant may request permission to revise the proposed plan and traffic impact study to include additional traffic mitigation measures necessary to maintain acceptable levels of service within the project's area of influence. The proposed revisions shall be submitted by the applicant to the Department and DelDOT.
 2. The applicant may submit for approval an exploratory plan with a lower maximum intensity and density that does not exceed adequate levels of service, or submit for review and record (with approval) a declaration of restrictions that would prohibit development until such time as an adequate level of service can be achieved.
- C. Once the traffic impact study is approved or approved with conditions for a major plan, the applicant may proceed with a record plan submission as provided in Article 31.

(Ord. No. 97-172, § 3(ch. 13, § 11.150), 12-31-1997; Ord. No. 00-102, § 2, 11-28-2000; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 09-066, § 10, 10-13-2009)

Sec. 40.11.155. Rezoning traffic impact study plan approval.

Rezoning applications. In addition to the provisions contained in Section 40.11.150.A, the Department may request DelDOT's assistance in determining if the cumulative impact of proposed zoning changes for a given review period requires additional highway improvements or whether only a portion of the requested zoning changes for a review period can be supported. The Department may permit testimony and additional information to be submitted regarding any proposed mitigation. In considering a rezoning, the Department's and Planning Board's recommendations shall take into account the cumulative impact of the proposed rezonings, any mitigation proposed, and the factors that must be considered for rezonings set forth in Article 31.

(Ord. No. 97-172, § 3(ch. 13, § 11.155), 12-31-1997; Ord. No. 00-102, § 2, 11-28-2000; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.11.200. Adequate level of service.

Sec. 40.11.210. Level of service standards.

- A. The minimum acceptable peak hour level of service to be achieved and maintained on all roadway segments and intersections within the area of influence of the proposal shall be as follows:
1. *Sewer service areas.*
 - a. Level of service D within any sewer service area identified in Section 40.12.110;
 - b. For roadway segments and intersections located within a sewer area or an existing developed area or designated infill area operating at an existing level of service D or E, the minimum acceptable peak hour level of service shall be E, provided that level of service D will be attained through transportation projects that add capacity to the transportation system, and
 - (i) Are currently under construction, or

- (ii) For which contracts for construction have been executed by the applicant or third parties and approved in writing by DelDOT to ensure completion within three (3) years after issuance of the first building permit for the project that requires the capacity provided by those improvements to meet the required level of service, or
 - (iii) For which contracts for construction have been awarded by DelDOT to ensure completion within three (3) years after issuance of the first building permit for the project that requires the capacity provided by those improvements to meet the required level of service.
 - 2. *Outside sewer service areas.* The existing level of service with no roadway segments and intersections exceeding level of service C.
 - B. Building permits and certificates of occupancy may not be issued except as provided below.
 - 1. For non-residential construction shown on a plan, the required level of service standard must be attained at the time the Department issues the certificate of occupancy.
 - 2. For residential construction shown on a plan, the required level of service standard must be attained at the time the Department issues a building permit.
 - 3. If Subsection A.1.b., above applies, the level of service standard required will be attained by the construction of transportation improvements within three (3) years from the first building permit.
- (Ord. No. 97-172, § 3(ch. 13, § 11.210), 12-31-1997; Ord. No. 00-024, § 2, 6-13-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-067, § 1, 11-10-2009; Ord. No. 19-005, § 4, 5-28-2019)

Sec. 40.11.220. Traffic mitigation measures.

- A. Traffic mitigation measures shall be required if the applicant proposes to develop at a density that would exceed the current levels of service as set forth in Section 40.11.210. To be considered, traffic mitigation measures must result in an acceptable level of service and may include any one or all of the following:
 - 1. A reduction in the proposed density or intensity of development;
 - 2. The phasing of construction to coincide with the completion of programmed transportation construction projects which are identified in DelDOT's six (6) year capital improvements program;
 - 3. The construction or implementation of off-site transportation or transit improvements, or trip reduction/TDM measures by the applicant.
- B. The specific mitigation measures shall be chosen based on their ability to achieve and maintain acceptable levels of service for roadway segments and intersections within the area of influence of the project. All proposed traffic mitigation measures approved by the Department shall be listed on the record plan.
- C. Traffic Mitigation (TM) Agreements shall be used by an applicant when an acceptable level of service cannot be reasonably achieved and when an applicant is unable to phase or reduce the density or intensity of the development proposal and unable to provide highway improvements to meet LOS standards. As part of the LOS Waiver process, a TM Agreement shall be prepared and approved pursuant to Section 40.11.230.

(Ord. No. 97-172, § 3(ch. 13, § 11.220), 12-31-1997; Ord. No. 00-102, § 4, 11-28-2000; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-005, § 4, 5-28-2019)

Sec. 40.11.230. Level of Service (LOS) waivers and Traffic Mitigation (TM) Agreements.

- A. *Level of Service (LOS) Waiver.* If the proposed development is located in a designated infill area, the Southern New Castle County Sewer Service Area, or existing developed area where there are existing roadway segments or intersections functioning at unacceptable levels of service, as defined by Section 40.11.210, the applicant may, in writing, request a Level of Service (LOS) Waiver. The applicant shall submit the LOS Waiver request, accompanied by a TM agreement to the Department. The submission shall include DelDOT's

recommendation and comment and other application requirements and materials as set forth below and in Appendix 1 to this Chapter.

1. The application consisting of a copy of the Traffic Mitigation Agreement and DelDOT's recommendation and comment. The applicant shall also forward a copy of this application to the Clerk of County Council, the district council member, and the President of County Council.
 2. A draft resolution for County Council's consideration that is to also be provided in electronic form.
 3. The applicable Departmental filing fee in accordance with Appendix 2 to this Chapter.
 4. The applicable Recorder of Deeds filing fee in the event the application is granted (the check will be returned if the application is rejected).
 5. All current school taxes, county taxes and sewer service fees must be paid or not delinquent at the time of application.
 6. All other information and items as required by Section 40.11.230.
- B. *Traffic Mitigation (TM) Agreement.* Every applicant who requests an LOS Waiver from County Council shall be required to enter into a TM Agreement with DelDOT. In connection with the application to obtain an LOS Waiver, DelDOT will coordinate its negotiations with the applicant in the preparation of a TM Agreement with the Department. Every TM Agreement shall be executed by the applicant and DelDOT. Each TM Agreement will typically contain the following:
1. Primary trip reduction measures that the applicant must implement in order to achieve quantitative trip reduction goals, which shall include at a minimum no more than eighty-five (85) employee vehicles per one hundred (100) employees arriving during the morning peak traffic period or departing during the evening peak traffic period on any given day. The specific measures shall be incorporated into the TM Agreement.
 2. Contingent trip reduction measures, some or all of which shall be utilized in the event that the primary measures fail to achieve the trip reduction goals.
 3. A requirement that the applicant will pay the reasonable costs of a third-party consultant (retained and supervised by DelDOT) to serve as an auditor. The Department shall participate on the consultant selection committee. The third-party auditor will annually audit the applicant's progress on implementation of the specific TDM measures it has agreed to implement and the effectiveness of such measures in achieving trip reduction goals.
 4. A requirement that the applicant will develop a budget of the total costs that the applicant expects to bear for the implementation of the TDM measures for the five (5) years following the issuance of the Certificate of Occupancy (CO), exclusive of the cost of the independent auditor. This budget shall be developed by the applicant and approved jointly by DelDOT and the Department prior to, and as a condition of, the issuance of a CO. DelDOT shall retain the consultant by use of its normal consultant contract procedures, including but not limited to the use of an appropriate hourly-fee based method for compensation, as well as the normal DelDOT limitations on profit, overhead, and chargeable fees.
 5. A requirement that the applicant will secure the implementation of the TDM measures with a financial guarantee, deposited with and held by DelDOT. The financial guarantee shall be provided by a bond, certified check, letter of credit, or other form of security in a manner and form approved by DelDOT. The guarantee must be posted at the time the CO is issued, shall be in an amount equal to one hundred and fifty (150) percent of the total costs of implementing the TDM measures and shall remain in effect for five (5) years. For multi-phased projects such a financial guarantee shall be posted at the time that the CO is issued for each subsequent building. DelDOT may also draw on the financial guarantee to pay for the cost of the auditor, should the applicant fail to make payment within a reasonable period of time. The amount otherwise drawn upon the financial guarantee shall be limited to an amount equal to the amount thus far unexpended by the applicant under the approved budget for such costs, up to the one hundred and fifty (150) percent limit.

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6. In connection with an LOS Waiver, any other provision(s) that County Council adds or adopts as a condition of an LOS Waiver. The waiver thus will be conditioned on the applicant and DelDOT accepting and agreeing to the provisions.
 7. Any other transportation mitigation conditions or measures required by DelDOT as a condition of an LOS Waiver. The waiver will be conditioned on compliance with any condition required by DelDOT.
- C. *LOS Waivers and TM Agreement Approval.*
1. After DelDOT (in consultation with the Department) and the applicant have negotiated the TM Agreement, the applicant may submit a written request to County Council and the Department for an LOS waiver which shall be accompanied by TM Agreement and DelDOT's comments and recommendations with regard to the TM Agreement.
 2. The Department will review the LOS waiver, TM agreement and DelDOT's comments and recommendations and shall submit its written recommendation within twenty (20) days to the Clerk of County Council, the sponsor, the sponsor's legislative aide, and the applicant. If the Department recommends changes to be made to the applicant's draft resolution, a substitute draft resolution shall accompany the Department's recommendation and shall be provided in electronic form to the sponsor's legislative aide.
 - a. The Department shall consider the following when developing a recommendation:
 - i. The locations of the roadway segments and intersections that will have unacceptable levels of service and the relative effect construction of the subdivision or land development will have on the roadway segments and intersections;
 - ii. The number and types of current and future constructed projects in the area of influence of the proposed development and the effect the projects had on the results of the traffic impact study;
 - iii. The types of traffic mitigation measures or transportation improvements proposed by the applicant to reduce traffic congestion from the proposed development; The potential for transportation improvements that will result in the attainment of acceptable levels of service being included in future DelDOT capital improvement programs; and
 - iv. The extent to which the proposed development represents the logical infilling or completion of an established land use pattern, offers the opportunity to advance affordable housing, economic development or other objectives of the Comprehensive Development Plan.
 - b. The Department will not recommend approval of an LOS Waiver unless, at a minimum, the Department finds:
 - i. The proposed development is an economic development project that is significant with respect to the number and character of jobs provided, or the potential revenue to the County; or
 - ii. The applicant demonstrates, based on documentation, that the application of this Article creates unique, significant, undue hardship; or
 - iii. The proposed development accomplishes another unique, significant, and demonstrated public purpose that could not be accomplished by applying other provisions of this Article.
 3. Upon receipt of the Department's recommendation, County Council shall act on the LOS Waiver resolution, or any substitute resolution, at one (1) of its next two (2) regularly scheduled public meetings. A simple majority or seven (7) votes shall be required to approve an LOS Waiver resolution receiving a favorable recommendation from the Department. A two-thirds ($\frac{2}{3}$) majority or nine (9) votes shall be required to approve an LOS Waiver resolution when the Department recommends disapproval.
 4. If County Council grants an LOS Waiver, it may approve the TM Agreement with or without conditions. If conditions or additional provisions are required, approval of the LOS Waiver will be contingent upon

- agreement to the conditions or additional provisions by DelDOT and the applicant, and execution of an amended TM Agreement including the conditions or additional provisions. The President of County Council shall sign the resolution granting such waiver on behalf of County Council.
5. Upon approval by County Council, with or without modifications, the TM Agreement shall be incorporated into the grant of the LOS Waiver and shall be recorded by the Clerk of County Council in the New Castle County Office of the Recorder of Deeds at the cost of the applicant, as a deed restriction that runs with the land. All deed restrictions shall be prepared by the applicant and approved by the Departments of Land Use and Law prior to final approval. The applicant's final record plan shall indicate the instrument number where the deed restriction is recorded. A copy of the recorded TM Agreement and the LOS Waiver document shall be provided to the Department and the applicant. The applicant shall also provide WILMAPCO with a copy.
 6. As an additional condition of the grant of an LOS Waiver, the applicant shall post a financial guarantee of its obligations under the TM Agreement with DelDOT, as described in Subsection B.5.
- D. *Employer Reports, Compliance Audits and Enforcement of trip reduction/transportation demand management (TDM) measures.*
1. Compliance Audits. While the TDM measures are being implemented by the applicant in accordance with the TM Agreement:
 - a. DelDOT will retain a third-party consultant at the applicant's expense, pursuant to Subsection B.3., to serve as an independent auditor of the applicant's implementation of the TM Agreement; and
 - b. Beginning with the issuance of the CO for the first building, the applicant will, for two (2) years or until the independent auditor confirms that such measures have been fully implemented, whichever first occurs, provide to DelDOT and the Department semi-annual reports (beginning six (6) months after the CO is issued or earlier if required by DelDOT) on the progress of its implementation of the TDM measures in the TM Agreement. In connection with a multi-phase development, a new two-year period shall begin with the issuance of each CO; and
 - c. The independent auditor will provide the applicant, DelDOT, the Department and WILMAPCO annual audits on the progress of the applicant's implementation of the TDM Measures in the TM Agreement and achievement of the trip reduction goals.
 2. Enforcement. Should either DelDOT or the County determine that the applicant has failed to make a good faith effort to implement, or to continue to implement, the TDM measures in the TM Agreement, one (1) or more of the following actions may be initiated or undertaken by either DelDOT or the County. Before either DelDOT or the County determines that the applicant has failed to make a good faith effort to implement or to continue to implement, the TDM measures and/or before any enforcement action is initiated or undertaken by either DelDOT or the County, the applicant shall have the right to meet with the Department to show cause why no enforcement action should be taken. In the event that the applicant does not resolve the concerns raised by DelDOT or the County within sixty (60) days of notice, any of the following options may be utilized by the Department:
 - a. The imposition of fines;
 - b. DelDOT's drawing upon the financial guarantee that the applicant has posted with it, in order to carry out TDM measures within the area of influence of the applicant's project (if such guarantee has been imposed as a condition of the development). The amount drawn upon the financial guarantee shall be limited to an amount equal to the amount thus far unexpended by the applicant under the approved budget for such costs, up to the one hundred and fifty (150) percent limit;
 - c. Refusal to issue further building permits by the County for any building(s) on the site for which the TDM measures were developed; and
 - d. Any and all other remedies available at law or in equity.
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3. Reduction of Financial Guarantee. DelDOT may reduce the financial guarantee the applicant has posted with it, based on the implementation of TDM measures in the TM Agreement and/or progress toward trip reduction goals. In any event, the term of the financial guarantee posted with DelDOT shall not exceed five (5) years. The amount drawn upon the financial guarantee shall be limited to an amount equal to the amount thus far unexpended by the applicant under the approved budget for such costs, up to the one hundred and fifty (150) percent limit.
4. In addition to the remedies provided above, DelDOT shall monitor the attainment of trip reduction goals, based on annual reports of the independent auditor.
 - a. If the trip reduction goals have not been met by the applicant within one (1) year of the issuance of the CO, despite the implementation of the primary TDM measures, the applicant is required to implement one, some, or all of the contingent TDM measures, intended to achieve equivalent traffic mitigation, as set forth in the TM Agreement.
 - b. Should either DelDOT or the County determine that the applicant has failed to achieve the trip reduction goals within three (3) years after issuance of the CO, the applicant shall appear before County Council to be heard as to why the applicant has not achieved the trip reduction goals. The applicant may work with DelDOT and the Department to develop a revised TM Agreement to be reviewed and approved by County Council. After the third year and unless and until the trip reduction goals contained in the applicant's plan have been achieved by the applicant, County Council may mandate that the Department refuse to issue further building permits, grant rezoning changes or any other land use regulatory changes or LOS Waivers relating to the particular site which is the subject of the TM Agreement, if such permits, changes, or waivers would allow alterations or additions to the building(s) at the site, which would result in increased employment at that site. In addition, DelDOT may refuse to grant additional exit/entrance permits for such site, unless and until the trip reduction goals have been achieved by the applicant.
5. After five (5) consecutive years of attaining the goal(s) of the TM Agreement, annual audits no longer will be required. However, DelDOT reserves the right to perform an audit at DelDOT's expense at any time. If a change in any public policy, or the withdrawal or discontinuation of any governmental program, or other change in circumstance beyond the control of the applicant make impossible or impractical the implementation of primary or contingent TDM measure(s), the applicant shall, with the concurrence of DelDOT, substitute other measure(s) designed to achieve equivalent trip reductions, provided that:
 - a. The total costs of implementation of such substitute TDM measures will not exceed the original budgeted amount of the TDM measures replaced; and
 - b. Such substitution has been approved by County Council. In considering such requests, County Council shall request that DelDOT and the Department provide a recommendation on such requested changes, prior to action by County Council. In an instance where the creation of a new government program makes other TDM measures more desirable, an applicant may, according to the process described above, substitute TDM measures. In either instance, DelDOT and the Department shall provide their recommendations to County Council no later than sixty (60) days after the applicant has requested this action. Should there be a change in the use of the site which is the subject of the TDM measures or a change in the circumstances which resulted in the TM Agreement being required, County Council on the recommendations of DelDOT and the Department may amend or terminate said TDM requirements.

(Ord. No. 97-172, § 3(ch. 13, § 11.230), 12-31-1997; Ord. No. 00-102, § 5, 11-28-2000; Ord. No. 00-130, § 1, 6-12-2001; Ord. No. 04-154, § 2, 1-25-2005; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-005, § 4, 5-28-2019)

Division 40.11.300. Transportation planning.

Sec. 40.11.310. Transportation Improvement Districts.

A. Applicability.

1. This Section provides for the development of a Transportation Improvement District ("TID"), which provides a more effective and flexible way to implement the purposes of this Article and to encourage economic development consistent with Article 40.01.015.C. A "TID" means a geographic area defined to secure required improvements to transportation facilities in that area and approved as provided in this Section and the DelDOT Development Coordination Manual ("DCM"), Section 2.4, as amended.
2. This Section does not apply to any area zoned exclusively for any combination of the following zoning districts: Suburban Transition (ST), Suburban (S), Suburban Estate (SE), Suburban Reserve (SR), Neighborhood Conservation (NC), or Manufactured Home (MM).
3. This Section does not apply to any area zoned exclusively for commercial uses.

B. Agreement. The Department will enter into an agreement with DelDOT that addresses the initial boundaries and the target horizon year for a TID, and includes any other provision agreed to by the County and DelDOT to implement the TID.

C. Land Use and Transportation Plan.

1. The County shall adopt a Land Use and Transportation Plan for the TID. When the County adopts a Land Use and Transportation Plan as part of an approved TID with all of the elements provided in Subsection C.2. below, the traffic study requirements established in Sections 40.11.110, 40.11.120 and 40.11.121 do not apply.
2. The Land Use and Transportation Plan shall include the following elements:
 - a. A map identifying the TID boundaries, in accordance with Section 2.4.2.3 of the DCM.
 - b. A target horizon year for the land use forecast and provision of all transportation improvements identified in Subsection C.2.e, below, that are needed to accomplish the applicable LOS. The target horizon year shall not exceed twenty (20) years.
 - c. A quantitative, parcel-specific forecast of land use in the TID, in accordance with Section 2.4.2.5 of the DCM.
 - d. A level of service (LOS) standard in accordance with Section 2.4.2.6 of the DCM for all collector and arterial streets in the TID, and any other transportation improvements that the County elects to subject to the LOS analysis.
 - e. The transportation improvements needed to bring all roads and other transportation facilities in the TID up to applicable State or local standards, including the LOS standards identified in the Land Use and Transportation Plan, over the life of such plan.
 - f. A technique for measuring LOS or travel time on transportation facilities, which may include travel time on segments and not intersections. This may include any technique described in the Development Coordination Manual, or other techniques that reflect then-existing best practices or innovative approaches to measuring transportation or network capacity.
 - g. A system for developer contributions in accordance with Section 2.4.2.8 of the DCM, which:
 - i. Are sufficient to recover transportation capital improvement costs attributable to new development in the TID, and
 - ii. Are earmarked for the transportation improvements identified in Subsection C.2.e, above, which are located in the TID.

- h. All sources of financing for the improvements identified in Subsection C.2.e, above, including anticipated developer contributions identified in Subsection C.2.g, above, and any additional and committed sources of County, state or federal funding that are not contingent upon voter approval.
 - i. A required economic analysis that shall:
 - i. Identify workforce characteristics and employment by industry and specialization;
 - ii. Identify major area employers;
 - iii. Compare existing and potential economic activity in the study area to the rest of the county, relevant peer regions and emerging development trends; and
 - iv. Assess future economic growth and associated industry wage potential.
 - v. Provide an estimate for the potential of high wage employment opportunities in the study area.
 - 3. The Land Use and Transportation Plan shall be adopted as part of the Comprehensive Plan. The Land Use and Transportation Plan shall include the following public outreach process prior to initiation of the Comprehensive Plan amendment:
 - a. Community meeting.
 - i. The Department shall notify all property owners within the proposed TID boundaries informing them of the application and the review and approval process.
 - ii. The Department shall arrange an area-wide meeting to inform the community about the TID and the program requirements. This will occur prior to the Planning Board public hearing.
 - b. Written notices shall be sent to all property owners of record within the proposed TID boundaries.
 - c. After the community information meeting occurs, the Department shall document the comments received at the meeting and provide a summary of the comments for the Planning Board and County Council public hearings. The Planning Board and County Council shall conduct public hearings as required for adoption or amendment of the Comprehensive Plan.
- D. *Limitation on Number of TIDs.* County Council shall not adopt more than two (2) TIDs in a calendar year.
- E. *TID Report.* The Department shall provide County Council with a report every two (2) years on the use and effectiveness of the TID provisions.
- F. *Documentation.* Transportation improvements required to bring all roads and transportation facilities in the TID to established standards and developer contributions and other sources of financing shall be provided in an appendix to contractual obligations by the parties which will be recorded in the Recorder of Deeds and referenced on the record plan.

(Ord. No. 19-005 , § 5, 5-28-2019)

Sec. 40.11.320. Complete Community Enterprise Districts (CCEDs).

- A. *Applicability.* This Section provides for the development of a Complete Community Enterprise District(s) ("CCED(s)"), which may provide a more effective and flexible way to implement the purposes of this Article in the County's more urban areas that are served by, and have development patterns that support, multiple travel modes including transit. For purposes of this Article, a "CCED" means a geographic area that meets the criteria established in 2 Del. C. §§ 2103 and 2104. For purposes of this Section, the terms "District," "Farebox recovery ratio," "Isoperimetric quotient," "Level of service," "Parcel of land," and "Project" have the meanings assigned in 2 Del. C. § 2102.
- B. *Agreement.* The Department will enter into an agreement with DelDOT that addresses the initial boundaries and the target horizon year for a CCED, creates the master development plan described in Subsection C below, and includes any other provisions agreed to by the County and DelDOT to implement the CCED.

C. *Master Development Plan and Transportation Planning Study.*

1. The County shall adopt a master development plan for the CCED. When the County adopts a CCED with all of the elements provided in Subsection C.2 below, the traffic study requirements established in Sections 40.11.110, 40.11.120 and 40.11.121 do not apply.
2. The master development plan shall include the following elements:
 - a. Mass transit routes;
 - b. A mix of parcels of land zoned for residential, commercial, light industrial, or institutional uses;
 - c. A guide for the specific design of the physical form, public spaces, and amenities of the District so that transit, walking, and cycling are safe and comfortable modes of travel for all the residents of the District;
 - d. Level of service requirements specific to the District and
3. The master development plan shall be adopted as part of the Comprehensive Plan.
4. Once a master development plan has been created, DelDOT will conduct a transportation planning study pursuant to 2 *Del. C.* § 2103.

(Ord. No. 19-005 , § 5, 5-28-2019)

ARTICLE 12. SEWER AND WATER IMPACT¹

Division 40.12.000. Purpose.

The purpose of this Article is to ensure that development occurs only where there are adequate sewer and water facilities in place, or programmed for construction, prior to the issuing of development permits. The County supplies sewer service that is limited in its discharges to the Delaware River and is limited by available capacity in its sewage treatment facilities. Independent water companies currently supply water service, but the County must ensure that the service is adequate. New development may use water capacity on a first come, first served basis, but must provide certification that capacity is available. New development may use sewer capacity on a first come, first served basis in all sewer districts in the County if and/or when sanitary sewer service becomes available, as determined by the Department of Public Works.

(Ord. No. 97-172, § 3(ch. 13, div. 12.000), 12-31-1997; Ord. No. 06-125, § 2, 1-23-2007; Ord. No. 18-031 , § 64, 4-24-2018)

Division 40.12.100. Sewer capacity.

Sec. 40.12.110. Sewer service areas.

The County sewer model is based on the analysis of sewer capacities in lines, pump stations and treatment plants. A map reflecting all sewer service areas located in New Castle County shall be maintained by the Department of Public Works and shall be made available for review by the public at that Department during normal business hours.

(Ord. No. 97-172, § 3(ch. 13, § 12.110), 12-31-1997; Ord. No. 18-031 , § 65, 4-24-2018; Ord. No. 18-020 , § 11, 7-10-2018)

Sec. 40.12.111. Capacity.

The capacity of sewer service areas is identified on the Capacity Status Map and is available for review at the Department of Public Works. The Capacity Status Map is prepared using the County model to determine the existing capacity of the sewer in the County. The methodology in Section 40.12.310 shall be adhered to by the County in its determination of sewer capacity. The capacity of the various units shall be in gallons per day (gpd) or millions of gallons per day (mgd).

(Ord. No. 97-172, § 3(ch. 13, § 12.111), 12-31-1997; Ord. No. 18-031 , § 66, 4-24-2018; Ord. No. 18-020 , § 12, 7-10-2018)

Sec. 40.12.112. Sewer treatment facilities.

The Department of Special Services may sell treated effluent from any County owned or operated sewer treatment facility to the public.

(Ord. No. 97-172, § 3(ch. 13, § 12.112), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 12.112), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031 , § 67, 4-24-2018; Ord. No. 18-020 , § 13, 7-10-2018)

¹Cross reference(s)—Utilities, ch. 38.

Division 40.12.200. Water capacity.

Sec. 40.12.210. Water service.

Each water supply company shall develop a method to determine water volumes and pressure in their systems. On-site testing shall be used as the basis for determining the capacities in lines, pumps, storage and distribution facilities. The certification of adequate capacity of the water service shall be obtained by the developer from the water supplier.

(Ord. No. 97-172, § 3(ch. 13, § 12.210), 12-31-1997)

Sec. 40.12.215. Water supply.

- A. All proposed residential subdivisions containing more than twenty-five (25) lots or minimum aggregate side yard widths of less than thirty (30) feet shall provide a public or community water distribution system. The design and installation of such public or community system shall be subject to the approval of the appropriate State agencies, and the main sizes shall meet the requirements of the office of the State Fire Marshal.
- B. Where the subdivider proposes that individual on-site water supply systems be utilized within the subdivision, the subdivider shall either install such facilities or shall require, by deed restriction or otherwise, as a condition of the sale of each lot or parcel within the subdivision, that the facilities shall be installed by the purchaser of such lot or parcel at the time that a principal building is constructed thereon, in accordance with appropriate State requirements. Where individual on-site water supply systems are to be utilized, each lot shall be of a size and shape to allow safe location of such a system. An on-site water supply shall further require a permit from appropriate State agencies.

(Ord. No. 97-172, § 3(ch. 13, § 12.215), 12-31-1997)

Division 40.12.300. Service capacity calculations.

Sec. 40.12.310. Sewer capacity calculations.

In determining sewer capacities pursuant to this Article, the following methodology shall be used.

- A. *Capacity.* Capacity is measured in gallons per day (gpd) or millions of gallons per day (mgd), beginning at the plant. Each element of the system has a rated average daily capacity for processing, pumping, or flow.
- B. *Available capacity determination.* The proposed loads are compared against the capacity of the system component. The available capacity is determined by subtracting the existing and obligated volumes from the capacity of the component. If the number is positive, then the resultant is the available capacity.

(Ord. No. 97-172, § 3(ch. 13, § 12.310), 12-31-1997; Ord. No. 06-125, § 3, 1-23-2007; Ord. No. 18-020, § 14, 7-10-2018)

Sec. 40.12.330. Water capacity.

A water service area report shall be prepared using appropriate hydraulic models to determine the existing capacity of the water supply system. In specific, water supply volumes and pressure that must be met are found in Section 40.05.310. The developer shall present to the Department the water certification at the time of final record plan approval. Before a certificate of occupancy is granted or any surety released, site tests shall be made by the developer or the water supplier to verify that capacity is available at the time of certificate of occupancy permits.

(Ord. No. 97-172, § 3(ch. 13, § 12.330), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.12.340. Public water or sewer capacity analysis.

The sewer analysis in Section 40.05.320 and water capacity certification in Section 40.05.310 determines the available capacity and allocates the capacity to the proposed development.

(Ord. No. 97-172, § 3(ch. 13, § 12.340), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.12.350. Sewer connection fees.

Sewer connection fees shall be charged pursuant to Section 38.02.014.

(Ord. No. 97-172, § 3(ch. 13, § 12.350), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 12.350), 9-22-1998; Ord. No. 06-042, § 4, 7-25-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.12.360. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 12.360), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 12.360), 9-22-1998)

Sec. 40.12.370. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 12.370), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 12.370), 9-22-1998)

Sec. 40.12.380. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 12.380), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 12.380), 9-22-1998)

Sec. 40.12.390. Sewer service area boundary.

When a sewer collector line is located within two hundred (200) feet of the lot property line of the contiguous parcel as measured along a street right-of-way or an appropriate utility easement or right-of-way as may be applicable, contiguous parcels from outside the service area may also be served by the County sewer system provided such a connection is technically feasible; the subdivision or land development is a minor plan except those properties classified as institutional use which may be a major plan; and other applicable Code provisions and policies regarding requirements for sanitary sewer service are met, including but not limited to payment of a capital recovery fee and other applicable fees as set forth in Chapter 38. The Department of Public Works shall be responsible for maintaining and amending all maps depicting the sewer service areas located in the County. The sewer service area maps shall be available for inspection at the Department of Public Works during normal business hours.

(Ord. No. 97-172, § 3(ch. 13, § 12.390), 12-31-1997; Ord. No. 09-071, § 1, 2-16-2010; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031, § 68, 4-24-2018)

ARTICLE 14. IMPACT FEES

Division 40.14.000. Purpose.

This Article addresses facilities and services that New Castle County provides which are impacted by population growth and new development. The further development of the County will necessitate the need for supporting facilities and equipment. This Article ensures that new development contributes adequate funds to enable the County to provide these facilities in a timely manner and at an established levels of service.

(Ord. No. 97-172, § 3(ch. 13, div. 14.000), 12-31-1997)

Sec. 40.14.010. Applicability.

New Castle County may require that new development provide impact fees for the following services:

A. *Residential uses:*

1. Libraries.
2. Fire and Rescue.
3. Emergency Medical Services (EMS).
4. Law Enforcement.
5. Parks & Special Facilities.
6. County Facilities.

B. *All other uses:*

1. Fire and Rescue.
2. Law Enforcement.
3. Emergency Medical Services (EMS).
4. County Facilities.

(Ord. No. 97-172, § 3(ch. 13, § 14.010), 12-31-1997; Ord. No. 98-130, § 1, 1-12-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-042, § 5, 7-25-2006)

Division 40.14.100. Standards of service.

Sec. 40.14.110. Impact fee methodology.

- A. Impact fees are one (1) time payments used to fund system improvements needed to accommodate development. Impact fees for the County are proportionate and reasonably related to the capital facility service demands of new development. The impact fee methodologies establish that impact fees will adequately benefit new development. The County's impact fee methodology also identifies the extent to which newly developed properties are entitled to various types of credits to avoid potential double payment of capital costs.

Demand indicators are documented by type of development for each type of impact fees. Specific capital costs have been identified using local data and current dollars. Also, for each type of fee the impact fee report includes a summary table indicating the specific factors used to derive the impact fee. These factors are also referred to as level-of-service (LOS) standards and are contained in the document impact fees by Tischler Associates, Inc.

There are three (3) basic approaches used to calculate the various components of the County's impact fees. The impact fee for libraries uses a plan-based method. This method is best suited for public facilities that have specific capital improvement plans.

Impact fees for parks, public facilities and equipment, EMS, fire/rescue and law enforcement are derived mainly from the incremental expansion method. This method documents the current LOS for each type of public facility in both quantitative and qualitative measures. LOS standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, the County will not use the funds for maintenance and/or replacement of existing facilities. Rather, the County's intent is to use impact fee revenue to expand or provide additional facilities, as needed to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community.

A third method, known as the buy-in approach, has been used in the calculation of the parks impact fee. The rationale for the buy-in approach is that new development is paying for its share of the useful life and remaining capacity of existing facilities. This method has been used for the County's special parks that should adequately serve residents until the year 2020.

Another general requirement that is common to impact fee methodologies is the evaluation of credits. There are several types of credits that have been considered. First, a future revenue credit has been evaluated to avoid potential double payment for capital facilities through both one (1) time impact fees and ongoing revenues that may fund system improvements.

The second type of credit is a site-specific credit for system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees. Specific policies and procedures related to site-specific credits for system improvements will be addressed in the ordinance that establishes the County's fees. However, the general concept is that developers may be eligible for site-specific credits only if they provide system improvements that have been included in the impact fee calculations.

B. A synopsis of each impact fee is provided below:

The parks methodology used to calculate the parks impact fee includes an incremental expansion cost component to district parks and a buy-in cost component by special parks. The library methodology contains LOS standards for libraries which have been set using projected population in the year 2005, which corresponds to the opening of the new North Regional library. The County facilities methodology uses an incremental expansion cost approach that includes office space and vehicles. The emergency medical services (EMS) methodology uses an incremental expansion cost method, which was used to derive fees based on the current LOS standards in the County.

The fire and rescue methodology is based on an incremental expansion cost method. The current inventory of fire stations and equipment was used to establish the LOS standards on a Countywide basis. The County will collect fees by fire district, and amend its contract with the volunteer companies to transfer the funds as needed for growth-related capital facilities and equipment. The law enforcement methodology is based on an incremental expansion cost methodology, which has been used to determine an impact fee for law enforcement headquarters, communications systems and vehicles. Calls for service data were used to allocate capital costs to residential and nonresidential development.

C. Population values are as follows:

1. Single-family: two and nine tenths (2.9) persons per dwelling unit.
2. Attached single-family: two and seven tenths (2.7) persons per dwelling unit.
3. All other housing: two (2.0) persons per dwelling unit.

(Ord. No. 97-172, § 3(ch. 13, § 14.110), 12-31-1997; Ord. No. 98-130, § 2, 1-12-1999; Ord. No. 99-042, § 3, 6-22-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

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Sec. 40.14.130. Determination of cost of service.

The costs to maintain the standard level of service shall be calculated on a per dwelling unit basis. The costs may include expenses related to buildings, vehicles, equipment, land, and other capital equipment and costs incurred in order to provide the service or facility. Cost estimates of planned systems or services may also be used.

(Ord. No. 97-172, § 3(ch. 13, § 14.130), 12-31-1997)

Division 40.14.200. Impact fees.

Sec. 40.14.210. Impact fees.

Impact fee amounts are provided in Table 40.14.210.

Table 40.14.210
IMPACT FEES (DOLLARS)

Service	Parks & Special Facilities	Libraries	County Facilities	EMS	Fire and Rescue	Law Enforcement	Total
Residential Per Housing Unit							
Single-family detached	\$492.00	\$207.00	\$168.00	\$10.50	\$765.00	\$93.00	\$1,736.00
Single-family attached	\$456.00	\$194.00	\$158.00	\$9.00	\$663.00	\$87.00	\$1,566.00
All other housing†	\$338.00	\$143.00	\$116.00	\$7.50	\$476.00	\$65.00	\$1,143.00
Nonresidential Per 1,000 Square Feet‡							
Commercial/shopping center (less than 60,000 sf. GFA)	na.	na.	\$191.00	\$12.00	\$315.00	\$63.00	\$581.00
Commercial/shopping center (60,000 sf. to 200,000 sf. GFA)	na.	na.	\$143.00	\$9.00	\$245.00	\$50.00	\$446.00
Commercial/shopping center (greater than 200,000 sf. GFA)	na.	na.	\$114.00	\$7.50	\$221.00	\$42.00	\$384.00
Office/institutional (less than 10,000 sf. GFA)	na.	na.	\$264.00	\$16.50	\$168.00	\$36.00	\$485.00
Office/institutional (10,000 sf. to 50,000 sf. GFA)	na.	na.	\$225.00	\$15.00	\$431.00	\$24.00	\$695.00
Office/institutional (greater than 50,000 sf. GFA)	na.	na.	\$213.00	\$13.50	\$408.00	\$21.00	\$656.00
Business park	na.	na.	\$180.00	\$12.00	\$348.00	\$21.00	\$561.00
Light industrial	na.	na.	\$132.00	\$7.00	\$255.00	\$10.50	\$405.00
Warehousing	na.	na.	\$71.00	\$4.50	\$141.00	\$6.00	\$222.00
Manufacturing	na.	na.	\$105.00	\$6.00	\$197.00	\$4.50	\$364.00

† Due to similar square footage, small single-family units and single-wide mobile homes will be included under the "All other housing" designation.

‡ When building or expanding a nonresidential building, the first 1,000 square feet are exempt from the assessment of impact fees.
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(Ord. No. 97-172, § 3(ch. 13, § 14.210), 12-31-1997; Ord. No. 98-130, § 3, 1-12-1999; Ord. No. 99-042, § 4, 6-22-1999; Ord. No. 00-024, § 3, 6-13-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-007, § 6, 3-28-2006; Ord. No. 06-042, § 6, 7-25-2006; Ord. No. 06-047, § 1, 8-22-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011, Ord. No. 25-045, 6-24-25)

Sec. 40.14.220. Payment of fees.

The impact fees hereby imposed shall be paid to the Department prior to the issuance of a certificate of occupancy or use. At the time of full payment, the Department shall issue a receipt to the applicant reflecting the type and amount of each impact fee. No certificate of occupancy or use shall be issued until all impact fees are paid in full.

(Ord. No. 97-172, § 3(ch. 13, § 14.220), 12-31-1997; Ord. No. 98-130, § 4, 1-12-1999)

Sec. 40.14.230. Other necessary adjustments.

- A. All costs in the impact fee calculations are given in current dollars with no assumed inflation rate over time. Necessary cost adjustments will be made as part an annual evaluation by the Office of Finance which shall be reported to County Council by February 1 of each year and include any proposed corresponding update of impact fees utilizing the Consumer Price Index since the most recent adjustments or another professionally recognized and documented method or study. Any impact fee adjustments shall be implemented upon approval by New Castle County Council.
- B. Starting in January 2027 and no more than every five (5) years thereafter, the Office of Finance in coordination with the Department of Land Use, shall prepare or have prepared a study to review all impact fees. Such studies may propose any new or revised impact fees needed to provide services to support new development, to reflect the higher costs of development in State Strategies Levels 3 and 4, or to protect natural resources. Any proposed new impact fee shall be reviewed for adherence to the methodology in this Article and shall be implemented upon approval by New Castle County Council.

(Ord. No. 97-172, § 3(ch. 13, § 14.230), 12-31-1997; Ord. No. 98-130, § 5, 1-12-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011, Ord. No. 25-045, 6-24-25)

Sec. 40.14.240. Parkland requirement.

The Department, in consultation with the Department of Public Works, may approve on-site donations of land as meeting in whole or in part the impact fee requirements contained in this Article. In the Traditional Neighborhood, all the community open space shall be credited towards the parkland requirement.

(Ord. No. 97-172, § 3(ch. 13, § 14.240), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 18-031 , § 69, 4-24-2018)

Sec. 40.14.241. Exemptions from Impact Fees

The following are exempt from the impact fee requirements of this Article:

- A. Workforce dwelling units developed under the former workforce housing incentives.

- B. Moderately Priced Dwelling Units as noted in this Chapter.
- C. Low income housing (<100% AMI as determined by the Department of Community Services)
- D. Redevelopment or Brownfields as per Section 40.08.130
- E. Development on land in the Publicly Conserved Lands & Parks (P) District.

(Ord. No. 25-045, 6-24-25)

Sec. 40.14.250. Private study of impact fee amount.

If an applicant disputes the amount of the impact fee to be charged pursuant to this Article, the applicant may perform a private impact fee study. A copy of this study shall be delivered to the Departments of Land Use, Law and Finance. The applicant shall submit all supporting data for the study and timely respond to any requests made by the Departments for any additional information related to the study. The Department of Land Use may hold a hearing on the matter at its discretion. If an impact fee study reflects that a reduced impact fee is warranted and the Departments concur with the conclusions of the study, the impact fee shall be reduced.

(Ord. No. 97-172, § 3(ch. 13, § 14.250), 12-31-1997)

Sec. 40.14.260. Administration of funds.

- A. Fees collected pursuant to this Article shall be deposited into separate interest bearing trust funds for each impact fee type.
- B. Except as provided below, impact fees collected from new development north of the C&D Canal shall only be used for services and facilities located or provided north of the canal. Impact fees collected from new development south of the C&D Canal shall only be used for services and facilities located and provided south of the C&D Canal. Within each area, the impact fees shall only be used to adequately benefit the development which is the source of the fee.
- C. Impact fees collected within a specific fire and rescue district shall only be used to adequately benefit the development which is the source of the fee regardless of whether the fee was collected north or south of the C&D Canal. Because County facilities benefit new development on a Countywide basis, County facility impact fees can be used anywhere in the County regardless of whether the fee was collected north or south of the C&D Canal.
- D. If any fees collected during any fiscal year are not expended or encumbered by contract within the ten (10) fiscal years immediately following the fiscal year of payment for sewer, library, county facilities, fire and rescue and parks and special facilities impact fees or five (5) years for all other impact fees, the General Manager of the Department shall mail a notice to all then current land owners. The notice shall advise that the owner of the address (for which an impact fee had been paid) is entitled to a refund thereof. Any person so entitled shall have six (6) months from the date of the notice within which to apply to the Department of Finance for a refund of the fees paid.
- E. All refunds made will be for the full amount paid, together with interest received by the County from the date of payment of the impact fee to the date of refund.
- F. If no timely application for refund is made, all funds shall be retained in the trust fund hereby created and used only to pay for future capital improvements.
- G. Disclosure requirements for recipients of fire impact fees: Supplementation, Not Supplantation. Fire and rescue impact fees shall be distributed contingent upon the recipient fire company filing an annual financial

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statement on a form provided by the County in accordance with procedures established by the County. At a minimum, financial data shall be provided to the extent necessary for the County to determine that impact fees were utilized to supplement, not supplant, existing funding. The names of the individual or company donors need not be identified.

(Ord. No. 97-172, § 3(ch. 13, § 14.260), 12-31-1997; Ord. No. 98-130, § 6, 1-12-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Cross reference(s)—Administration, ch. 2.

ARTICLE 15. HISTORIC RESOURCES

Division 40.15.000. Purpose.

The preservation and protection of buildings, structures, sites, objects, districts and landscape features of historic, architectural, cultural, archeological, educational and aesthetic merit are critical to the character of the County. The preservation of these historic resources promotes the health, prosperity and welfare of all citizens of the County and enhances the quality of life for all. The regulations of this Article provide the mechanism to identify resources and provide for their long-term maintenance and preservation in a form that is as close to their historic use and character as is consistent with the economic realities of the neighborhoods and County. This is done by reviewing development plans in a manner that encourages the purposes of this Article. A historic property's current condition will be reviewed to determine feasibility of preservation and to ensure that the historic character, architecture, and site conditions are respected and enhanced in the development plan.

The purposes of this Division are to:

- A. Identify and preserve historic buildings, structures, sites, objects and landscape features which are important to the education, culture, traditions and economic values of all citizens of the County;
- B. Identify and establish historic zoning districts to ensure that the character of such districts is retained and enhanced;
- C. Retain and enhance properties in historic zoning districts which contribute to the character of such districts;
- D. Ensure that alterations of existing resources and associated land uses in historic districts are compatible with the character of the historic district;
- E. Ensure that new construction and subdivision of lots in a historic district are compatible with the character of the historic district;
- F. Encourage the historic restoration and rehabilitation of buildings, structures, sites and objects which are designated as historic or which are located within and contribute to the character of districts designated as historic;
- G. Promote the use of historic buildings, structures, sites, objects and historic districts for the education, pleasure and welfare of all citizens of the County;
- H. Encourage public participation in identifying and preserving historical architecture and cultural resources through education programs and general awareness campaigns; and
- I. Prevent the demolition by neglect, as defined in Chapter 7 ("Property Maintenance Code"), of a building, complex of buildings, structure, site, object or district designated for preservation as a historic overlay zoning district pursuant to this Article.

(Ord. No. 97-172, § 3(ch. 13, div. 15.000), 12-31-1997; Ord. No. 12-084 , § 2, 5-10-2016; Ord. No. 20-071 , § 8, 10-27-2020)

Sec. 40.15.010. Applicability.

- A. On any building, structure, site, or object within an Historic overlay zone, no person shall undertake exterior alterations, demolitions, relocation, construction or reconstruction unless a permit is first obtained from the Department. The Department shall issue no permit until the Historic Review Board first reviews and approves the application for the permit.
- B. No subdivision or land development plan affecting an Historic (H) overlay zoning district or any property which is eligible to be zoned H may be approved by the Department without the prior review and recommendation of the Historic Review Board. In determining the nature of the review required by this

paragraph, the Historic Review Board shall consider all features of the subdivision and/or land development plan, including the landscape plan, building design, scale and location, lot size, proposed signage, relationship to adjacent properties and buildings and archaeological potential to determine whether the subdivision or land development will be in accordance with the interest and purposes of Division 40.15.000.

(Ord. No. 97-172, § 3(ch. 13, § 15.010), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 15.010), 9-22-1998; Ord. No. 20-071 , § 8, 10-27-2020)

Division 40.15.100. Historic (H) overlay zoning districts.

Historic (H) overlay zoning is intended to identify significant historic resources within the County that are worthy of preservation and recognition. Historic overlay zoning provides protection of, as well as incentives for the preservation of, historic resources. Properties within an Historic overlay zoning district are subject to additional review and regulation by the Historic Review Board for alterations, modifications, relocations, and demolitions. Historic overlay zoning district established pursuant to this Code shall be deemed an overlay zoning district on the otherwise applicable zoning district on the County Zoning Maps.

County Council may designate Historic (H) overlay zoning districts that encompass the boundaries of an historic resource's contextual classification in accordance with rezoning procedures in Article 31 of this Chapter.

(Ord. No. 20-071 , § 9, 10-27-2020)

Editor's note(s)—Ord. No. 20-071 , § 9, adopted October 27, 2020, changed the title of Division 40.15.100 from "Designation" to "Historic (H) overlay zoning districts."

Sec. 40.15.110. Criteria for designation.

A building, complex of buildings, structure, site, object or district may be designated for preservation as an Historic overlay zoning district if it is significant to the County as identified in this section. The resource must be at least fifty (50) years old, or exceptionally important to the County, and meet one (1) or any combination of the following criteria:

- A. Listed or determined to be eligible for the National Register of Historic Places as provided in the National Historic Preservation Act of 1966, 16 USC 470 et seq.
- B. Has significant character, interest, or value as an example of the development, heritage or cultural characteristics of the County, the State or the United States.
- C. Is the site of a significant historic event.
- D. Exemplifies the cultural, political, economic, social or historical heritage of the community.
- E. Embodies distinguishing characteristics of an architectural style or engineering specimen.
- F. Is the work of a designer, architect, landscape architect or engineer whose individual work has significantly influenced the development of the County, the State or the United States.
- G. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation.
- H. Is the singular known example of a design or use of material or style of architecture within the County.
- I. Is part of the historic context of a square, park or other distinctive area which should be preserved according to a plan based on a historic, cultural or an architectural context.
- J. Is a landmark; that is, an established and familiar visual feature which assists in defining the character of the neighborhood, community or County due to its unique location or singular physical characteristic.
- K. Has yielded or is likely to yield information of importance to prehistory State's or United States' history.
- L. Is associated with the lives of persons important to the County's past.
- M. Provides the historic setting for an identified resource or historic district.

- N. Is part of a view into or out of an existing historic district and contributes to the integrity, understanding and appreciation of that existing historic district.

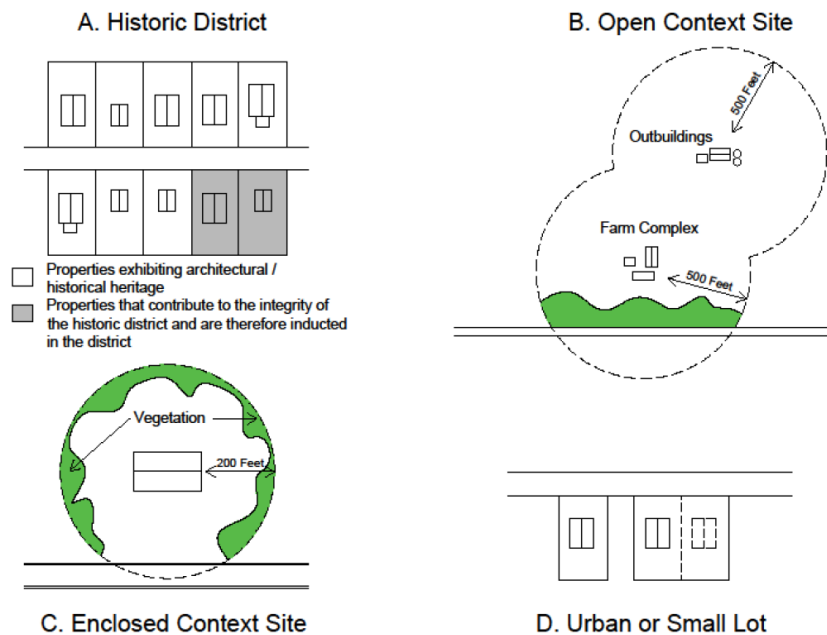
(Ord. No. 97-172, § 3(ch. 13, § 15.110), 12-31-1997; Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.120. Contextual classification of historic resources.

The resource proposed for Historic overlay zoning must be classified into one of the following categories as part of the rezoning process. Historic resources are classified by their viewing area as determined by their context (parcel size, vegetation, topography, and surrounding development). The goal is to preserve landscapes that are part of the view into and out of historic resources. Figure 40.15.120 illustrates the four (4) classifications.

- A. *Villages and small nucleated settlements.* This is an area that has a common architectural or historic heritage usually in a village or hamlet form and comprises at least four (4) separate individual properties. In designating the boundaries, land that is part of a view into or out of a historic district and contributes to the integrity, understanding and appreciation of that existing historic district shall be included within the boundaries.
- B. *Open context site.* This is a site where the context and value of the site is dependent on being seen in its context across relatively open land. For example, farms were surrounded by fields. A buffer of five hundred (500) feet or more around the buildings or other features shall be identified as the site and an historic buffer created.
- C. *Enclosed context site.* A site where the vegetation, topography and/or surrounding development limit the context of the building leaving a small viewing area. A historic buffer of two hundred (200) feet around the buildings or other features shall be identified as the site. At the discretion of the Department, a different configuration or size of the historic buffer may be considered if the preservation of the resource is enhanced.
- D. *Small lot site.* This is a site in a developed area, typically a village or hamlet, where the site cannot be subdivided or would permit only one (1) additional building on the property.

Figure 40.15.120. Contextual Classification of Historic Resources



(Ord. No. 97-172, § 3(ch. 13, § 15.111), 12-31-1997; Ord. No. 20-071 , § 9, 10-27-2020)

Editor's note(s)—Ord. No. 20-071 , § 9, adopted October 27, 2020, redesignated the former Section 40.15.111 as Section 40.15.120 and changed the title from "Classification of historic resources" to "Contextual classification of historic resources." The historic notation has been preserved for reference purposes.

Sec. 40.15.130. Written report.

All recommendations relating to Historic overlay zoning applications must be accompanied by a written report prepared by the Historic Review Board. Such report shall explain if the resource possesses qualities listed in Section 40.15.110 and 40.15.120 that warrant designation of such buildings, structures, sites, objects or districts as an Historic overlay zoning district. Boundary exhibits, photographs, video, drawings or other supporting data shall be included in the report.

(Ord. No. 97-172, § 3(ch. 13, § 15.120), 12-31-1997; Ord. No. 20-071 , § 9, 10-27-2020)

Editor's note(s)—Ord. No. 20-071 , § 9, adopted October 27, 2020, redesignated the former Section 40.15.120 as Section 40.15.130. The historical notation has been preserved for reference purposes.

Sec. 40.15.140. Uses.

- A. *Permitted uses.* All uses permitted in the underlying zoning district shall be permitted in the Historic overlay zoning district except as specified in this Section. In addition, the Department may permit additional uses in any zoning district in accordance with the adaptive reuse provisions of Section 40.15.150.
- B. *Prohibited uses.* All uses prohibited in the underlying zoning district are prohibited in the Historic overlay zoning district, notwithstanding the provisions of this Division. In addition, the Department may prohibit any use or rehabilitation of the resource that eliminates one or more of the characteristics that led to the property's designation.

(Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.150. Adaptive reuse.

Within an Historic overlay zoning district, any significant historic resource may be converted or adapted into one of the following uses, provided it conforms to the following standards and procedures, and all other provisions of this Chapter.

A. Standards.

1. The building/structure shall have a minimum gross floor area of at least one thousand five hundred (1,500) square feet.
2. Structural or decorative alterations or additions that change the exterior character and/or historical or architectural significance of the structure are prohibited.
3. The gross floor area of any addition to the converted building/structure should not be greater than fifty (50) percent of the existing gross floor area unless determined appropriate by the Historic Review Board.
4. Proposed uses must be located and take access from an arterial or collector street. At its discretion and with DelDOT concurrence, the Department may permit such uses to locate, expand or rebuild taking access from other streets where vehicular and pedestrian safety is not compromised and the local neighborhood is not adversely impacted.
5. The lot upon which the structure and any permitted addition is situated must meet the minimum lot size for "other permitted use" in the underlying zoning district pursuant to Table 40.04.110 of this Chapter.

B. Uses.

1. Office uses.
2. Commercial retail and service uses, not exceeding ten thousand (10,000) GFA.
 - a. Permitted uses.
 - i. Retail bakeries.
 - ii. Furniture and home furnishing stores.
 - iii. Hardware stores.
 - iv. Food and beverage stores.
 - v. Health and personal care stores.
 - vi. Clothing and accessory stores.
 - vii. Sporting goods, hobbies, books and music stores.
 - viii. Postal service, local office only.
 - ix. Couriers and messengers, local office only.
 - b. Prohibited uses.
 - i. Outside storage of materials and finished products is prohibited.
 - ii. Drive-in facility.
3. Restaurant uses, not exceeding five thousand (5,000) GFA.

In the instance that such use requires special use approval pursuant to Table 40.03.110, Board of Adjustment approval shall be sought as required by Section 40.31.430.

- C. Parking standards. To preserve and enhance the historic nature and minimize impact on surrounding context:

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1. Parking may be reduced up to twenty (20) percent of the minimum parking requirements in this Chapter.
 2. The maximum number of parking spaces shall not exceed one hundred fifteen (115) percent of the minimum parking requirements in this Chapter.
 3. These parking standards do not apply for a temporary or special event that has received approval in accordance with Section 40.03.330 of this Chapter.
- D. Signage.
1. General sign practices. Sign usage should be reduced to avoid sign clutter and to minimize, to the greatest extent practicable, the amount of signage in the district.
 2. Prohibited signs. In addition to the prohibitions outlined in Section 40.06.040, the following signs are prohibited in an Historic overlay zoning district:
 - a. Electronic variable message signs (EVMS), and
 - b. Off-premises advertising. No off-premises advertising, billboards, and other off-premises signage shall be permitted.
 3. Size. All signs requiring a permit associated with a non-residential use in the Historic overlay zoning district shall be limited to fifty (50) percent of the sign area permitted in the underlying zoning district.
 4. Height. All signs requiring a permit in the Historic overlay zoning district will be limited in height to fifteen (15) feet, or one-half ($\frac{1}{2}$) of the maximum sign height permitted in the underlying zoning district, whichever is less.
 5. Lighting. If lit, the light source shall be exterior to the sign using shielded, low wattage, and diffuse white light. Back-lit and internally illuminated signs are prohibited.
 6. Advertising installed on the interior of window surfaces shall be considered a wall sign in the district, and shall cover no more than twenty (20) percent of the window on which it is located. Interior hung panels are permitted.
 7. Temporary signs shall be permitted in the Historic overlay zoning district in compliance with the provisions of Subsection 40.06.040.C of the Unified Development Code.
 8. Signs existing at the time of the adoption of this Article are considered nonconforming. If any nonconforming sign is hereafter relocated, replaced, removed, altered, or modernized in any way, the sign loses all nonconforming protection afforded under County law.
- E. An Historic overlay zoning district must be in place prior to establishment of the use and issuance of any permit associated with the proposed use.
- F. Further subdivision of the parcel is permitted in accordance with this Chapter provided that the site's contextual classification is retained.

(Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.160. Permits within Historic overlay zoning districts.

No person shall undertake exterior historic alteration, demolition, relocation, construction or reconstruction on any building, structure, site, or object within an Historic overlay zoning district unless approval is first obtained from the Department.

- A. The Department shall issue no permit within an Historic overlay zoning district until an historic resources application has been reviewed and approved by the Historic Review Board (HRB).
 1. An historic resource application must be filed with the Department in order to be considered by the HRB.

2. The Department shall schedule the application for the next HRB public hearing.
- B. The HRB shall approve or deny the issuance of the permit within seventy-five (75) working days after the Department's receipt of a complete Historic Resources application, whenever practicable. Failure of the HRB to make a determination within this time period shall be deemed to constitute an approval of the application, provided at least one regular meeting of the HRB, at which a quorum is present, is conducted within that time period.
 1. Where the HRB denies the historic resources application, the Department shall not issue the permit.
 2. Where the HRB approves the historic resources application, the Department shall grant the permit subject to the requirements of any applicable sections of this Chapter or this Code.
 3. Where the HRB approves the historic resources application, but its approval is subject to conditions (e.g. documentation, archaeological investigation, design standards, building materials, etc.), the Department shall grant the permit subject to any conditions of the HRB, which may include the following:
 - a. Appropriate documentation, standards for which include, but are not limited to, the Historic American Buildings Survey (HABS), the Historic American Engineering Record (HAER), or the Historic American Landscape Survey (HALS) guidelines.
 - b. Archaeological investigations, which must be completed in accordance with the Delaware Division of Historic and Cultural Affairs' guidelines for Archaeological Survey in Delaware.
 - i. The investigation must be completed by a Registered Professional Archaeologist (RPA) in consultation with the Delaware Division of Historic and Cultural Affairs.
 - ii. A report regarding the investigation must be provided to the HRB prior to any ground disturbance proposed for the project.
 - iii. The HRB may require certain measures, such as data recovery or avoidance, to protect significant archaeological values identified in the report which may be encountered in the area of the permitted activity.
 - c. Architectural controls to preserve and restore the character of the historic resource(s).
 - d. Lighting standards that provide for lighting fixtures that imitate the brightness and style of the building's historic period. The brightness and illumination shall be in keeping with the historic nature and of the lowest levels associated with the building's use.
- C. When the HRB reviews an application for a permit required under this Section, it shall consider the following factors before reaching its decision on the application:
 1. The purposes of this Article.
 2. The historical, architectural, archaeological or aesthetic significance of the building, structure, site or object.
 3. The effect of the proposed work on the building, structure, site or object and its appurtenances.
 4. The design and compatibility of the proposed work with the character of the Historic overlay zoning district or with the character of its site, including the effect of the proposed work on neighboring structures.
 5. The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings or other similar criteria.
 6. For demolitions, the HRB shall consider whether the building, structure or object can be used for any purpose for which it is or may be reasonably adapted. To that end, the applicant must

demonstrate that the sale of the property is impracticable (as documented per Subsection 7.h. below), that rental cannot provide a reasonable rate of return (as documented per Subsection 7.h. below), and that other potential uses of the property are not feasible or available. In no event will a sale be deemed impracticable, rental returns unreasonably low or other uses not feasible if the reason is deterioration of the property due to the owner, lessee, or person in charge's own intentional or gross negligence in maintaining the property.

7. Where an application for exterior alteration, relocation, construction or reconstruction is based on financial hardship, the Historic Review Board may lessen its requirements if the applicant can demonstrate the extent of the economic hardship. In examining a claim of economic hardship, the Board will look beyond the relationship of the cost of repairs and the purchase price or the "as is" value to sort out the extent to which an economic hardship is attributable to the owner's actions or inactions, or to circumstances beyond the owner's control that would have existed in any event. When a claim of undue economic hardship is made, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of the hardship. Minimum evidence shall include:
 - a. Nature of ownership (individual business or nonprofit) or legal session, custody or control.
 - b. Financial resources of the owner or parties in interest.
 - c. Cost of repairs to the subject property.
 - d. Real estate taxes on the property in question for the prior two (2) years.
 - e. Market value, as established by an appraisal prepared by a professional appraiser qualified to do business in the State of Delaware.
 - f. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the seller and purchaser or other means of acquisition of title, such as by gift or inheritance.
 - g. For income-producing property only, itemized operating and maintenance expenses for the subject property, and annual cash flow, for the prior two (2) years.
 - h. Any and all listings of the property for sale or rent, price asked, and offers received for the prior two (2) years.
 - i. Annual gross income on the subject property for the prior two (2) years.
 - j. Annual debt service paid, if any, in the prior two (2) years.

(Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.161. Work exempt from a permit within an Historic overlay zoning district.

If the property is in an Historic overlay zoning district, and proposed work is exempt from permit pursuant to Section 6.03.012 of the Code, the property owner must still submit an historic resources application to the Department describing the proposed work. If the Department determines that the proposed work does not follow the New Castle County Historic and Cultural Resource Design Guidelines, the application must be heard by the Historic Review Board (HRB). The HRB shall then determine what, if any, conditions are to be imposed upon the proposed work.

(Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.170. Demolition by neglect.

The Department, consistent with Chapter 7 of the Code, will inspect properties within Historic overlay zoning districts annually to ensure compliance with the Property Maintenance Code and to ensure demolition by neglect does not occur. The Historic Review Board (HRB) and County Council shall receive an annual summary report on

these inspections and details on any property within an Historic overlay zoning district which is found to be noncompliant in order to ascertain whether demolition by neglect as defined in Chapter 7 of the Code is occurring. The owner of the property will be provided an opportunity to be heard as set forth in the Code and HRB rules and regulations before a determination is made in accordance with the process outlined in Section 7.01.002, PM 102.6.1. The Department will notify all known owners of a property in an Historic overlay zoning district on an annual basis that the historic property will be subject to periodic inspection to ensure compliance with this Section.

(Ord. No. 20-071 , § 9, 10-27-2020)

Sec. 40.15.180. Historic overlay zoning of eligible New Castle county-owned property.

All property acquired by the County after May 1, 2021, including a building, complex of buildings, structure, or site, for which New Castle County secures the right, title, or interest in such property without dispute and where no other party has a viable claim, shall be reviewed by the Department of Land Use for eligibility under the criteria for designation included in Section 40.15.110.

- A. If the Department of Land Use determines a property is potentially eligible for Historic overlay zoning, an application shall be made to the Historic Review Board for consideration and recommendation on eligibility.
 - 1. If the Board determines the property to be eligible, the rezoning process set forth in Article 31 of this Chapter shall be initiated by the Department of Public Works within three (3) months of county acquisition.
 - 2. No property determined eligible for Historic overlay zoning shall be resold or otherwise transferred outside of New Castle County ownership or interest without the rezoning process having been completed.
 - 3. County-initiated rezoning applications will be accompanied by data to identify financial impacts for the fiscal note to be attached to the ordinance. Such data should include, but not be limited to, evaluation of the condition of the structure, cost of required repairs (if any), and adaptive reuse potential. Evaluations of historic structures must be completed by an Historic Architect meeting the minimum professional qualifications as established by the U.S. Secretary of the Interior.
- B. In the event that a property is determined to be ineligible for Historic overlay zoning by the Historic Review Board, no further action shall be taken.

(Ord. No. 20-112 , § 1, 5-11-2021)

Division 40.15.200. Historic Review Board review standards.¹

Sec. 40.15.210. Building and demolition permit review.

Pursuant to Section 6.03.020 of the County Code, the Historic Review Board (HRB) is responsible for reviewing permit applications and associated historic resource applications for properties that are eligible for Historic overlay zoning. The following standards and procedures shall apply to the HRB's review:

- A. *Building permits.* The HRB makes recommendations to the applicant regarding building permits subject to Subsection 6.03.020.A. of the County Code. The HRB may consider various aspects when providing

¹Editor's note(s)—Ord. No. 20-071 , § 10, adopted October 27, 2020, repealed and reenacted Division 40.15.200, Sections 40.15.210—40.15.240 in its entirety to read as herein set out. Formerly, Division 40.15.200 pertained to uses, and derived from Ord. No. 97-172, § 3, adopted December 31, 1997; Ord. No. 98-080, § 1, adopted September 22, 1998; Ord. No. 99-075, § 1, adopted December 14, 1999; Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, and Ord. No. 10-113, § 1(Exh. A), adopted January 18, 2011.

advice on building permits and may consider impacts to the landscape and historic context of the surrounding area.

1. Items to consider for evaluation.
 - a. The significance and historic context of the resource on an individual and district level;
 - b. Material integrity of the resource in relation to the period of significance;
 - c. Level of deterioration of the resource; and
 - d. Potential presence of archaeological resources.
 2. Impact to historic character of a resource.
 - a. Compatibility with the historic character of the resource regarding style, materials, scale, or location;
 - b. Impact to historic objects, sites, or structures as defined in Section 40.33.300 of this Chapter;
 - c. The protection, preservation, and enhancement of the character-defining features of the resource; and
 - d. Proposed use of the resource.
- B. *Demolition permits.* The HRB shall review demolition permits for historic resources that the Department has determined to meet the criteria for designation included in Section 40.15.110. The HRB may hold a demolition permit for nine (9) months in accordance with Chapter 6, during which time alternatives to demolition shall be sought. In addition to the criteria for designation, the HRB shall consider factors such as the following when reviewing demolition applications.
1. State of the resource.
 - a. Level of deterioration and modification to original fabric of the resource.
 - b. Reasons for deterioration which may include lack of maintenance, vacancy, loss of material integrity, or an act of God.
 - c. Structural integrity as determined by a registered design professional licensed in the State of Delaware.
 2. Cost of rehabilitation and financial hardship.
 - a. Nature of ownership (e.g., individual, for profit business, or nonprofit).
 - b. Cost of repairs to the subject property demonstrated through a third-party independent cost estimate to perform the proposed work.
 - c. Fair market value of the land and improvements.
 - d. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the seller and purchaser or other means of acquisition of title, such as by gift or inheritance.
 - e. For income-producing property only, itemized operating and maintenance expenses for the property for the prior two (2) years and annual cash flow, for the prior two (2) years.
 - f. Any and all listings of the property for sale or rent, price asked, and offers received for the prior two (2) years.
 3. Documentation of the resource may be required at the discretion of the HRB prior to the Department's release of a demolition permit. Such documentation shall be in accordance with the Historic American Buildings Survey (HABS) and the Historic American Engineering Record (HAER) guidelines and may include the following:
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- a. Written historical narrative. Such narrative shall include a general history of the resource, an analysis of its relationship to its surrounding environment, and the persons and events associated with its establishment and development, if applicable.
- b. Field documentation including measured drawings and digital photography.
- c. State of Delaware Cultural Resource Survey (CRS) forms.

(Ord. No. 20-071 , § 10, 10-27-2020)

Sec. 40.15.220. Land development plan review and historic resources.

The Historic Review Board (HRB) shall consider the following (as applicable) when making recommendations in accordance with Subsection 40.15.010.B on land development applications:

- A. Historic context in relation to past themes, time periods, geography, events, and cultural values.
- B. Surrounding environment and landscape:
 - 1. A conceptual landscape plan showing proposed plantings that enhance, or mitigate impact to, an historic resource and its historic context.
 - 2. Site context as defined by features such as a parcel size, vegetation, topography, surrounding character and proximity to nearby development.
 - 3. Potential for archaeological resources.
- C. State of extant historic resources:
 - 1. Level of deterioration and modification to original fabric of the resource.
 - 2. Reasons for deterioration which may include lack of maintenance, vacancy, loss of material integrity, or an act of God.
 - 3. Structural integrity as determined by a registered design professional licensed in the State of Delaware.
- D. Compatibility of the proposed development with extant historic resources:
 - 1. Consistency with exterior style and features of surrounding resources, as well as preservation and enhancement of character-defining attributes.
 - 2. Harmony between existing and proposed structures regarding massing, proportions, scale, and building orientation.
 - 3. Suitability of the proposed development's location and siting regarding sensitivity to historic resources.

(Ord. No. 20-071 , § 10, 10-27-2020)

Sec. 40.15.221. Archaeological resources.

The Historic Review Board (HRB) has the authority to require background and comparative research to assess for the potential of archeological resources. Research must be completed in accordance with the Delaware Division of Historic and Cultural Affairs' guidelines for Archaeological Survey in Delaware. Findings of the evaluation must be completed by a Registered Professional Archaeologist and shall be in the form of a report presented to the HRB. Based on the findings of the archaeological evaluation, the HRB may recommend the following to the Department:

- A. Additional archaeological testing to further define areas of archaeological potential.
- B. Design the proposed development to avoid areas of archaeological potential.

(Ord. No. 20-071 , § 10, 10-27-2020)

Sec. 40.15.230. National Register nominations.

The Historic Review Board (HRB) shall review nominations to the National Register of Historic Places. Upon submittal of a nomination form, the HRB shall hear a presentation by the applicant at a scheduled public hearing and consider public testimony on the nomination. At the following business meeting, the individual members of the HRB shall identify which criteria the nomination satisfies prior to voting on the nomination.

- A. Where the HRB finds the nomination acceptable, the Department of Land Use shall forward the nomination, signed by the County Executive, to the Delaware State Review Board for Historic Preservation for consideration.
- B. Where the HRB finds the nomination unacceptable, it shall provide feedback to the nominator regarding necessary changes, if applicable, to meet the required criteria.

(Ord. No. 20-071 , § 10, 10-27-2020)

Division 40.15.300. Preservation of historic resources on record plans.

This Division discusses procedures for the preservation plan.

(Ord. No. 20-071 , § 11, 10-27-2020)

Sec. 40.15.310. Preservation of historic resources on major land development plans.

Where a major land development application has an historic resource that has been, or is subsequently, determined eligible for Historic (H) overlay zoning pursuant to the criteria for designation included in this Article, the following conditions or procedures must be met:

- A. The parcel containing the historic resource must be rezoned H prior to recordation of the plan. For the purposes of this Division, a parcel containing the historic resource may be subdivided to a minimum lot size not smaller than the historic context as determined in Section 40.15.120, and in accordance with this Chapter.
- B. A detailed preservation plan must be submitted to the Department that describes the measures to be taken for the historic rehabilitation or restoration, and preservation, of the historic resource. The Department shall review the preservation plan and obtain recommendations and approval of the proposed plan from the Historic Review Board. After Department approval, a note referencing the preservation plan must be memorialized on the record plan. The preservation plan must:
 - 1. Contain an executive summary that describes the contents of the plan and the historic resource(s) to be managed. The ownership of resource(s) must also be identified.
 - 2. Identify existing conditions and describe the historic resources on-site and their context. The description shall be in accordance with the Historic American Buildings Survey (HABS), the Historic American Engineering Record (HAER), or the Historic American Landscape Survey (HALS) guidelines for Historical Reports.
 - 3. Identify the goals and objectives for managing the historic resource(s) on site. Such objectives must be established along with methods of measuring implementation to ensure that the goals are met.
 - a. *Short-term maintenance.* The preservation plan must outline any emergency repairs and work necessary to address the resource's structural integrity, weather tightness, and protection from the elements, and the schedule for performing the short-term maintenance. Examples of short-term maintenance are roof, siding, exterior paint, and foundation repairs.
 - b. *Restoration measures.* The preservation plan must outline a strategy and schedule to bring the resource(s) to a state of habitable condition that is ready for use. The plan should also identify

methods or materials to be used to restore the resource(s), including architectural elements, forms, and character defining features specific to its period of significance.

- c. *Long-term maintenance.* The preservation plan must establish a schedule of maintenance measures that ensure the resource(s) remain in good condition consistent with the property maintenance code.
- 4. Identify a dollar amount, acceptable to the Department, which will be equivalent to the cost of the short-term maintenance and restoration of the historic resource(s). The cost must be based upon a third-party estimate, or other basis acceptable to the Department. The developer must provide twenty (20) percent of this aggregate amount to the Department as a performance guarantee. The performance guarantee must be in the form of a letter of credit, or immediately available funds to be held in escrow by the County.
- 5. Identify any proposed incentives or bonuses, as further discussed below in Section 40.15.320.
- C. After the Department approves the preservation plan, it must be recorded in the Office of the Recorder of Deeds and noted on the record plan.
- D. The developer shall complete the short-term maintenance obligations contained in the preservation plan prior to the Department issuing the first dwelling unit permit. The developer must complete the restoration obligations contained in the plan prior to the issuance of fifty (50) percent of the dwelling unit permits.
- E. The performance guarantee may be used by the Department if the developer fails to comply with its short-term maintenance or restoration obligations. The Department shall provide the developer with written notice of non-compliance, and a minimum of thirty (30) days to correct the items identified in the notice. Thereafter, the Department may draw down upon the performance guarantee in an amount necessary for the County to address the identified items.
- F. Upon completion of the short-term maintenance and restoration obligations contained in the preservation plan, the developer may request release of the performance guarantee by certifying to the Department that those obligations have been satisfied. The Department shall inspect the resource(s) and identify in writing any deficiencies. When the Department determines there has been compliance with those obligations, the Department shall release the performance guarantee.
- G. If the developer transfers ownership of a parcel subject to this Division, after the new owner has in place a new performance guarantee acceptable to the Department, the developer may request a complete release of its performance guarantee.

(Ord. No. 20-071 , § 11, 10-27-2020)

Sec. 40.15.320. Incentives for preservation.

The developer may propose one or more incentives in connection with its land development application and Preservation Plan, including adaptive reuse, historic preservation bonus, and Transferable Development Rights. Applications using the provisions of this Division are also eligible for reduced impact fees and special considerations regarding Moderately Priced Dwelling Unit (MPDU) provisions.

- A. *Impact fee reduction.* The Preservation Plan may propose that some or all of the impact fees relating to libraries, parks and special facilities, and county facilities be waived by the County. In no event shall the total economic value of the impact fee reduction exceed the aggregate amount cost estimate discussed in this Division.
- B. *Historic Moderately Priced Dwelling Unit(s) (MPDU).* The preservation plan may propose that an historic resource be used as one or more MPDUs (Division 40.07.500). Historic resources can be converted into any housing unit type permissible under the development option chosen, with the approval of the Historic Review Board.

(Ord. No. 20-071 , § 11, 10-27-2020)

ARTICLE 16. NEIGHBORHOOD PRESERVATION OVERLAY DISTRICT (NPOD)

Division 40.16.000. Purpose.

The purpose of this Article is to establish a Neighborhood Preservation Overlay District (NPOD) for maintaining the distinctive physical qualities of existing neighborhoods. An NPOD designation is intended to provide a regulatory tool for communities concerned with issues of incompatible infill and structural alteration that could inappropriately change the appearance or character of residential neighborhoods or the streetscape. The purposes of this Article are to:

- A. Identify neighborhoods with distinctive and cohesive physical characteristics and establish a process and criteria for determining NPOD boundaries that will encompass those characteristics.
- B. Develop and adopt regulations for each NPOD that will maintain, strengthen, and enhance the neighborhood's distinctive qualities by requiring development, redevelopment, and infill projects to be compatible with the scale and character of the existing neighborhood.
- C. Provide the framework for establishing neighborhood regulations, focusing on broad characteristics that provide and protect neighborhood character including, but not limited to, building height, setbacks, massing, open space, and streetscape elements.

(Ord. No. 16-067 , § 2, 1-10-2017)

Division 40.16.100. Applicability.

Sec. 40.16.101. Classification.

- A. The NPOD is an overlay zoning designation that provides additional standards to the underlying zoning district. The underlying zoning district specifies permitted land uses.
- B. An NPOD must include at least one (1) residential zoning district and may include all or part of any nonresidential zoning district.
- C. If there is a conflict between the NPOD regulations (including this Article and any NPOD Conservation Plan) and the underlying zoning district, the NPOD regulations shall apply.
- D. District classifications. For purposes of this Article, Neighborhood Conservation (NC), Suburban Reserve (SR), Suburban Estate (SE), Suburban (S), Suburban Transition (ST), and Traditional Neighborhood (TN) districts are considered residential districts. All other districts are considered nonresidential districts.
- E. Limit on designations. Applications for an NPOD during the first three (3) years after the effective date of this Article will be limited to the initial study areas identified in the New Castle County Department of Land Use Action Plan & Work Program, 2014/2015, dated October 7, 2014 (areas include: Pike Creek, Concord Pike, Route 9, Kirkwood Highway, Newark/Route 273 Corridor, and Claymont) and where a WILMAPCO study has been conducted.
- F. An NPOD only may be placed upon residential subdivisions approved prior to December 31, 1997.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.102. NPOD designation criteria.

To be designated as an NPOD, the area shall meet the following criteria:

A. *Required residential component.*

1. At least fifty (50) percent of the parcels within the proposed overlay district shall have a residential use; and
2. At least fifty (50) percent of the land area within the proposed overlay district shall be located within:
 - a. A residential zoning district; and
 - b. A medium, low, or very low residential density future land use category in the Comprehensive Development Plan.

B. *Site area.* Minimum site area shall include at least one (1) block and consist of at least ten (10) acres.

C. *Boundaries.* All land within the district boundary shall be contiguous and shall not be separated by an interstate, freeway, or expressway as identified on the DelDOT New Castle County Functional Classification Map.

D. *Improvements.* At least seventy-five (75) percent of the lots in the proposed district must be improved with principal buildings.

E. *Distinctive features.* The area within the residential districts of the proposed NPOD shall create a cohesive identifiable neighborhood character that possesses the following distinctive features:

At least two (2) of the following features:	And at least one (1) of the following features:
Scale, size, type of construction, or distinctive building materials reflecting a concentration of structures of similar scale, period of construction and/or use of materials characteristic of the style of construction.	Natural or open space features such as topography, streams, parks, or gardens.
Lot layouts, setbacks, street layouts, or alleys providing a similarity of siting characteristics of a single period or style of construction.	Streetscape features, such as trees, landscaping, sidewalks, lighting, or overall street character.
Architectural features, such as a concentration of structures reflecting a repetition of treatment of stylistic elements, such as roofs, porches, windows, wall articulation, and building ornamentation.	Predominantly residential land use patterns with commercial uses serving surrounding neighborhoods.

F. *Nonresidential districts.* The nonresidential districts within the proposed NPOD shall:

1. Possess the features described in Subsection E. above; and
2. Be contiguous to the residential districts.

G. *Exclusion.* An NPOD shall not include properties in a designated historic or hometown overlay district or overlap another NPOD. This does not prohibit the establishment of an NPOD with an individually listed historic property that is not in an historic district.

H. *Applicability of other provisions.* The NPOD shall not affect any of the following standards, all of which supersede the requirements of this section or any conditions of any NPOD conservation plan:

1. Site capacity and concurrency calculations (Article 5) - site carrying capacity shall be based on the applicable bulk and area standards from Table 40.04.110.
2. Environmental standards (Article 10).
3. Transportation impact (Article 11).

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4. Sewer and water impact (Article 12).
 5. Impact fees (Article 14).
 6. Any other requirements of the UDC that are not specifically superseded by this Article or an NPOD conservation plan.

(Ord. No. 16-067 , § 2, 1-10-2017)

Division 40.16.200. Zoning designation and development review process.

Sec. 40.16.201. Zoning authority.

A separate ordinance is required to designate each NPOD. Each overlay district ordinance shall include an NPOD conservation plan that identifies the designated boundaries, establishes regulations for the specific NPOD overlay district, and demonstrates consistency with the Comprehensive Development Plan.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.202. Initiation procedures.

The establishment of an NPOD may be initiated by:

- A. The Department; or
- B. By submission of an application to the Department. The application shall include:
 1. A petition executed by at least two-thirds ($\frac{2}{3}$) of the property owners within the proposed district and containing an acknowledgement of support from any official neighborhood, homeowner or maintenance association whose membership consists of persons owning property within the proposed district. The petition shall include the names, addresses, and tax parcel numbers of all property owners in the proposed district.
 2. Required filing fee.
 3. Applicants' names, contact information, and signatures.
 4. Precise boundaries indicated on a map.
 5. List of neighborhood, homeowner or maintenance associations whose membership consists of persons owning property within the boundaries of the proposed district including available contact information.
 6. Statement of justification including:
 - a. Description of the neighborhood and property characteristics and features worthy of conservation, including any specimen trees and other landscape features; and
 - b. Description of how the application meets NPOD criteria and why that designation would promote the best interest of the neighborhood and the County.
 7. Photographs, histories, and/or other supporting material documenting the neighborhood characteristics.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.203. Determination of eligibility.

- A. The Planning Board will determine the eligibility of an NPOD application pursuant to the standards and procedures in this Article. The Planning Board will, at a business meeting, review an application and the Department's initial analysis, and determine whether the application is eligible for NPOD designation based on the following criteria:
 - 1. Clear documentation of distinctive characteristics shared by properties within the proposed boundaries and why they are worthy of conservation; and
 - 2. Consistency with the Comprehensive Development Plan goals and policies; and
 - 3. The degree to which the proposed NPOD designation would promote the New Castle County Guiding Principles.
- B. The Planning Board must find all of the following in order to recommend designation of an NPOD:
 - 1. The proposed NPOD application meets the designation criteria of Division 40.16.101;
 - 2. The properties within the proposed boundaries are recognizable as a distinct area with shared characteristics; and
 - 3. The proposed NPOD possesses physical features that contribute towards a recognizable identity and therefore warrants further study.
- C. The Planning Board or Department may recommend the modifications of proposed NPOD boundaries if it finds that the modification meets the purpose of the proposed NPOD.
- D. If the Planning Board determines that an application does not meet the criteria, it will send its written determination to the applicant.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.204. NPOD planning process.

- A. *Neighborhood information meeting.*
 - 1. Upon determination of eligibility by the Planning Board, the Department shall notify, or require the applicant to notify, all property owners within the proposed NPOD boundaries informing them of the application and the review and approval process.
 - 2. The applicant shall arrange for a neighborhood-wide meeting to inform the community about the NPOD and the program requirements. This will occur prior to the Planning Board public hearing.
- B. *Neighborhood/community meeting notice requirement.*
 - 1. Written notices shall be sent by mail or email to all property owners of record within the proposed NPOD boundaries.
 - 2. At least ten (10) days before the neighborhood information meeting, the Department shall post, or require the applicant to post, a sign that provides a statement that an NPOD is proposed for the designated neighborhood, the Department's phone number and email contact, and the date, time, and location of any neighborhood information meeting. The Department shall update, or require the applicant to update, the sign to include the date, time, and location, at least ten (10) days before any Planning Board or County Council public hearing. The posted notice provisions of Subsection 40.31.340.B shall apply to this subsection.
 - 3. The notice of meetings also shall be available on the County website.

C. *Planning process.*

1. The Department shall work with the applicant to further define the neighborhood's unique character and identify conservation solutions, including appropriate regulations and incentives.
2. The applicant shall prepare needed studies and reports and draft appropriate conservation criteria per Division 40.16.300.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.205. Adoption procedures.

- A. *Procedure.* Upon the Department's determination that the NPOD application is acceptable, the Department will prepare the draft NPOD ordinance and will schedule a public hearing before the Planning Board pursuant to Article 31.
- B. *Rezoning.* Adoption of the NPOD shall comply with Division 40.31.100 for rezonings. The Department shall prepare a draft zoning map for the NPOD.
- C. *Findings.* NPOD designation may be adopted by ordinance of the County Council only if it finds that the designation criteria of this Division are met.
- D. *NPOD Conservation Plan.* The adopted NPOD shall include an NPOD conservation plan.

(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.206. Development review.

- A. Land use applications for property within a designated NPOD shall comply with the adopted NPOD conservation plan. The application shall include a note indicating that the site is within the NPOD.
- B. The Department shall review all land use applications within the designated NPOD to determine compliance with the NPOD conservation plan.
- C. If the Department determines that the land use application does not conform with the NPOD conservation plan, the application shall be denied.
- D. The applicant may appeal the Department's determination to the Board of Adjustment for a final determination.

(Ord. No. 16-067 , § 2, 1-10-2017)

Division 40.16.300. Development standards.

Sec. 40.16.301. NPOD conservation plan.

- A. Each NPOD shall contain standards that supplement, replace or modify the base zoning district standards in order to protect and preserve the features critical to the neighborhood.
- B. The applicant shall include an NPOD conservation plan which shall be approved as part of the zoning ordinance creating the NPOD.
- C. The NPOD conservation plan shall include:
 1. Design standards for new construction or placement of any building, structure, foundation, or signage; and
 2. Permitted additions, alterations, relocation or rehabilitation to the street facades of existing buildings, structures, foundations, signs, public art, or outdoor apparatus or equipment.
- D. The NPOD conservation plan shall not apply to ordinary repairs and maintenance.

-
- E. Required elements. The NPOD conservation plan shall include at a minimum the following elements governing the physical characteristics and features of all property (public or private) within the proposed district:
- Building height in feet and number of stories
 - Building size, massing (frontage, entrance location/features)
 - Lot size, coverage
 - Setbacks
 - Building orientation
 - General site planning (primary, ancillary structures)
 - Density or floor area ratio standards for transitional areas between nonresidential and residential districts
 - Transitional features between nonresidential development in residential neighborhoods consistent with Section 40.16.302
 - Garage entrance location
 - Off-street parking and loading requirements
 - Ground level open space requirements
 - Roof line and pitch
- F. Optional standards. The design standards may include any of the following elements:
- Signage
 - Architectural style and details
 - Building materials
 - Front window, dormer size and location
 - Landscaping
 - Fences and walls
 - Lighting
 - Driveways and sidewalks
 - Satellite dishes, utility boxes
 - Street trees
 - Paving patterns
 - Hardscape covering
 - Porch designs
 - Street furniture
 - Public art
 - Design standards in addition to those listed above
- G. The NPOD conservation plan may be amended or revised when an alternative design would better achieve the objective of a standard in the NPOD conservation plan. The amendment may be initiated by the applicant or the Department and be approved through the rezoning process.

- H. The NPOD ordinance may include incentives to encourage conservation within the NPOD, including changes, modification or reductions of:
1. Parking requirements;
 2. Landscape surface ratio or the location, opacity, width, area or design of bufferyards;
 3. Open space ratios and the design or permissible uses of open space;
 4. Lot area required for zoning districts within the NPOD;
 5. Required yards; or
 6. Other UDC provisions unless specifically prohibited by this Article and that will not result in an increase the density, building height, or floor area ratio to an extent greater than permitted by the underlying zoning district.

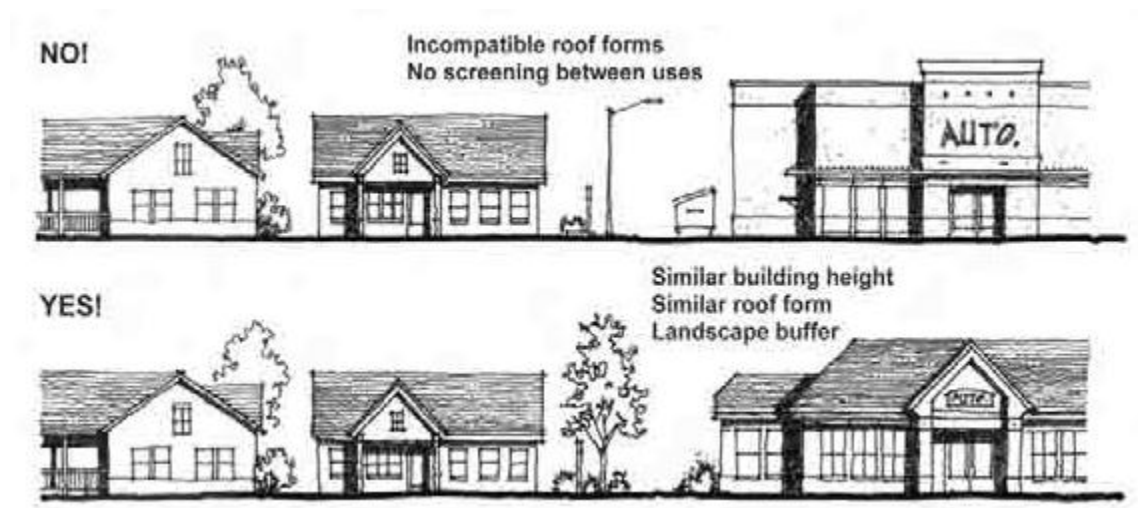
(Ord. No. 16-067 , § 2, 1-10-2017)

Sec. 40.16.302. Transitional standards.

Unless any of these standards are modified by the NPOD conservation plan, all nonresidential or multi-family buildings or portions of buildings located within an NPOD and within one hundred (100) feet of a residential zoning district shall employ the following techniques to ensure compatibility with surrounding development, including adjacent residential development.

- A. Similar building setback.
- B. Similar roof form.
- C. Horizontal breaks in the street/building facade, as well as vertical breaks, shall be designed to occur as part of the building composition and shall not occur randomly.
- D. Front-to-front building orientations, especially with commercial uses that are pedestrian-intensive (e.g., restaurants, banks). Other building-to-building orientations may be used except that a back-to-front building orientation is not an acceptable transition tool.

Figure 1.
Nonresidential development shall employ transition techniques to ensure compatibility with surrounding development, including adjacent residential development



-
- E. Green/open space transitions to ensure compatibility between the nonresidential development and surrounding development, such as:
1. Small green spaces, courts, squares, parks, plazas, and similar spaces that function as community gathering places.
 2. Existing natural features as transitions, including natural differences in topography (not retaining walls), streams, existing stands of trees, and similar features.
- F. Compatible building height between residential and nonresidential and multifamily developments.
- (Ord. No. 16-067 , § 2, 1-10-2017)

ARTICLE 17. ECONOMIC EMPOWERMENT DISTRICT (EED)

Division 40.17.000. Purpose.

- A. This Article establishes the Economic Empowerment District (EED) to facilitate employment uses and complementary accessory uses in a master planned, campus-like setting. Uses shall consist of targeted industries as identified by the New Castle County, Delaware, Economic Development Strategic Plan, dated September 2014, as may be amended or updated, and shall consist of corporate headquarters, high technology offices, research and/or light assembly centers, or master planned employment centers.
- B. The EED implements the Comprehensive Plan and the New Castle County, Delaware, Economic Development Strategic Plan, dated September 2014, as those plans may be amended or updated, by:
 - 1. Clearly defining uses that implement the County's economic development priorities; and
 - 2. Creating standards that facilitate employment sectors which create long term, sustainable job growth for the County while protecting surrounding neighborhoods; and
 - 3. Establishing a clear and predictable path to approval for the target industries identified in the EED regulations.

(Ord. No. 16-066 , § 4, 1-10-2017)

Division 40.17.100. Applicability.

Sec. 40.17.101. Classification.

- A. The EED is a special district.
- B. Each EED district shall have a separate designation and shall have a set of guidelines to accommodate development or reuse of land located within that EED. Each EED district establishes development standards that apply to development in that district. Development standards shall be part of the ordinance that is approved by County Council. UDC standards that apply to the site prior to adoption of the ordinance designating an EED shall continue to apply to the development unless those standards are replaced or modified in the EED ordinance.
- C. The EED shall not affect any of the following standards, all of which supersede the requirements of this section or any conditions of an EED approval:
 - 1. Site capacity and concurrency calculations (Article 5) - site carrying capacity shall be based on the applicable bulk and area standards from Table 40.04.110, using the zoning district and use category that most closely matches the proposed development.
 - 2. Environmental standards (Article 10).
 - 3. Transportation impact (Article 11) - except that the applicant must annotate and evaluate the estimated gross floor area of future buildings for a traffic analysis and if required, a traffic impact study shall be completed and reviewed by DelDOT and the Department of Land Use prior to approval by County Council.
 - 4. Sewer and water impact (Article 12).
 - 5. Impact fees (Article 14).
 - 6. Minimum required bufferyards along any boundary with a residential (ST, S, SE, SR, TN, MM, or NC) zoning district.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.102. EED designation criteria.

The County may apply an EED to areas of the County only where the development meets the criteria provided in this Section.

- A. Parcel size. The minimum parcel size for an EED is ten (10) acres. However, the County Council may approve an EED of between five (5) and ten (10) acres if:
 - 1. At least ninety (90) percent of the total floor area within the proposed EED consists of target industries as identified in Subsection 40.17.302.A.2;
 - 2. At least twenty-five (25) percent of the projected trips are reduced through the use of transportation demand management (TDM) measures (see Subsection 40.17.303.E); and
 - 3. The EED is not rezoned from any residential district.
- B. Location. The area or site within the proposed district must take access from a collector or arterial street, or be located within one-quarter ($\frac{1}{4}$) mile of a bus stop or within one-half ($\frac{1}{2}$) mile of a commuter rail station.
- C. The EED is consistent the County's policies to attract target industries as identified in the New Castle County, Delaware, Economic Development Strategic Plan, dated September 2014, as may be amended, revised, or updated.
- D. Boundaries.
 - 1. All land within the district boundary shall be contiguous.
 - 2. County Council may expand the boundaries of the proposed EED to include additional contiguous land if it finds that the modification meets the purpose of the proposed EED.
- E. Guiding principles. The applicant is encouraged to consult The New Castle County Guiding Principles.
- F. Overlapping districts. An EED may overlap an overlay zone; however, the EED or conditions of approval do not supersede the requirements of any overlay zone.
- G. Use allocation for target industries. The allocation of gross floor area (GFA) for a proposed EED shall comply with the following percentages:
 - 1. Eighty (80) percent of GFA for target industries for projects up to one hundred thousand (100,000) SF GFA.
 - 2. Eighty-five (85) percent of GFA for target industries for projects from one hundred thousand one (100,001) SF to five hundred thousand (500,000) SF GFA.
 - 3. Ninety (90) percent of GFA for target industries for projects over five hundred thousand (500,000) SF GFA.

(Ord. No. 16-066 , § 4, 1-10-2017)

Division 40.17.200. Zoning designation and development review process.

Sec. 40.17.201. Zoning authority.

An ordinance shall be required to establish each EED. The ordinance establishing an EED shall identify the boundaries for the EED, establish development and design standards for the EED, and contain a designation distinguishing the EED from other EEDs.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.202. Initiation procedures.

- A. *Initiation.* The establishment of an EED may be initiated by:
1. The Department; or
 2. Submission of an application signed by owners of one hundred (100) percent of the property within the proposed EED.
- B. *Application contents.* An application shall be accompanied by the required filing fee and shall include the following information:
1. Applicants' names, contact information, and signatures;
 2. Precise boundaries indicated on a map and including a list of all tax parcel numbers within the proposed EED; and
 3. Statement of justification describing how the application meets the EED designation criteria, and why the rezoning would promote the best interest of the economy, surrounding neighborhood, and the County.
- C. *Pre-application sketch plan review/conference.* In addition to the requirements of Section 40.31.112 of this Chapter, the following is required:
1. A site plan that demonstrates compliance with the proposed design standards; and
 2. Building elevations or architectural sketches that demonstrate compliance with the proposed design standards. The applicant shall provide building elevations before the final exploratory plan report is prepared, and those elevations must be made part of the public record for at least thirty (30) days before the public meeting at which County Council renders a decision.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.203. Rezoning procedure for EED.

- A. *Property owner/stakeholder meeting.* The applicant is strongly encouraged to engage the community at the earliest possible moment. The applicant shall arrange for an area-wide meeting to inform the community about the EED after the pre-application sketch plan review conference. The applicant shall complete the area-wide meeting before submitting the exploratory plan.
- B. *EED planning process.* The applicant shall prepare the required studies, reports and draft development and design standards per Division 40.17.300.
- C. *Notice.* After the Department determines that the application is complete and the area-wide meeting has occurred, notice of the rezoning shall be provided in accordance with Article 31.
- D. *Procedure.*
1. Department shall authorize the application to be heard by PLUS upon receiving a complete submission.
 2. The Department shall schedule a public hearing before the Planning Board pursuant to Article 31 after the Department has prepared the draft EED ordinance.
 3. The EED ordinance shall be subject to the requirements and procedures contained in Article 31 for rezoning applications and shall include conditions of approval that incorporate the development and design standards.
- E. *Findings.* County Council may adopt an EED ordinance upon finding that:
1. The rezoning meets the standards in Section 40.31.410 (standards for zoning map amendment);
 2. The EED meets the designation criteria above; and

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3. The applicant has demonstrated that it has adequately mitigated traffic concerns through a traffic impact study (if required) pursuant to Article 11.

F. *Expiration.*

1. The applicant shall secure exploratory sketch plan approval and commence construction of approved floor area within five (5) years from the effective date of the rezoning or it will become subject to the sunset provisions of Section 40.01.130. County Council may establish additional time in the rezoning conditions. The Department may initiate a rezoning to the former zoning classification if the applicant does not submit a timely exploratory sketch plan.
2. If commencement of construction does not occur on at least twenty (20) percent of the approved floor area within five (5) years from the effective date of the rezoning:
 - a. The applicant shall file an updated traffic impact study based on the conditions identified in Section 40.11.130 at that time. The Department shall approve, approve with conditions or disapprove the traffic impact study before any further minor land development plan or building permit is approved for the project; and
 - b. The applicant shall obtain new water capacity calculations pursuant to Section 40.05.310 and verification that sewer capacity will be available pursuant to Section 40.05.320.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.204. Development review.

- A. After the EED is approved, any submission shall be reviewed as a minor land development plan and must comply with the EED ordinance that was approved by County Council.
- B. In addition to the information required for a minor land development plan application, the exploratory sketch plan shall include:
 1. Building elevation drawings prepared by a registered architect for each proposed structure;
 2. Conceptual drawings of sections through the site illustrating existing and proposed grades, as well as the relationship of different site features;
 3. Conceptual landscape, stormwater management, open space and amenity plans; and
 4. The identification of the total floor area to be allocated to the required target industry as outlined in Subsection 40.17.102.G.
- C. The Department shall review the exploratory sketch plan to determine compliance with the development and design standards adopted for the district.
- D. If the Department determines that the exploratory sketch plan conforms to the development and design standards adopted for the EED, it shall approve the exploratory sketch plan.
- E. If the Department determines that the exploratory sketch plan does not conform to the development and design standards adopted for the EED, the Department shall not approve the exploratory sketch plan and shall identify the specific development and design standards of non-compliance.
- F. After the applicant obtains exploratory sketch plan approval, the applicant may proceed to record plan review.

(Ord. No. 16-066 , § 4, 1-10-2017)

Division 40.17.300. Development standards.**Sec. 40.17.301. Applicability.**

- A. The development standards established in this Division and any condition of the EED approval shall apply to all minor land development plans and building permits issued within the designated EED.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.302. Permitted uses.

- A. Conditions of EED approval shall identify the allowable uses permitted in the EED. Uses not specifically listed in the conditions of approval are not allowed in the EED. Required uses, permitted uses, limited uses, special uses and allocation of uses by floor area shall be approved as part of the ordinance creating the EED.

1. Conditions of EED approval may include any of the following uses:

EED District Uses

Y=permitted, N=prohibited, L=limited, S=special use review, A=accessory	
	(The total floor area of all uses or any combination thereof, designated with "%" below, shall not exceed the designated percentage of the total project floor area)
Residential	
Commercial apartments	Y
Institutional	
Schools	Y
Colleges	Y
Institutional, regional	Y
Healthcare and life sciences (including hospitality)*	Y
Commercial	Refer to Section 40.17.102.G for the required percentages for target industries
Commercial lodging	Y (10%)
Commercial retail and service	Y (10%)
Corporate guest house	Y (10%)
Restaurants	Y (5%)
Office/business, insurance and financial services *	Y
Recreation and amusement	The total floor area of all recreation and amusement uses listed shall not exceed 10% of the total project floor area
Recreation, high intensity	L
Recreation, low intensity	L
Industrial and employment uses	
Heavy industry	Y
Light industry	Y
Advanced materials *	Y
Information technologies *	Y
Aerospace and defense *	Y
Utilities, minor	Y
Utilities, major	Y
Other uses	
Commercial communication towers	L

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Community recycling bins	A
Exterior lighting for outdoor recreational uses	S
Park and ride facility	Y
*Land uses marked with an asterisk are defined more specifically in Subsection 2., below.	

2. The following industrial classifications (defined in the NAICS or as further provided below) shall be considered target industries for the purpose of satisfying the use allocation requirements of Section 40.17.102:
- a. *Advanced materials.* Advanced materials include establishments that process new materials or existing materials that have been modified so as to have different atomic and structural properties leading to different characteristics and suitability for different applications and purposes that provide superior performance. The advanced materials sector includes business or management methodologies, research and development, manufacturing processes, and products made from those materials. Materials may include metals, polymers, ceramics, fabrics and textiles, glasses and composites, or additional materials customarily included within this industry category. Advanced materials include any of the following categories:
- Textile and Fabric Finishing and Fabric Coating Mills (NAICS 3133)
- Other Textile Product Mills (NAICS 3149)
- Converted Paper Product Manufacturing (NAICS 3222)
- Plastic Product Manufacturing (NAICS 3261)
- Rubber Product Manufacturing (NAICS 3262)
- Offices or research and development functions associated with and accessory to the uses listed above, including any of the following: (NAICS 54199, 55, 6117, 4885, 7113-7115, 8132-8133, 8134, 8139, 921, 92211, 92213, 92219, 923-928)
- Accounting, Tax Preparation, Bookkeeping, and Payroll Services (NAICS 5412)
- Architectural, Engineering, and Related Services (NAICS 5413)
- Specialized Design Services (NAICS 5414)
- Computer Systems Design and Related Services (NAICS 5415)
- Management, Scientific, and Technical Consulting Services (NAICS 5416)
- Scientific Research and Development Services (NAICS 5417)
- All Other Professional, Scientific, and Technical Services (NAICS 54199)
- Management of Companies and Enterprises (NAICS 551)
- Office Administrative Services (NAICS 5611)
- All Other Professional, Scientific, and Technical Services (NAICS 54199)
- b. *Information technology.*
- Custom Computer Programming Services (NAICS 514511)
- Computer Systems Design Services (NAICS 541512)
- Computer Facilities Management Services (NAICS 541513)
- Data Analytic Processes for Business and Government Applications (NAICS 548210)
- c. *Aerospace and defense.*
-

Small Arms, Ordnance, and Ordnance Accessories Manufacturing (NAICS 332994)
Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing
(NAICS 334220)

Space Research and Technology (NAICS 927)

National Security (NAICS 92811)

Other Support Activities for Air Transportation (NAICS 48819)

d. *Healthcare and life sciences.*

Ambulatory Health Care Services (NAICS 621)

Hospitals (NAICS 622)

Nursing and Residential Care Facilities (NAICS 623)

Social Assistance (NAICS 624)

e. *Business, insurance and financial services.*

Commercial Printing (except screen and books, includes digital printing, manifold business forms
printing) (NAICS 323111)

Data Processing, Hosting, and Related Services (including internet service providers, web search
portals) (NAICS 518)

Non-depository Credit Intermediation (NAICS 5222)

Activities Related to Credit Intermediation (NAICS 5223)

Securities, Commodity Contracts, and Other Financial Investments and Related Activities (NAICS
523)

Insurance Carriers and Related Activities (NAICS 524)

Funds, Trusts, and other Financial Vehicles (NAICS 525)

Activities Related to Real Estate (NAICS 5313)

Lessors of Nonfinancial Intangible Assets (NAICS 533)

Legal Services(NAICS 5411)

Accounting, Tax preparation, Bookkeeping, and Payroll Services (NAICS 5412)

Architectural, Engineering, and Related Services (NAICS 5413)

Specialized Design Services (NAICS 5414)

Computer Systems Design and Related Services (NAICS 5415)

Management, Scientific, and Technical Services (NAICS 5416)

Advertising and Related Services (NAICS 5418)

Marketing Research and Public Opinion Polling (NAICS 54191)

Commercial Photography (NAICS 541922)

B. Use allocation. Required uses, permitted uses, limited uses, and allocation of uses by gross floor area shall be designated as part of each EED ordinance.

(Ord. No. 16-066 , § 4, 1-10-2017)

Sec. 40.17.303. Design standards.

- A. *Required design standards.* Design standards shall be approved as part of each EED ordinance. The EED shall identify what is critical to attract target industries with an appropriate level of design and amenities, and may require additional and/or modified standards, as approved by County Council. In addition to regulations, each EED shall include design guidelines standards.
- B. *Minimum elements.* The design standards for the EED shall include the following minimum elements governing the physical characteristics and features of all property (public or private) within the proposed district:
- Building height in feet and number of stories
 - Building size, massing (frontage, entrance location/features)
 - Building orientation
 - General site planning (primary, ancillary structures)
 - Floor area ratio (FAR)
 - Lot size and coverage (LSR)
 - Setbacks
 - Architectural style and details
 - Landscaping
 - Off-street and on-street parking requirements
 - Off-street loading requirements
 - Fences and walls
 - Block design and layout
 - Ground level open space requirements
 - Garage entrance locations
 - Building materials
 - Driveways and sidewalks
 - Street trees
 - Lighting standards for safety and security
 - Paving patterns, hardscape covering, and roadway and/or streetscape layout and design
 - Signage
 - Pedestrian scale and walkability
 - Street furniture
 - Design standards not otherwise listed
- C. *Building materials.*
1. Building materials are divided into primary and secondary materials. Building exteriors facing and visible from an adjacent public street shall be composed predominantly of primary materials, with any secondary materials limited to accents or subordinate elements of the facade. Additional materials not listed below are permitted if the County Council determines, as a condition of rezoning, that they are similar in appearance and quality to the listed materials.

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2. Permitted primary and secondary materials are as follows:

Primary Materials	Secondary Materials
• Brick - solid or modular • Concrete masonry units - split faced, or burnished • Precast concrete • Concrete tilt-wall • Glass - clear • Glass - architectural panels • Metal panels • Native stone (or cast stone equivalent) • Tile masonry/terra cotta • Stucco/EIFS (reinforced)	• Brick - panel/veneer, imprint or overlay systems • Cement fiber board/cementitious siding • Concrete masonry units (flush/plain, split faced or burnished) • Gypsum Reinforced Fiber Concrete • Metal panels • Pre-cast concrete (for trim and cornice elements only) • Cast stone • Wood or cementitious siding • Composite Wood Trim • Fiber reinforced plastic

3. A building material not listed above may be permitted by the Department if it is similar to the other materials in the same category with regard to durability and quality, appearance, and compatibility with the architectural style of neighboring buildings.
4. Wall materials shall be consistent horizontally (i.e., joints between different materials shall be horizontal and continue around corners) except for panel inserts (up to fifteen (15) percent of facade) and/or towers, chimneys and piers.

D. *Transportation demand management.*

1. The conditions of approval shall include trip reduction/transportation demand management (TDM) measures where possible to reduce the number of vehicle trips to and from the site.
2. If transit is available, the site shall be designed to provide access to transit facilities or provide features that enhance access to the transit.
3. If transit is not currently available, pull-in-pull-out infrastructure must be provided along the frontage or access road to the development so that bus transit can be provided at a later time.

E. *Retail and restaurant uses.* Retail and restaurant uses in an EED shall be functionally integrated with the EED targeted uses so that they are accessible within walking distance from the buildings or structures devoted to the EED targeted uses. The retail and restaurant uses shall be oriented so that they are internal to the site and are designed to serve employees working at the site rather than the general public. The standard is met if the retail and restaurant uses are:

1. Located in a building that is accessed by an internal street, and not a collector or arterial street along the site's frontage or external boundaries.
2. Located in a building that is attached as a wing wall, by a breezeway, or similar architectural feature, or is located on the same block or within one hundred fifty (150) feet of a building, that includes the EED targeted uses.
3. Located within a building that is connected to other buildings containing EED targeted uses by a sidewalk or pedestrian path. The sidewalk or pedestrian path may be included as part of the internal street network or integrated with landscaping.
4. The use includes building materials and architectural features that are similar to or compatible with adjacent buildings. The following features must match those of adjacent buildings:
 - a. Frontage types;
 - b. Roofline features such as cornices and eaves;
 - c. Window styles and proportions;

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- d. Primary building materials; and
 - e. Spacing of entryways, projections, and other vertical elements of the facade at the ground level.
- 5. Signage associated with retail and restaurant buildings shall not be visible from any public right-of-way.
- F. *Incentives.* The EED ordinance, as approved by County Council, may include incentives (such as alternative parking or landscaping calculations and customized design standards) that are appropriate and encourage economic development within the EED. The designation of an EED does not preclude other regulatory or tax incentives for an applicant, property owner, or business within the EED.

(Ord. No. 16-066 , § 4, 1-10-2017)

ARTICLE 18. BYWAY PROTECTION

Division 40.18.000. Purpose.

This Article provides the standards and review criteria for development within six hundred sixty (660) feet of the right-of-way of any federal, state and county designated byways in the County. These designated intrinsic scenic, natural, historic, archeological, recreational and cultural resources are critical to the County, and promote and enhance the health, quality of life, prosperity, and welfare of all citizens of the County. These provisions are intended to protect, preserve, and enhance the intrinsic qualities of designated byways within the County by:

- A. Ensuring maximum preservation and enhancement of the byway's outstanding and unique intrinsic qualities.
- B. Minimizing grading, tree removal, signage, and changes to the existing character of designated byways, including the natural vegetation and topography of areas along and adjoining such roads.
- C. Reducing visual intrusions that are not compatible with the intrinsic qualities of the byways.
- D. Ensuring that the design and placement of buildings and other improvements preserve, complement, or enhance views from designated byways.
- E. Ensuring that new development, redevelopment, infill development, and other changes along the byways are compatible with the intrinsic qualities, and consistent with the goals, objectives, and management strategies of the Corridor Management Plans or other County studies related to designated byways as set forth in Appendix 8.
- F. Requiring the use of conservation design techniques, as defined in this Chapter, to minimize impact to the scenic viewshed or position buildings outside the scenic viewshed of any federal, state, or county designated byway, while respecting the property rights of those who own property along a byway.
- G. Encouraging design flexibility that permits modifications in mass, height, landscaping and open space configuration.

(Ord. No. 22-072 , § 7, 10-11-2022)

Division 40.18.100. Byways, corridor management plans and design guidelines.

Sec. 40.18.110. Applicability.

Major and minor subdivision and major and minor land development plans for properties within six hundred sixty (660) feet of the right-of-way of designated byways as defined in Article 33 are subject to the requirements of this Article.

(Ord. No. 22-072 , § 7, 10-11-2022)

Sec. 40.18.120. Corridor Management Plans and other studies.

- A. Designated byways must have an approved Corridor Management Plan (CMP), or other study prepared or recognized by the County. The CMP, or other study, shall include a detailed inventory of the character-defining features of the byway and specific recommendations regarding protection, preservation, and enhancement of the intrinsic qualities of the byway. See Appendix 8 for a list of studies applicable to this Article.
- B. Applicants must consult the CMP or other study prepared or recognized by the County for the designated byway for design, regulatory, and management guidance, in addition to the other requirements of this Article.

(Ord. No. 22-072 , § 7, 10-11-2022)

Division 40.18.200. Development standards.

Sec. 40.18.210. General standards.

- A. *Parking standards.* To preserve and enhance the scenic viewshed and further environmental benefit:
1. Required parking may be reduced up to twenty-five (25) percent of the minimum parking requirements in this Chapter for non-residential uses along designated byways on properties subject to this Article. Reductions greater than twenty-five (25) percent may be granted upon approval of a special study pursuant to Section 40.03.524.
 2. The maximum number of parking spaces may not exceed one hundred fifteen (115) percent of the minimum parking requirements in this Chapter.
 3. Parking areas should be avoided in the front or street yard. Parking areas are prohibited within a scenic corridor.
- B. *Grading.* Land disturbance must be performed in a manner that preserves any scenic viewshed or identified intrinsic quality.
- C. *Site access.* Points of access must be context sensitive and minimized through the use of common driveway easements and new public roadways that avoid multiple individual driveways along designated byways.
- D. *Minimal screening.* The provisions of this Article are intended to preserve scenic viewshed corridors with little or no screening or buffering.
1. Where proposed buildings or visual intrusions are sited in the viewshed area, applicants must use a combination of tools to minimize impact to the scenic viewshed or vista. Such mitigation may include changing rooflines, elevations, grading, reorienting the building facade and shifting building bulk from the side yards to the front or rear yards within the permitted building envelope.
 2. Applicants must screen structures and visual intrusions by achieving an opacity standard pursuant to Table 40.18.210 without the use of walls, fences, berms or hedges. Plant unit types 3 and 4, in accordance with Article 23, are preferred to provide adequate screening in a leaf-off condition. Applications that demonstrate compliance with Subsection 40.04.110.F are exempt from the standards in Table 40.18.210.
 3. Scenic corridor standards in Table 40.04.240 may be reduced when a scenic viewshed is preserved, as demonstrated through a viewshed plan, and approved by the Department. To qualify for consideration of a reduction, development must be designed in accordance with Appendix 8. The land development application must include a narrative identifying how the proposal addresses the provisions of Appendix 8.
 4. Solid or opaque fencing is prohibited within the scenic corridor.

Table 40.18.210
Screening Standards for Development Along Designated Byways

Distance as Measured From ROW ¹	Opacity ²	Maximum Building Height ³	
		Residential	Nonresidential
Less than or equal to 100 ft.	0.5	35 ft.	45 ft.
>100—150 ft.,	0.5	35 ft.	45 ft.
>150—200 ft.,	0.4	40 ft.	45 ft.
>200—400 ft.,	0.2	Table 40.04.110	45 ft.
>400—660 ft.,	0.1	Table 40.04.110	45 ft.
>660 ft.		Table 40.04.110	Table 40.04.110
¹ Total right-of-way as established by DelDOT.			
² Listed opacity or the opacity required by Article 4, whichever is greater.			
³ Listed height or the height required by Article 4, whichever is less.			

(Ord. No. 22-072 , § 7, 10-11-2022)

Sec. 40.18.220. Protection of intrinsic qualities.

Intrinsic qualities identified in a Corridor Management Plan or other study identified in Appendix 8 must be protected with a conservation easement that preserves the resource, pursuant to the following:

- A. Identified intrinsic qualities must be protected by a conservation easement as shown on the record plan, consistent with the purposes of this Article, running in favor of the County or a third-party conservancy, providing that such resource shall be preserved or left in a natural state. A conservation easement may be sufficiently documented on a record plan without need for a separately recorded instrument where maintenance responsibility is assigned.
- B. Parcels with historic resources may also be rezoned as an Historic (H) overlay zoning district as an alternative protection mechanism or in addition to an easement.
- C. Pre-existing easements may be sufficient for protection, provided the easement terms are acceptable to the County.

(Ord. No. 22-072 , § 7, 10-11-2022)

Division 40.18.300. Review procedures.

- A. Applications for development within six hundred sixty (660) feet of the right-of-way of designated byways must demonstrate compliance with the purpose, goals, and objectives of this Article, and protect, conserve, and enhance the byway's resources identified in the Corridor Management Plan or other County study as set forth in Appendix 8.
- B. In addition to the review requirements of Article 31, required applications within six hundred sixty (660) feet of the right-of-way of a designated byway must submit a Viewshed Plan consistent with the requirements of Appendix 1.
- C. If the Department determines an application does not protect or enhance the scenic viewshed, the applicant must submit a 'Scenic' Environmental Impact Assessment Report (S-EIAR) pursuant to Section 40.10.701. The S-EIAR must be certified by a landscape architect registered in the State, or a professional engineer with a background in civil engineering registered in the State, and must demonstrate appropriate consideration of the scenic viewshed.

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ARTICLE 18. BYWAY PROTECTION

1. The S-EIAR must demonstrate how the application:
 - a. Avoids and minimizes visual intrusions to the scenic viewshed; and
 - b. Sufficiently mitigates all visual intrusions with an appropriate level of compensating features.
2. Any additions or mitigated visual intrusions within the scenic viewshed shall be context-sensitive and compatible with the character of the byway.

(Ord. No. 22-072 , § 7, 10-11-2022)

ARTICLE 20. SUBDIVISION AND LAND DEVELOPMENT DESIGN PRINCIPLES

Division 40.20.000. Purpose.

This Article provides the principles for the layout and design of subdivisions and land developments. Adherence to the provisions of this Article assures new developments are consistent with the County's planned community character by ensuring:

- A. The plan contributes to the development of the County as a community and is properly integrated into the surrounding neighborhood.
- B. The plan preserves or enhances the character and the quality of the County and neighborhood.
- C. The street, road, and pedestrian system is created in a manner that is safe and provides the best overall layout for the community, as well as the individual development.
- D. Subdivision plans conform to public improvement plans of the State, the County, and its cities and towns, such as through the proper provision of open space for recreation and other public use, and the convenient and proper location of sites for future schools, other public buildings, community facilities and shopping and industrial areas.
- E. Adequate water, sewer, stormwater systems, and other utilities are provided to serve the development without adversely impacting other portions of the system or properties.
- F. Developments are functional and internally safe to the greatest degree possible, without reducing the permitted density or increasing adverse impacts on the environment and adjoining properties.
- G. All requirements of this Code have been met.
- H. All subdivision plans are processed equitably according to the uniform procedures and standards delineated in the Code.

(Ord. No. 97-172, § 3(ch. 13, div. 20.000), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Division 40.20.100. Subdivision design.

Sec. 40.20.110. General plan review standards.

The Department shall review subdivision plans against the following design standards. The purpose is to evaluate the design—more specifically, the manner in which uses, lots, drainage, and roads relate to the site and adjoining land. The purpose is not to review or modify the proposed use or intensity; these requirements shall be in accordance with the district in which the development is proposed. The Department may require that design modifications be made. The plan review standards are:

- A. Facilitate the conformance of subdivision plans with the public improvement plans of the County and of its cities and towns, such as the proper provision of open space for recreation and other public use, and the convenient and proper location of sites for future schools, other public buildings, community facilities, shopping and industrial areas.
- B. The subdivision plan shall protect the site's natural resources as provided by this Code, with highest quality resource areas having the highest preservation priority. In addition to meeting minimum Code requirements, plans shall reflect sensitivity to such ecological factors as: preservation of vegetation including protecting existing trees from destruction, minimizing of cut-and-fill operations, avoidance of erosion and consequent siltation of streams and drainageways, and other pertinent conservation measures.

- C. The subdivision plan shall provide for well-proportioned and oriented lots that relate properly to roads and open space. An awkward and irrational pattern of lots and individual lot shapes is to be avoided. No remnants or landlocked spaces without access to the vehicular/pedestrian circulation system will ultimately remain.
- D. The plan shall promote the best design for the use of the property in relation to the development's function and adjoining portions of the neighborhood.
- E. All street and circulation patterns shall provide for the safe, efficient, and convenient movement of vehicular and pedestrian traffic. Vehicular travel lanes, pedestrian movement systems, and parking should be separated. Within the context of overall community development, the internal circulation system should promote and encourage the increased use of pedestrian and bicycle movement among residential, local shopping, schools, and other areas. Road connections shall seek to avoid external automobile trips through the employment of superblocks, stub streets, connecting open space, bicycle-pedestrian ways, and other design techniques and devices.
- F. The drainage and utilities shall be efficiently integrated into the design and shall avoid off-site impacts.
- G. The subdivision landscaping layout shall promote the district's qualities and character. Bufferyard landscaping shall be located to achieve the screening objectives and, where possible, enhance open space objectives beyond the minimum requirements.
- H. The standards shall be reviewed to determine if modulations in zoning or infrastructure design would assist in improving the development's quality or preserve natural resources while maintaining density.
- I. The design standards are intended to permit plan modifications to improve design, but not to require site density reduction. The design review shall focus on revising the site plan by altering roads, lots, landscaping, or other plan elements and locations, not by altering development intensity.

(Ord. No. 97-172, § 3(ch. 13, § 20.110), 12-31-1997)

Division 40.20.200. Subdivision layout.

The following sections provide guidance in laying out streets in a development. The community shall be designed with a system of major and minor streets creating blocks of land.

(Ord. No. 97-172, § 3(ch. 13, div. 20.200), 12-31-1997)

Sec. 40.20.210. Blocks.

Standards for blocks in subdivisions shall be as follows:

- A. Where possible, blocks shall be laid out to have their short length abutting arterials, collectors, or the development's major road. The length, width and shape of blocks should be determined with due regard to the provision of adequate sites for buildings of the type proposed, zoning requirements, topography, emergency services, utilities, and interconnection to adjacent parcels.
- B. Blocks should be, at minimum, such width as will provide two (2) tiers of lots, except where reverse frontage lots are located along an arterial or collector street or where such an arrangement is prevented by size, topographical conditions or other inherent site conditions of property, as determined by the Department.
- C. Blocks for commercial, office and industrial areas. Elements of design contained in this Section may vary if the nature of the use requires other treatment. In such cases, safe and convenient multi-model access to the street system shall be required. Space for off-street parking also may require similar access for employees and customers. Extension of streets and utilities should be provided as necessary.
- D. Blocks for residential, commercial, office or mixed-use style subdivisions or developments.

1. A grid or other formal system is desired in which open spaces are integrated into the block design. Exceptions would be made for green spaces along drainage or stream channels, or where other natural resources make the grid difficult or cost prohibitive.
 2. Alleys are considered desirable in areas where lot sizes are less than twenty thousand (20,000) square feet in area. Where possible, alleys should be used to provide increased vehicular, bicycle, and pedestrian circulation and access, provide areas for utility installation, and allow interconnections to adjacent parcels.
 3. No sides less than two hundred forty (240) feet in length and no sides greater than six hundred (600) feet in length with a maximum perimeter of one-thousand eight hundred (1,800) feet shall exist. These distances will be measured from either right-of-way and parcel lines or development envelopes as appropriate.
 4. Shared use pathways may be placed generally perpendicular to the longest block dimension at mid-block in lieu of a street or roadway, with the approval of the Department. Landscaping along mid-block shared use pathways shall be provided as required by this Chapter.
- E. For development along designated byways, modifications to block design will be permitted for scenic viewshed protection where conservation design is utilized.

(Ord. No. 97-172, § 3(ch. 13, § 20.210), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 18-021, § 17, 7-10-2018; Ord. No. 22-072, § 8, 10-11-2022)

Sec. 40.20.220. Lots.

Design standards for lots in subdivisions shall be as follows:

- A. Except where explicitly permitted elsewhere in this Chapter, every lot shall have frontage along the right-of-way lines of a street.
- B. Reverse frontage residential lots should be avoided, except along arterial or collectors where aligning blocks to have side lot lines adjoining the main road is impractical or, as otherwise permitted by the Department, where it can be shown that other arrangements are necessary or desirable to relate building sites to the terrain or to provide better site utilization and building relationships.
- C. Sidelines of a lot should generally be set approximately at right angles or radial to street right-of-way lines, and rear lines should generally be approximately parallel to street lines. Acute angles or small projections should be avoided. However, different lot shapes will be permitted if they can be shown to be necessary or desirable to relate building sites to the terrain, open space, or if they provide better site utilization and building relationships.
- D. Lot lines shall follow County boundary lines rather than cross them, except where no other feasible method of development exists, as determined by the Department.
- E. In rural areas, lotting along existing roads should generally be such as to preserve the future developmental viability of interior lands by providing adequate road right-of-way access to the interior of properties.
- F. The arrangement of lots must reflect sensitivity to the natural features of a tract. Alternative development options, such as open space subdivision or planned developments, provide the design flexibility needed to reduce the intrusion of lot areas into wetlands, floodplains and other natural resources.
- G. Commercial and industrial lots should be designed to prevent any visually unattractive facility, such as loading platforms, material or refuse storage areas, mechanical equipment, and supply areas, from facing major streets or residential neighborhoods. Alley access or screening walls should be utilized to shield visually unattractive facilities.

- H. For development along designated byways, modifications to lot design may be permitted where an applicant incorporates conservation design and scenic viewshed protection. The applicant is encouraged to use conservation design techniques to locate buildings outside the scenic viewshed. Smaller lots, zero lot-lines and other flexible siting techniques are permissible provided the applicant demonstrates a logical configuration and contextually sensitive approach to lot sizes and setbacks.

(Ord. No. 97-172, § 3(ch. 13, § 20.220), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 22-072 , § 8, 10-11-2022, Ord. No. 24-137, 12-10-2024)

Sec. 40.20.225. Required open space.

- A. Open space shall be required in all major residential developments. Ownership of open space shall be transferred to a maintenance organization or governmental body pursuant to the provisions contained in Article 27. Open space shall not be further developed and shall serve one (1) or more of the following functional needs:
1. Protection and preservation of natural resources and sensitive site features;
 2. Provision of active and passive recreation areas;
 3. Greenways and trail corridors;
 4. Wildlife habitats and migration corridors;
 5. Stormwater management;
 6. Preservation of historical and cultural resources;
 7. Agricultural uses;
 8. Viewshed and vista preservation, and;
 9. Bufferyards and landscaped areas.
- Uses permitted by Table 40.10.210 may be allowed when they compliment and enhance the above functional needs.
- B. All major residential subdivisions shall contain open space designated as community area open space. In designating community area open space or landscaped surfaces as part of a subdivision or land development plan, the following criteria and standards shall be adhered to by the applicant:
1. Open space shall be separate parcels of land exclusive of streets and residential lots.
 2. An existing principal dwelling unit and a maximum of one (1) existing out building, where such structures are deemed historically and/or architecturally significant by the Department, may be included within open space area.
 3. Except for recreation activities, open space shall be substantially free of structures and paved areas.
 4. Open space designated for recreation may contain parking areas and access drives accessory to the open space and other such complementary structures and improvements that are necessary and appropriate for the benefit of the residents utilizing the land for recreation purposes. Such land shall be distributed through the development to best serve the residents.
 5. In subdivisions of thirty (30) dwelling units or more, an area or areas of useable open space shall be provided at a rate of one (1) acre per one hundred (100) dwellings units. Usable open space shall be centrally located, highly visible, and unconstrained by floodway areas, critical natural areas, wetlands or excessively forested areas. Additionally, the area shall be graded in such a manner to render it usable for active recreation purposes and shall not have slopes greater than five (5) percent. This provision does not require community area open space in addition to the requirements of this Chapter, but provides that a portion of the required open space shall be designed in such a way to render it usable for active recreation purposes.

6. Open space shall be interconnected with open areas or greenways on abutting parcels wherever possible and may provide provisions for pedestrian pathways for general public use, to create linked pathway systems within the County, where appropriate.
7. Open space may be used for stormwater management.
8. A landscape plan/open space management plan specifying the landscaping/open space management requirements shall be required for all subdivisions involving the creation of community area open space.
9. In subdivisions involving fifty (50) acres or more, designated open space shall be classified as natural resource area open space in addition to community area open space. Within these subdivisions both types of open space will be included on separate parcels and adhere to the following additional open space design standards:
 - a. Natural resource area open space shall generally be large tracts of contiguous land including protected resources.
 - b. Community area open space shall be smaller open space parcels not necessarily contiguous to the natural resource areas. Community area open space shall provide a benefit to residents of the subject subdivision and provide recreational opportunities .
 - c. The configuration and arrangement of all open space shall emphasize interconnectivity within the subdivision and with adjoining public or private open spaces. Narrow or fragmented small open spaces shall be avoided unless necessary for a practical function.
 - d. Natural resource area open space shall be contiguous to the greatest extent practicable within the subject subdivision and shall maximize the area in width to provide habitat linkages, enhance environmental resources and serve stormwater management functions. Fragmented natural resource area open space should be minimized to the greatest extent practicable to meet these standards.
 - e. The requirements of Section 40.20.225.B shall be met. However, in cases where community area open space cannot satisfy the requirements of Section 40.20.225.B.5, the substitution of passive recreational activities within natural resource open space areas shall be reviewed by the Department. Only those passive recreational uses permitted in Table 40.10.210 shall be considered for approval.
 - f. All areas required to be protected as resources per Table 40.10.010 shall be designated as natural resource area open space except when isolated resources exist and as approved by the Department.
 - g. A natural resource area management plan shall be submitted to the Department for review and approval prior to the recordation of all major residential subdivisions involving the creation of natural resource area open space.
10. In multi-family developments, the open space acreage requirements and design standards shall be provided except that the open space will be part of the developed parcel.

(Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 12-068, § 1, 1-8-2013)

Sec. 40.20.230. Streets.

All new streets not intended to be private in nature and widened portions of all existing dedicated public rights-of-way shall be dedicated to public use, subject to final inspection and acceptance by DelDOT. For local, collector or marginal access streets, construction and design of such streets or portions of streets shall be in accordance with the subdivision regulations of DelDOT. For arterial streets, construction and design of such streets or portions of streets shall be in accordance with the standards of DelDOT. Design standards for subdivision streets shall be as follows:

- A. *Arterial and collectors.* The location and function of proposed arterial and collector streets shall be coordinated with plans and proposals contained in the Comprehensive Development Plan, and the

- WILMAPCO and DelDOT Transportation Plans, as appropriate, and shall be designed in relation to existing and planned streets, topographical conditions, planimetric features, public convenience, and safety, and in appropriate relation to the proposed uses of the land to be served by such streets.
- B. *Local streets.* Local streets shall be designed to discourage through traffic. However, developments within superblocks shall be interconnected to reduce loadings on arterials and collectors. Marginal access streets should be provided where necessary, based on proposed uses and loadings.
- C. *Nonresidential streets.* Streets in commercial and industrial areas should be laid out so as to accommodate truck traffic, especially with regard to curb radii, intersection design, etc.
- D. *Provision for widening.* Building setbacks and orientation, curb cut locations, connections to streets, and internal vehicular circulation patterns should be designed with full consideration for future rights-of-way, future right-of-way widenings, interchanges and intersections.
- E. *Parking.* Commercial, industrial, and multi-family parking lots shall be designed with due consideration for proper traffic flow and channelization.
- F. *Street connectors.* Subdivisions shall be connected to each other to provide reasonable access within a superblock. The street connections shall follow the local circulation plan (Section 40.21.111). Whenever a street interconnection is proposed, the following notification requirements must be noted on the applicable plan:
1. The developer or its assigns shall, during construction and before the first lot is sold, install a street sign to provide notice to potential purchasers of property along a proposed or planned interconnecting street that said interconnection is planned or proposed.
 - a. Such signs shall be of a metal DelDOT regulation street sign and shall be placed at the end of the stub street in the right-of-way.
 - b. The sign shall indicate "Street Connection to Future Development", as well as reference "New Castle County Department of Land Use" and the respective "instrument number" of the recorded plan depicting the interconnection.
 - c. For projects where the interconnecting street is not constructed until future phases, the developer shall move the sign as necessary (to be determined by the Department) to the end of the stub street as construction occurs. The sign shall be removed once the interconnection is made.
 - d. Photographic proof of installation and a signed affidavit must be provided to the Department prior to issuance of the first building permit.
 2. The developer or its assigns shall obtain written acknowledgement as a part of any agreement of sale from a prospective homebuyer as to awareness of the potential or planned street interconnection.
 3. The developer and/or its assigns shall append a notification to every new deed in every new subdivision stating the name of the subdivision, the instrument number of the subdivision, and the name of every street in the subdivision for which a future interconnection is proposed or planned.
 4. The developer and/or its assigns shall note on the record plan the planned or potential street interconnections and the aforementioned requirements to post signage, to obtain written acknowledgement of notice of the proposed connector street, and the requirement that the developer and/or its assigns furnish a copy of the record plan depicting the street interconnection(s) to every homebuyer in the subdivision.
 5. Failure to implement any action required by a record plan note shall be deemed to be a violation of the record plan, and shall be subject to all penalties and remedies contained in Division 40.31.900.
- G. *Private streets.* Private streets shall be permitted only in the SR and SE Districts, and in rural subdivisions (Article 24).
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H. *Marginal access streets.*

1. A distance of ten (10) feet is required between the back of the curb of any marginal access street and the right-of-way line of the parallel principal road. Where both marginal access streets and the principal road are located within a common right-of-way, this requirement shall apply to the distance between pavement edges. If the principal road is an internal or collector street, the minimum distance between pavement edges shall be thirty (30) feet.
2. Other requirements for marginal access streets are provided in applicable portions of the subdivision regulations of DelDOT.

I. *Alleys.*

1. Alleys are prohibited in subdivisions of single-family detached residences, except in the TN District.
2. Alleys may be permitted in other types of residential subdivisions, provided the subdivider produces evidence to the Department of their benefit for the community.
3. Where alleys are proposed in residential areas, they shall be at least twenty (20) feet wide and paved for a width of at least fifteen (15) feet.
4. Where required, alleys in commercial or industrial districts shall have a minimum paved width of twenty-two (22) feet and, where necessary, corners shall be rounded or cut back to permit safe use by large vehicles.

J. *Culs-de-sac.*

1. A cul-de-sac proposed on a residential, commercial, office or mixed-use major land development plan shall be no greater than two hundred (200) feet in total length when measured from the right-of-way of the intersecting street to the right-of-way at the end of the cul-de-sac. The cul-de-sac may not serve more than sixteen (16) lots.
2. A cul-de-sac proposed on an industrial or business park major land development plan shall be no greater than one thousand (1,000) feet.
3. The length of the cul-de-sac abutting an area subject to essential access approval may be deducted from the calculation of the standard.

K. *Intersections.* Where feasible, intersections shall be aligned with those in previously approved or completed developments.

L. *Transit passenger waiting shelters.* Transit passenger waiting shelters shall be permitted in all zoning districts subject to the following requirements:

1. A minimum required setback of one (1) foot from a curblin shall be maintained for all shelters.
2. Shelters on corner lots shall comply with clear sight distances.
3. Shelters to be located within a street right-of-way shall be approved by DelDOT.

(Ord. No. 97-172, § 3(ch. 13, § 20.230), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 20.230), 9-22-1998; Ord. No. 01-009, § 1, 6-12-2001; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021, § 18, 7-10-2018; Ord. No. 21-009, § 5, 12-14-2021)

Sec. 40.20.231. Subdivision and street names.

- A. Subdivision names, street names and street name signs for all subdivisions and public or private streets shall be in conformance with the regulations of DelDOT. When determining proper subdivision and street names for new roads in a subdivision or land development, the Department shall check with the County 911 staff, the post office in the City of Wilmington, and the post office nearest the street or road concerned, to determine that there is no conflict with the proposed names that would result in confusion in providing emergency

services or in delivery of mail. The approved subdivision and street names shall be part of the record plan submission.

- B. The naming of unnamed existing public and private streets and roads in the County outside of municipalities shall be effected by resolution of Council. Before such names are submitted, the Department shall assure that there is no duplication as provided in Subsection A.
- C. A copy of all such resolutions adopted by Council shall be recorded by the Clerk of Council in the Office of the Recorder of Deeds in and for the County and indexed alphabetically by name. A copy of all such resolutions adopted by the County Council also shall be forwarded to the Department, DelDOT and the local post office.
- D. A common driveway or easement established for access purposes shall not be considered a street and shall not be eligible to be named.
- E. Installation of street name signs. To ensure that emergency vehicles can locate any new development, no certificate of occupancy shall be issued for a building located on any street until a street name sign for such street has been properly installed.

(Ord. No. 97-172, § 3(ch. 13, § 20.231), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 20.231), 9-22-1998; Ord. No. 09-066, § 11, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.20.240. Lot frontage.

Lot frontage requirements shall reflect the subdivision or land development conditions. These standards are intended to provide a reasonable building envelope on each lot. The following guidelines govern lot configuration (see Section 40.26.210):

- A. Where a grid street system exists, the lots should be as close to rectangular as feasible.
- B. In curvilinear street patterns, irregular lot shapes will result. The construction envelope is where the minimum frontage is needed; therefore, the lot width may not be narrower than the minimum frontage at any point of intersection within the envelope. The developer may have envelopes more restrictive than the minimum yard setbacks.
- C. Where topography, natural resources, or property shape make normal lotting difficult, common drives, flag lots, or shared easements shall be considered.

(Ord. No. 97-172, § 3(ch. 13, § 20.240), 12-31-1997)

Sec. 40.20.241. Lot lines.

While the County desires lot lines to be generally perpendicular or radial to the street, this provision should not lead to inefficiency in design, but rather require lots to be more than several percent larger than the district minimums. Lots with nonradial, nonperpendicular, or broken lot lines may be permitted where it leads to greater efficiency while still providing generally rectilinear building envelopes. More flexibility in this consideration shall be granted as lot sizes increase.

(Ord. No. 97-172, § 3(ch. 13, § 20.241), 12-31-1997)

Sec. 40.20.242. Easements.

Where required, all lots shall provide easements for sewer, water, drainage, gas, telephone, or cable TV necessary to serve the subdivision. Such easements shall be located in either street rights-of-way, alleys, side or rear yards. The following standards shall apply to easements:

- A. The utility easements shall be a minimum of twelve (12) feet wide. Easements which fall on shared side or rear lot lines shall be divided equally, requiring six (6) feet from each lot.

- B. Where attached housing types or patio lots are involved and yards are enclosed or very narrow, easements shall be placed in open space areas where maintenance will not disturb the enclosures.
- C. Drainage easements shall be placed on lots to convey surface water to storm sewers located on the street or in open spaces.
- D. The minimum lot size may include twelve (12) foot easements, except as provided in Subsection B, or where open space is protected on the lot by an easement, or where public access easements are provided, the areas in the conservation easement shall be in addition to the minimum lot size in Table 40.04.110 or Table 40.04.112.
- E. Surface drainage patterns shall be protected by easements or open space.
- F. If streets are intended to be dedicated to DelDOT, all DelDOT standards must be met.
- G. The Department of Public Works shall determine the size of required sewer easements. No other utility, tree, shrub, fence, structure or other man-made improvements (excluding paving) may be planted, erected, or constructed within a sewer easement, without the written approval of the Department of Public Works.

(Ord. No. 97-172, § 3(ch. 13, § 20.242), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020 , § 15, 7-10-2018)

Division 40.20.300. Improvements.

To ensure all required improvements are completed, all subdivisions and land development plans shall be required to provide adequate surety for roads, utilities, drainage, stormwater management facilities, recharge basins, landscaping, open space completion, monuments, and other infrastructures and improvements shown on the record plan. Such surety shall be posted prior to the recording of a record plan. (See Division 40.31.800).

(Ord. No. 97-172, § 3(ch. 13, div. 20.300), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Division 40.20.400. Covenants and deeds.

Sec. 40.20.410. Private restrictions.

The provisions of this Chapter are not intended to replace any deed restriction, covenant, easement, or any other private agreement on the use of land. All such restrictions shall be enforced by parties to the restriction. The County shall not enforce or become involved in the enforcement of private restrictions. The County shall only enforce provisions that are required by this Chapter or other provisions of this Code. If a provision of any County regulation is more restrictive than the private restriction, the County regulations shall prevail. Any provision that is contrary to the laws of the United States, Delaware, or New Castle County is hereby deemed to be unenforceable.

(Ord. No. 97-172, § 3(ch. 13, § 20.410), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.20.420. Public easements.

During the planning of a property, the County may require the granting of a variety of easements on private property or lots. These easements may be for any of the following purposes: drainage, utilities, access to public utilities or drainage areas, and conservation easements. The County shall have the right to remove any encroachment, structures, landscaping, or any other improvements placed upon such public easements. The County may assess the cost of removing the illegal improvements against the landowner.

(Ord. No. 97-172, § 3(ch. 13, § 20.420), 12-31-1997)

Division 40.20.500. Mapping and monuments.

Sec. 40.20.510. Mapping criteria.

The following shall be used for mapping natural resources or other features of plans:

- A. Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds, lakes, ponds, and tidal wetlands are subject to the regulations of this resource.
- B. Initial identification of the watercourses/water bodies shall be made using National Hydrographic Dataset (NHD) utilized by the United States Geological Survey or more accurate information, as available. Field verification to determine evidence and location of channelized flow is required for a specific determination.
- C. Measurements for the boundary are to be made horizontally, perpendicular from the following reference points: top of bank of perennial streams; centerline of intermittent streams; mean water level of lakes, ponds, and tidal wetland; boundary of the floodplain and wetland as determined by this Division.
- D. Measurements shall be made at appropriate intervals perpendicular to these reference points so as to accurately reflect the character of the adjacent land.
- E. Boundaries that are dependent on elevation shall be based on on-site, one (1) foot contour intervals.
- F. The area within existing impervious area such as roadways, parking lots, structures, sidewalks, etc., shall not count towards the area of any natural resource.
- G. Measurements of forest area shall be made based on the exterior Critical Root Zone (CRZ) of the trees.
- H. Final determination of the boundaries of the RBA district shall be made by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 20.510), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 21-009, § 6, 12-14-2021)

Sec. 40.20.520. Monuments.

Permanent stone or concrete monuments shall be accurately placed in the boundary (perimeter) of the property being subdivided at the intersection of all lines forming angles and at changes in directions of lines, except that when streams or other watercourses are property boundaries, monuments shall be offset and shall be connected with fully described tie lines and the stream boundary line shall include a plus or minus distance. The following rules shall apply:

- A. If an adjacent property owner refuses to permit a boundary (perimeter) monument to be placed or if a planting or structure obstructs the location where a boundary monument is to be placed, the monument may be offset and shall be connected with fully described tie lines.
- B. All streets shall be monumented along one right-of-way line at the following locations:
 - 1. At least one (1) monument at each street intersection.
 - 2. At changes in direction of street lines, excluding curb arcs at intersections.
 - 3. At each end of each curved street line, excluding curb arcs at intersection.
 - 4. An intermediate monument wherever topographical or other conditions make it impossible to sight between two (2) otherwise required monuments.
 - 5. At such other places along the line of streets as may be determined by the Department to be necessary so that any street may be readily defined in the future.
- C. The placement of all monuments shall be certified by a registered land surveyor. The scored point, marked by an indented cross in the top of the monument or a drill hole, not to exceed one-quarter (¼) inch in diameter, shall coincide exactly with the point of intersection of the lines being monumented.

- D. Monuments shall be set with their top level at the finished grade of the surrounding ground except:
 - 1. 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.
 - 2. Where monuments are located beneath a sidewalk, proper access shall be provided for their use.
 - E. Any monuments that are removed must be replaced by a registered land surveyor at the expense of the party removing them.
 - F. One (1) permanent marker per lot shall be accurately placed so as to locate lot corners.
 - G. The placement of monuments shall occur as follows:
 - 1. Nonresidential developments, institutional uses and multi-family dwellings.
 - a. Exterior perimeter monuments shall be set and certified by a registered land surveyor prior to the issuance of the first certificate of occupancy for a use subject to a record plan.
 - b. Interior street monuments for streets established by a record plan shall be set and certified by a registered land surveyor prior to the release of the road bond or other surety.
 - c. Permanent corner markers shall be set and certified by a registered land surveyor prior to the issuance of the certificate of occupancy for a lot which is established by a record plan.
 - 2. Residential subdivisions and land developments.
 - a. Exterior perimeter monuments shall be set and certified by a registered land surveyor prior to the issuance of more than seventy-five (75) percent of the building permits within a major subdivision.
 - b. Interior street monuments shall be set and certified by a registered land surveyor prior to the release of the road bond or other surety within a major subdivision.
 - c. Permanent corner markers shall be set and certified by a registered land surveyor prior to the issuance of the certificate of occupancy for each individual lot within any major or minor subdivision.
 - H. Applicable escrow for monuments are calculated pursuant to the provisions of Division 40.31.800.
- (Ord. No. 97-172, § 3(ch. 13, § 20.520), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 20.520), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

ARTICLE 21. IMPROVEMENT AND DESIGN STANDARDS

Division 40.21.000. Purpose.

This Article provides the standards for street and access improvements by ensuring that (1) adequate municipal facilities are installed at the time of a project's development so that residents have adequate services to protect their health and safety; (2) the facilities will function efficiently and require minimum maintenance; and (3) developments are functional and internally safe to the greatest degree possible without reducing the permitted density and increasing adverse impacts on the environment and adjoining properties.

(Ord. No. 97-172, § 3(ch. 13, div. 21.000), 12-31-1997)

Division 40.21.100. Streets.

This Division's standards apply to street and highway design and construction. All persons desiring to dedicate to public use private streets not included as part of a new subdivision or land development plan otherwise covered by this Chapter are required to prepare and submit plans to the Department for review and approval, in accordance with the procedures listed in this Division. All streets and highways intended to be dedicated to the State must also meet all DelDOT standards.

(Ord. No. 97-172, § 3(ch. 13, div. 21.100), 12-31-1997)

Cross reference(s)—Streets and roads, ch. 30.

Sec. 40.21.110. Street design objectives.

Streets in a subdivision or land development shall be designed to achieve the following objectives:

- A. Integrate into the existing street pattern to address the area's future circulation needs.
- B. Provide a safe and convenient layout and design.
- C. Match the respective district's community character.
- D. Respect natural resources, topography, and drainage.

(Ord. No. 97-172, § 3(ch. 13, § 21.110), 12-31-1997)

Sec. 40.21.111. Local circulation plans.

To coordinate vehicular access points on arterial and collector roads, the Department and DelDOT may, when development occurs in an area, develop a local circulation plan. The local circulation plan shall identify desired local or collector roads within a superblock, areas for frontage-type roads or reverse frontage, and preferred intersection locations. The local circulation plan shall be based on property maps, zoning, and environmental, topographic and alignment information. Land development plans shall conform to the local circulation plan. The following criteria shall be used in developing the local circulation plan:

- A. Collectors may provide alternative routes for traffic. Where superblocks exceed two thousand (2,000) feet, new arterial or collector alignments may be designated.
- B. Where possible, collectors shall be located on the superblock's largest parcels.
- C. Parallel access shall be used where providing individual access to small parcels would create adverse safety conditions due to frequent access on arterials or collectors.
- D. Half streets and boundary streets shall be used sparingly and only where parcel size, shape, or configuration would result in inefficient development by requiring other types of street patterns.

- E. The plan shall be sensitive to natural resources and topography.

(Ord. No. 97-172, § 3(ch. 13, § 21.111), 12-31-1997; Ord. No. 18-021, § 19, 7-10-2018)

Sec. 40.21.130. Street standards.

In addition to complying with all applicable DelDOT standards the following standards shall also apply:

- A. Evaluation of traffic impact shall be required; see Article 11.
- B. Where necessary, the developer shall provide acceleration/deceleration lanes along major roads, as determined by DelDOT, as well as right- and left-turn lanes and bypass lanes, depending on local conditions and the amount of traffic generated by the proposed development. Where such lanes are required, they shall be at the expense of the developer. Acceleration, deceleration, bypass, and right-turn lanes shall include space for bicycle lanes, as required by DelDOT.
- C. To ensure that adequate access for emergency vehicles is provided at all times, subdivisions or developments that contain three hundred (300) or more dwelling units shall be served by at least two (2) entrance streets located as remotely as possible from each other. Where site constraints prohibit the establishment of two (2) entrance streets, the Department, with the advice of the Office of the State Fire Marshal, may permit the subdivision or development to contain a single entrance street.
- D. Divided entrance streets having a landscaped median shall be provided in subdivisions or developments that contain one hundred fifty (150) or more dwelling units. All landscaped areas within public street rights-of-way are subject to DelDOT approval.
- E. Individual residential lots shall not have driveways that permit direct vehicular access onto new arterial or collector streets intended to serve one hundred fifty (150) or more dwelling units.

(Ord. No. 97-172, § 3(ch. 13, § 21.130), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.21.131. School bus access.

Residential subdivisions and land developments shall be designed with sufficient internal streets capable of accommodating school bus traffic. It is not necessary that all subdivision streets meet this requirement, and a system of safe, internal pedestrian pathways connecting homes to the designated school bus route is recommended to minimize the intrusion of the bus into the neighborhoods. The Department may waive this requirement where small size or the presence of nearby stops is adequate to serve the development.

- A. To facilitate access, the designated school bus route shall incorporate a system of circular or loop streets and/or accessways which are designed to avoid the need for the school bus to back up. Where site constraints prohibit the establishment of a circular traffic pattern, a school bus turnaround must be provided at the terminus of the collector street and/or the terminus of the dead-end minor street.
- B. In subdivisions and land developments containing multiple dead-end streets and/or accessways, the location of turnaround facilities shall be determined by the Department with the advice of the local school district.
- C. The turnaround facility must be circular in design to permit the bus to maneuver through the turnaround without the need to back up.
- D. The paved cartway used by the bus to maneuver through the turnaround shall have a width of not less than fourteen (14) feet and an outside radius of not less than fifty (50) feet. The projection of parked vehicles into the minimum cartway standards shall be prohibited.
- E. All designated school bus turnaround facilities that are not designed to accommodate both buses and on-street parking shall have abovegrade signs erected to identify the street or accessway as a "school bus turnaround," and the sign shall further state that "on-street parking is prohibited."

(Ord. No. 97-172, § 3(ch. 13, § 21.131), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.21.140. Private roads.

Private roads shall be permitted provided the following are met:

- A. It is County policy to encourage public dedication of streets in new subdivisions and to discourage provision of private streets in such subdivisions. However, in limited situations, the Department may approve the use of private streets so long as:
 - 1. The private streets are made available for public use; and
 - 2. The development is in the Suburban Estate District or Suburban Reserve District and is a single-family or open space subdivision; or is a rural subdivision.
- B. Where appropriate, private street improvements shall meet the minimum standards for comparable public streets.
- C. A maintenance organization shall be created and shall be responsible for the maintenance of the private streets.

(Ord. No. 97-172, § 3(ch. 13, § 21.140), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.21.141. Culs-de-sac and other turnarounds.

All culs-de-sac and other turnarounds, including required turnarounds on dead-end streets shall be designed to meet DelDOT standards. In circular, loop or courtyard-style culs-de-sac, landscaped central islands for open space or stormwater management shall be provided, subject to DelDOT and Fire Marshall approval. New driveways that access streets on the Highway Functional Classification Map shall have internal turnarounds pursuant to DelDOT standards.

(Ord. No. 97-172, § 3(ch. 13, § 21.141), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 18-021, § 20, 7-10-2018)

Sec. 40.21.150. Accessway standards.

Residential driveways on corner lots should generally be located at least forty (40) feet from the intersection of the right-of-way lines. Design guidelines for private driveways or accessways shall comply with DelDOT standards for minimum width and curve radius.

(Ord. No. 97-172, § 3(ch. 13, § 21.150), 12-31-1997)

Sec. 40.21.160. Improvements.

Highways, streets, and alleys shall be improved pursuant to DelDOT standards.

(Ord. No. 97-172, § 3(ch. 13, § 21.160), 12-31-1997)

Sec. 40.21.161. Curbs.

Curbs shall be installed where required to provide stormwater management and drainage conveyance. Upon written Department approval, the curbs may be eliminated in areas where drainage can be conveyed directly to natural areas or approved stormwater management facilities, and where elimination of curbing will not cause increased risk to buildings, structures or homes. Curbs shall also meet DelDOT standards if the roadway is intended to be dedicated to the State.

(Ord. No. 97-172, § 3(ch. 13, § 21.161), 12-31-1997; Ord. No. 18-021, § 21, 7-10-2018)

Sec. 40.21.162. Sidewalks and shared-use pathways.

- A. Subdivision and land developments shall contain sidewalks along both sides of the interior streets and accessways. Such interior sidewalks shall connect to existing or proposed sidewalks fronting their sites. The Department may grant a modification to reduce the amount of sidewalk under the following conditions:
 - 1. Construction of the sidewalk in the required location will cause a significant adverse environmental impact.
 - 2. Where lots are one (1) acre or larger, no sidewalks are generally required. However, total traffic volume on the roads shall be reviewed. Where peak hour traffic is expected to exceed two hundred forty (240) vehicles per hour, sidewalks or other pedestrian ways may be required.
 - 3. Where deemed appropriate by either the Department or DelDOT, shared-use pathways, or other bicycle and pedestrian facilities, may be constructed in addition to or instead of sidewalks.
- B. In the vicinity of schools and other public facilities, the Department may require sidewalks and shared-use pathways where they would not be required by Subsection A.
- C. The Department shall have the right to require additional sidewalks, shared-use pathways and other bicycle and pedestrian facilities where necessary to provide safe, direct, and otherwise adequate pedestrian and bicycle access to surrounding neighborhoods, open spaces and public facilities.
- D. All required sidewalk, shared-use pathway and other bicycle and pedestrian facility locations and construction details, as specified by the Department, shall be identified on the record plan and landscape plan.
 - 1. Where required, bicycle and pedestrian facilities through open spaces shall be located such that they are not less than twenty (20) feet from the side or rear property line of an adjacent private lot or, if placed closer, buffered by an additional 0.1 opacity landscape screen.
 - 2. Other required landscaping (e.g., open space, on-lot or bufferyard) shall be placed adjacent to bicycle and pedestrian facilities to the greatest extent practicable.
- E. Where a public bus stop exists or is proposed, sidewalks may include a bus pad or other improvement provided at the request of and to the standards of the Delaware Transit Corporation.

(Ord. No. 97-172, § 3(ch. 13, § 21.162), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021, § 22, 7-10-2018)

Sec. 40.21.163. Sidewalk and shared-use pathway construction standards.

- A. A landscape buffer strip, tree pit or landscape area shall be provided between back of curb and front edge of sidewalk serving as the principal pedestrian access route or shared-use pathway along all arterial and collector streets and where deemed appropriate by the Department or DelDOT. Sidewalks and shared-use pathways are to be constructed within the right-of-way of the street, within a permanent easement, or located within open space. Required street trees shall be placed within the landscape buffer strip in accordance with Article 23.
 - B. All sidewalks and shared use pathways shall be constructed to DelDOT standards unless the Department approves an alternative standard. All applicable standards shall be designated on the record plan.
 - C. Where existing vegetation, topography, or other constraint dictates, the Department may require that sidewalks and shared-use pathways be located to protect resources or function in the best manner possible. This also could result in a larger right-of-way or public access easement being required.
 - D. Prior to issuance of a certificate of occupancy for a new dwelling unit or a building containing multiple dwelling units, the developer shall install the portion of the sidewalk identified on the record plan and located along the street or accessway abutting the dwelling unit or building.
 - E. All applicable design and accessibility standards shall be referenced on the record plan.
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ARTICLE 21. IMPROVEMENT AND DESIGN STANDARDS

(Ord. No. 97-172, § 3(ch. 13, § 21.163), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 18-021, § 23, 7-10-2018)

Division 40.21.200. Access.

Direct vehicular access to public roads and highways by individual uses shall be regulated by DelDOT pursuant to its Access Management policy.

(Ord. No. 97-172, § 3(ch. 13, div. 21.200), 12-31-1997)

ARTICLE 22. DRAINAGE, UTILITIES, SEPTIC SYSTEMS, PARKING, LOADING, AND LIGHTING¹

Division 40.22.000. Purpose.

This Article provides the standards for drainage, grading, utilities (water, sewer, and stormwater), parking, loading, and lighting improvements. These standards are intended to protect the County's planned community character by ensuring that:

- A. Adequate municipal facilities are installed at the time of a project's development so that occupants and users have adequate services to protect their health and safety.
- B. The facilities will function efficiently and require minimum maintenance.
- C. Developments are functional and internally safe to the greatest degree possible without reducing the permitted density or adversely impacting the environment and adjoining properties.

(Ord. No. 97-172, § 3(ch. 13, div. 22.000), 12-31-1997)

Division 40.22.100. Special site analysis or preparation.

Sec. 40.22.110. Subsidence area.

- A. Subsidence is the collapse of underlying soil and rock due to subsurface weathering of the rock. Subsidence areas shall be those areas in the Hockessin and Pleasant Hill valleys known as the Cockeysville Formation. The boundaries of each subsidence area shall be the same as the boundaries of the Cockeysville Formation water resource protection areas.
- B. Land development plans in subsidence areas shall include a report by a professional geologist, registered in the State, evaluating the vulnerability of the subsurface to subsidence (sinkholes). Applicants shall submit percolation tests, soil borings, or other similar tests or data to support their findings. This report may be submitted by the Department to the Delaware Geological Survey for review and comment. The report and plan shall be sufficient to establish to the satisfaction of the Department that the construction methods to be employed will be adequate to minimize the potential for subsidence. If additional data or investigation of site conditions is required before the Department can formulate a decision, the Department shall have the authority to require additional percolation tests, soil borings, or other similar tests or data be provided by the applicant.

(Ord. No. 97-172, § 3(ch. 13, § 22.110), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.22.120. Fill.

- A. No clean fill area shall be located on any residential building lots.
- B. No clean fill area shall be established: within a one hundred (100) year floodplain except upon approval by the County Council of a specific floodplain fill application, federal or State-regulated wetlands, land with a natural slope in excess of twenty-five (25) percent as measured prior to commencement of land development, streets, rights-of-way, utility easements, or in a water resource protection area.
- C. The Department must give written approval before any clean fill area is established. The Department shall also:
 - 1. Review, for approval, the materials that will be placed in the clean fill area.

¹Cross reference(s)—Drainage, ch. 12; stopping, standing and parking, ch. 34, art. 2; utilities, ch. 38.

2. Require the applicant to post adequate surety to cover the costs of repairing any subsidence caused by the fill; or
 3. Adequately ensure that the entity, or any principal thereof, who is associated with the fill operation shall remain responsible for any land subsidence occurring as a result of the fill within a ten (10) year period from the date the fill operation ceases to exist.
- D. The Department, in reviewing the land development plan where clean fill is proposed to be placed, shall give consideration to the location, size, and final grades of the clean fill area in relation to the extent of the area proposed for development and adjacent lands and uses.
- E. Only clean fill generated as a result of on-site construction may be placed in the designated clean fill area.
- F. If no clean fill is proposed to be placed within the project limits, a note to this effect shall appear on the record plan.
- G. Exemptions. The placement of clean fill as part of the following activities shall be exempt from the requirements of this Section provided the entity, or any principal thereof, who is associated with the fill operation shall remain responsible for any land subsidence occurring as a result of the fill within a ten (10) year period from the date the fill operation ceases to exist:
1. Backfilling in conjunction with building construction, utility installation, storage tank removal, swimming pool removal or demolition for which permits have been obtained.
 2. Filling in conjunction with road construction within the limits of the right-of-way when construction plans have been approved by DelDOT or, in the case of private streets, by the Department.
 3. Filling as required for the construction of a building, structure, or parking area for which all required grading plans and permits have been approved by the Department.
 4. Filling as authorized by an approved floodplain application.
 5. Filling in conjunction with drainage work incidental to agricultural operations and irrigation.
 6. Filling in conjunction with drainage maintenance or improvements under the jurisdiction of the DelDOT, the Department, or other governmental agency.
 7. Filling of property for aesthetic purposes that does not affect existing drainage, where the volume of fill does not exceed four hundred (400) cubic yards per acre or a total of two thousand (2,000) cubic yards within the affected parcel.

(Ord. No. 97-172, § 3(ch. 13, § 22.120), 12-31-1997)

Sec. 40.22.130. Drainageway soils.

Buildings and their foundations in areas of drainageway soils or other soils having water table within three (3) feet of the lowest floor elevation shall be waterproofed as required by Chapter 6.

(Ord. No. 97-172, § 3(ch. 13, § 22.130), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.22.200. Grading and drainage.

Sec. 40.22.210. Storm drainage.

All stormwater management, grading and related installations shall be provided in accordance with Chapter 12, the State of Delaware Sediment and Stormwater Regulations (see 7 *Del. C.*ch. 40) and the following:

- A. The applicant shall utilize green technology stormwater best management practices (GTBMP) to the maximum extent feasible as part of the overall conservation design approach.

1. Application of green technology stormwater best management practices (GTBMP) - The applicant shall utilize the most effective low impact stormwater drainage practices to address stormwater conveyance and stormwater management objectives as required in Chapter 12. GTBMP are those practices that incorporate the following:
 - a. Stormwater runoff management via surface water dispersion, volume reduction and discharge at multiple points to:
 - i. *Maximize infiltration potential.* Applicants shall utilize the natural capacity of the soils to capture and infiltrate runoff from impervious surfaces.
 - ii. *Maximize filtration potential.* Applicants shall utilize the soil profile as well as existing and enhanced vegetation to improve the quality of the stormwater runoff.
 - iii. *Maintain non-erosive velocities of stormwater runoff.* Applicants shall maintain post-development stormwater flow velocities to an intensity that does not adversely impact natural resources identified in Article 10.
 - b. Utilization of strategies that disconnect long reaches of stormwater flowing over impervious areas, including:
 - i. Addition of landscaped corridors to receive runoff.
 - ii. Grading longer hydraulic flow paths through pervious conveyance facilities.
 - c. Implementation of GTBMP at the source of the contributing runoff that mimic or improve the predevelopment hydrologic water balance on the project site.
 - d. Utilization of other practices or techniques approved by the Department.
- B. New or improved drainage conveyance systems shall be designed and constructed to require economical maintenance. Improvements to watercourses in existing developments shall be designed and constructed to retain the character of the surrounding area as much as practicable. Adequate rights-of-way shall be provided for access for construction and maintenance thereafter.
- C. If a conflict arises between this Section and a State law, the State law requirement shall prevail if it is more restrictive.

(Ord. No. 97-172, § 3(ch. 13, § 22.210), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.22.220. Groundwater.

Groundwater shall be handled using the appropriate measures below and utilize methods encompassed in the State of Delaware Conservation Design for Stormwater Management Guidance Manual:

- A. All buildings requiring foundation drains shall be provided with lines that discharge the drainage beyond the protective slope of structures or at least one and one-half (1½) feet below the top of grade at the foundation.
- B. If there are springs or other sources of excessive water, the foundation drains shall be taken to a natural stream channel, drainage easement, or street storm sewer.
- C. Any low areas having wet conditions shall be drained away from buildings with positive surface drainage or a storm sewer.
- D. Should any groundwater outflows, springs, or old tiles be discovered during construction, they shall be immediately marked and the Department's construction inspector immediately notified. A means shall be found to ensure the flows are directed away from buildings and to a natural stream channel.
- E. The Department may prohibit basements where severe groundwater conditions exist.

- F. The Department may require the applicant to submit an environmental assessment report prepared by a professional engineer, geologist or other certified professional in the applicable environmental discipline. The report shall characterize the condition of the shallow groundwater on the entire site, or a portion thereof, and the effect the proposed development may have on groundwater levels surrounding and down gradient of the site.

(Ord. No. 97-172, § 3(ch. 13, § 22.220), 12-31-1997)

Sec. 40.22.230. As-built documents.

As-built drawings shall be provided in accordance with Chapter 12 and as follows:

- A. Where field modifications have been made from the approved record engineering drawings, the Department may require as-built drawings. Such drawings shall contain a topography plan showing open channels, closed drainage and stormwater facilities, together with computations that demonstrate that the channel meets design objectives.
- B. As-built plans shall be required for all stormwater management facilities.
- C. Authorization to continue construction of any building beyond construction of the building foundation shall not be issued until an as-built survey of the building foundation has been prepared and submitted to the Department. The as-built survey shall confirm that the location and elevation of the building conforms to the approved plans and the provisions of this Code.
- D. As-built surveys required by this Section shall be prepared consistent with those standards for as-built surveys established by the American Congress of Surveying and Mapping (ACSM), as may be amended from time to time.
- E. As-built plans for the sanitary sewer system, including pump stations and force mains, shall be required in accordance with standards established by the Department of Public Works. As-built plans shall be submitted to the Department of Public Works prior to construction acceptance.

(Ord. No. 97-172, § 3(ch. 13, § 22.230), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 22.230), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 16, 7-10-2018)

Division 40.22.300. Sanitary sewer.

Sec. 40.22.320. Wastewater disposal connections.

- A. All lots that discharge sanitary sewage shall be permanently connected to a wastewater disposal system designed and constructed to comply with all applicable County and Delaware Department of Natural Resources and Environmental Control ("DNREC") regulations. No wastewater disposal system shall be installed upon any lot or parcel of land unless permitted by this Code. A connection fee, as determined by the Department of Public Works, shall be charged to any lot owner who is required by this Article to connect to the County sewer system unless an impact fee was incurred pursuant to Article 14.
- B. All current and future lots discharging sanitary sewage shall be connected to the public system either at the time of construction of a building, or at the time of septic system failure for an existing building, if the building is located in a recognized sewer service area, where sewer capacity is available, and where a suitable sanitary sewer line is accessible to the property as determined by the Department of Public Works.
- C. The Department of Public Works shall review all plans which propose to connect to the public sanitary sewer system and shall inspect the construction thereof. No certificates of occupancy shall be provided unless the Department of Public Works confirms that all construction conforms to approved plans and has been accepted for operation.
- D. The Department of Land Use may not accept a plan to subdivide a Suburban (S) zoned lot into more than five (5) lots unless the subdivision is served by public sewer. Where not served by public sewer, a maximum of five (5) lots may be created within the boundaries of a Suburban (S) zoned lot that legally existed prior to the

adoption of Ordinance 19-078. Lots not served by sewer may transfer development rights to development(s) served by sewer consistent with provisions of Article 7 of this Chapter. As sewer service is expanded in New Castle County, Subsection D will not apply to parcels within a recognized sewer service area, where sewer capacity is available, and where a suitable sanitary sewer line is accessible to the property as determined by the Department of Public Works.

(Ord. No. 97-172, § 3(ch. 13, § 22.320), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 22.320), 9-22-1998; Ord. No. 03-060, § 1, 9-23-2003; Ord. No. 04-038, § 4, 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031, § 70, 4-24-2018; Ord. No. 18-020, § 17, 7-10-2018; Ord. No. 19-078, § 1, 1-14-2020; Ord. No. 21-018, § 1, 8-31-2021)

Sec. 40.22.330. Use of on-site wastewater disposal (septic) systems.

Where discharge to a sanitary sewer system is not required in accordance with Section 40.22.320, septic systems may be utilized subject to the applicable regulations of DNREC. All septic systems used in the County shall be systems that have been approved by DNREC.

(Ord. No. 97-172, § 3(ch. 13, § 22.330), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 22.330), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-097, § 1, 5-13-2014)

Secs. 40.22.340—40.22.360. Reserved.

Editor's note(s)—Ord. No. 13-097, § 1, adopted May 13, 2014, repealed the former Sections 40.22.340—40.22.360, which pertained to standards, maintenance and notification, and lot size and density requirements for all unsewered lots, respectively, and derived from Ord. No. 97-172, § 3(ch. 13, §§ 22.340—22.360), adopted December 31, 1997; Ord. No. 98-062, § 1(ch. 13, § 22.360), adopted September 22, 1998; Ord. No. 98-080, § 1(ch. 13, § 22.340), adopted September 22, 1998; Ord. No. 00-24, § 1, adopted June 13, 2000; Ord. No. 04-059, § 1(Exh. A), adopted July 13, 2004; Ord. No. 06-042, § 8, adopted July 25, 2006; Ord. No. 06-125, § 4, adopted January 23, 2007; Ord. No. 09-067, §§ 2, 3, adopted November 10, 2009, and Ord. No. 10-113, § 1(Exh. A), adopted January 18, 2011.

Sec. 40.22.370. Heavy industrial sewage.

All heavy industry and nondomestic users shall have effluent types reviewed by the Department of Public Works in accordance with the New Castle County Industrial Pretreatment Regulation contained in Chapter 38.

(Ord. No. 97-172, § 3(ch. 13, § 22.370), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031, § 71, 4-24-2018)

Division 40.22.400. Water supply.

Sec. 40.22.410. Public water supply.

- A. All proposed residential subdivisions containing more than twenty-five (25) lots or minimum aggregate side yard widths of less than thirty (30) feet shall provide a public or community water distribution system. The design and installation of such public or community system shall be subject to the approval of the appropriate State agencies, and the main sizes shall meet the requirements of the office of the State Fire Marshal.
- B. On-site water supply systems shall comply with the requirements of the State Department of Health and Social Services and approval must be submitted to the Department prior to record plan approval.

(Ord. No. 97-172, § 3(ch. 13, § 22.410), 12-31-1997)

Sec. 40.22.420. Private water supply.

Where the subdivider proposes that individual on-site water supply systems are to be utilized within the subdivision, the subdivider shall either install such facilities or shall require, by deed restriction or otherwise, as a

condition of the sale of each lot or parcel within the subdivision, that the facilities shall be installed by the purchaser of such lot or parcel at the time that a principal building is constructed thereon, in accordance with appropriate State requirements. Each lot shall be of a size and shape to allow for the safe location of such a system.

(Ord. No. 97-172, § 3(ch. 13, § 22.420), 12-31-1997)

Sec. 40.22.430. Fire hydrants and fire lanes.

- A. Fire hydrants in subdivisions shall be installed within five hundred (500) feet of all houses, measured by way of accessible public thoroughfare, wherever a public or community water supply system is provided, as required by the National Association of Fire Underwriters, and within four hundred (400) feet of all commercial and industrial establishments, as approved by the State Fire Marshal.
- B. All fire hydrants shall be shown on record plans, with an indication of water main sizing connecting thereto.
- C. The need for and location of fire lanes for multi-family and row or group residential, commercial, industrial and institutional development will be determined by the State Fire Marshal in accordance with the guidelines contained in the publication Standard for Compliance with New Castle County published by the State Fire Marshal. In applying such guidelines, a fire lane shall be deemed necessary only where reasonable and direct accessibility by fire apparatus cannot be made to at least one (1) side of a structure from an all-weather hard surface, capable of bearing the weight of commonly used fire apparatus. Such fire lanes to be provided need not be paved with concrete, asphalte or similar material, but may be surfaced in any suitable manner such as to provide an all-weather surface capable of performing the function and shall be signed in such a fashion as to indicate the purpose and intent thereof and to prohibit parking thereon.
- D. Where equivalent fire protection is provided by appropriately sized standpipes or similar arrangements, the requirements of Subsection C shall not be applicable.

(Ord. No. 97-172, § 3(ch. 13, § 22.430), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.22.500. Other utilities.

Sec. 40.22.510. Electric and communications utilities.

All electric, telephone and communication service facilities, both main and service lines, in residential developments of five (5) or more dwellings shall be provided by underground cables installed in accordance with the prevailing standards and practices of the utility or other companies providing such services, except where it is demonstrated by the subdivider or the utility company that the underground installation required in this Section is not feasible. All main underground cables that are within the right-of-way of a street shall be located as specified by the Department and DelDOT. 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.

(Ord. No. 97-172, § 3(ch. 13, § 22.510), 12-31-1997)

Sec. 40.22.511. Electric and communications utilities along byways.

All electric, telephone and communication service facilities, both main and service lines, within six hundred sixty (660) feet of the right-of-way of a designated byway shall be provided by underground cables installed in accordance with the prevailing standards and practices of the utility or other companies providing such services, except where it is demonstrated by the subdivider or the utility company that the underground installation required in this Section is not feasible. All main underground cables that are within the right-of-way of a street shall be located as specified by the Department and DelDOT. 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.

(Ord. No. 22-072 , § 9, 10-11-2022)

Sec. 40.22.520. Gas or other underground utilities.

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

(Ord. No. 97-172, § 3(ch. 13, § 22.520), 12-31-1997)

Division 40.22.600. Parking and loading.

Sec. 40.22.610. Parking.

- A. *Applicability.* The standards and requirements contained in this Division shall apply to all new vehicle parking areas.
- B. *Waiver of parking lot design standards.* The Department may, upon request in writing, waive or reduce any of the requirements listed in this Division where the standard is determined to not be applicable, or for environmental or scenic preservation. When a particular standard is reduced:
 - 1. A note shall be placed on the parking facility plan or record plan identifying the reasons why a particular standard was reduced or waived.
 - 2. The applicant must mitigate the impacts of the waiver with proportional site improvements consistent with the Guiding Principles for Development.

(Ord. No. 97-172, § 3(ch. 13, § 22.610), 12-31-1997; Ord. No. 18-021 , § 24, 7-10-2018; Ord. No. 22-072 , § 10, 10-11-2022)

Sec. 40.22.611. Parking area design standards.

- A. *Surfacing.* All parking spaces, aisleways and access/egress lanes shall be permanently maintained.
 - 1. All parking spaces, aisleways and access/egress lanes shall be paved with asphalt, concrete or any other all-weather paved surface approved by the Department.
 - 2. Alternative means of surfacing materials also may be authorized by the Department where the alternative means:
 - a. Provide environmental or stormwater management benefits; or
 - b. Are appropriate due to infrequent parking demands.
- B. *Striping.* All parking spaces provided in conjunction with every use, with the exception of residential units with parking in garages and driveways, shall be appropriately striped and terminated with curbs, bumper blocks, or other approved marking.
- C. *Arrangements and markings.* All off-street parking areas shall be arranged and marked so as to provide for the orderly and safe loading, unloading, parking and storage of vehicles, where necessary. Incidental parking spaces, aisleways, approach lanes, and maneuvering areas shall be clearly marked with directional arrows and pavement lines and other markings to properly direct traffic. All such markings shown on plans shall be provided on the site. Each space or area for specialized parking (i.e., handicapped, employee, loading/unloading) or movement (fire lanes) shall be clearly marked or signed to indicate the intended use and shall be designed in accordance with the appropriate regulations. Dead-end parking aisles shall not be permitted, unless there are no alternatives.
- D. *Curbs and wheel stops.* A continuous minimum six (6) inch high poured in place concrete curb shall be installed around the entire parking lot. The function of such curb shall be to:
 - 1. Serve as a wheel stop to prevent parked vehicles from extending beyond edges of parking lots;
 - 2. Serve as edging for planting areas and islands;

3. Protect walls, buildings, and other structures;
4. Clearly define the limits of vehicular areas;
5. Physically delineate entrances and exits; and
6. Functionally separate vehicular ways from pedestrian ways.

Wheel stops may be installed within individual parking spaces, but shall not be used in lieu of required curbs or to delineate required interior islands. The location and placement of curbs shall take into consideration the need to manage stormwater and site drainage.

- E. *Pedestrian circulation, walkways and outdoor seating or dining areas.* All parking areas shall provide attractive, direct and safe pedestrian access to all parking spaces. The layout of the parking aisles shall be perpendicular to principal building entrances, where appropriate. Such walkways and sidewalks shall be protected from vehicular encroachment by wheel stops, curbs, bollards, landscaping or other methods approved by the Department, where necessary, for pedestrian safety. When outdoor seating or dining areas are proposed adjacent to off-street parking lots, additional landscaping may be required in the form of both low-level buffers delineating and screening the seating or dining areas and an arrangement of understory or canopy trees that are appropriate for shading.
 - F. *Parking spaces in garages.* Garages may be considered as required off-street parking spaces for all detached housing types. For attached dwellings, one (1) required off-street parking space may be considered within a garage located on the same lot.
 - G. *Backing movements.* With the exception of single-family or single-family attached dwellings on local/minor streets, all required parking spaces shall be designed to prohibit backing directly onto a street right-of-way or sidewalk from the parking space.
 - H. *Structures within parking areas.* All permanent or temporary structures (including but not limited to lighting standards, dumpsters, shopping cart holding facilities, HVAC equipment and signs) may be located within or abutting parking areas provided they are functionally separate and not encroaching into required parking spaces or aisles.
 - I. *Vehicular circulation and access.* Parking areas shall be designed to safely, conveniently and efficiently accommodate the maneuvering of all vehicles including delivery, emergency and public transit vehicles where appropriate. The Department may require a conceptual drawing showing that anticipated vehicle types properly can maneuver in parking areas. For parking lots with fifty (50) or more spaces, a minimum forty (40) feet deep channeled entrance/exit driveway, free of turning movements, shall be provided as measured from property lines. To minimize off-site travel, cross-access easements may be required.
 - J. *Location of off-street parking spaces.* All off-street parking shall be located on land zoned for the use which the parking is intended to serve. Required parking spaces shall be located not more than six hundred (600) feet from the building or use to which they are assigned. However, with the approval of the Department, a maximum of twenty-five (25) percent of the spaces may be located beyond six hundred (600) feet. Valet parking also may be located more than six hundred (600) feet away with Department approval. Where feasible, parking lots shall be separated and dispersed across a site to break up large areas of contiguous impervious cover and be placed toward the side or rear of principal structures. Design considerations for parking lots shall include integration with stormwater management, multi-modal access, resource protection, landscaping, site uses and site access.
 - K. *Shared parking.* The parking spaces for separate buildings or uses may be combined in single parking lot(s), provided that the number of parking spaces in the lot(s) shall be equal to or greater than the sum of the parking spaces required for each building and use or if a parking demand and needs analysis (PDNA) indicates that reduced parking can accommodate multiple buildings or uses.
 - L. *Parking structure.* Structured parking may be provided to accommodate required parking. Parking structures shall be subject to the same setback, yard and height requirements as the principal use they serve. Structural support columns shall not interfere with vehicular parking or circulation. Special design considerations and protective measures should be implemented where parking structures are in proximity to residential properties.
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- M. *Bicycle parking.* Bicycle racks shall be located so that they are highly visible from the street or main building entrances, under cover such as a building overhang or other structure where possible, and located so that bicycles will not obstruct pedestrian access. No bicycle rack shall be installed in an isolated location. Bicycle parking areas shall be separated from motor vehicle parking areas by at least a curb barrier, which would prevent vehicles from damaging bicycles. A hard-surfaced parking area is required, and bicycle racks shall be secured and designed for the lockage of bicycle frames and wheels. For sites with multiple buildings, the required bicycle parking spaces shall be distributed in multiple locations to encourage their use. Bicycle parking areas shall be identified on plans by a label or distinct symbol shown in the legend.
- N. *Park-and-ride.* For parking lots with at least two hundred (200) parking spaces, up to five (5) percent of the total, whether required spaces or not, may be designated as parking for a park-and-ride facility in connection with public transportation.
- O. *On-street parking.* On-street parking refers to parking, in any angular configuration, that may be located along a street within or adjacent to a public right-of-way or access easement or along a vehicular cartway emulative of a public street within a variety of development types. Design and dimensional standards apply to both public streets and private cartways. Provisions for perpetual maintenance of the parking spaces shall be determined to the satisfaction of the Department or DelDOT and annotated on the record plan.

(Ord. No. 97-172, § 3(ch. 13, § 22.611), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 18-021 , § 25, 7-10-2018)

Editor's note(s)—Ord. No. 18-021 , § 25, adopted July 10, 2018, changed the title of Section 40.22.611 from "Parking lot design standards" to "Parking area design standards." The historical notation has been preserved for reference purposes.

Sec. 40.22.612. Parking stall dimensions.

Table 40.22.612 and Figure 40.22.612 specify the minimum dimensions for standard parking rows and aisles. If a plan proposes parking spaces at an angle other than those specified in Table 40.22.612 and Figure 40.22.612, the applicant shall provide appropriate aisle width dimensions for department approval. Other dimensional standards shall remain in effect.

- A. Parking spaces located within a parking structure shall have a vertical clearance of at least seven (7) feet.
- B. Compact parking spaces. Subject to Department approval, stall dimensions may be reduced in accordance with Table 40.22.612.B in parking lots for office, institutional, industrial/manufacturing type uses and in developments with more than seventy-five thousand (75,000) square feet of gross floor area dedicated to retail uses, for not more than twenty-five (25) percent of the total required parking spaces. These reduced stall dimension parking spaces shall be located in separate portions of a site and clearly identified with permanent signage and demarcated with special striping or symbols on the ground. The Department shall determine the location of those parking spaces that may qualify for compact parking spaces.

Figure 40.22.612

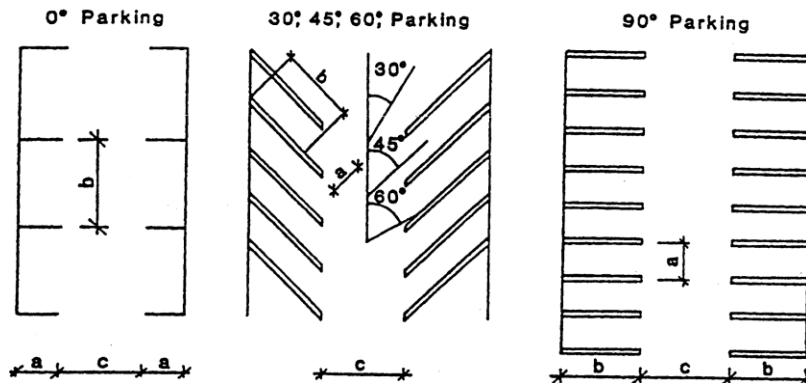


Table 40.22.612 A.

MINIMUM DIMENSIONS FOR REQUIRED PARKING SPACES

Dimension Indicator	0° (Parallel)	30°	45°	60°	90° (Perpendicular)
a	8'	9'	9'	9'	9'
b	21'	18'	18'	18'	18'
c (one-way aisle)	12'	14'	16'	18'	22'
c (two-way aisle)	22'	22'	22'	22'	22'

Table 40.22.612 B.

MINIMUM DIMENSIONS FOR OPTIONAL COMPACT PARKING SPACES

Dimension Indicator	0° (Parallel)	30°	45°	60°	90° (Perpendicular)
a	8'	8'	8'	8'	8'
b	20'	16'	16'	16'	16'
c (one-way aisle)	12'	14'	15'	16'	20'
c (two-way aisle)	22'	22'	22'	22'	22'

(Ord. No. 97-172, § 3(ch. 13, § 22.612), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 22.612), 9-22-1998; Ord. No. 18-021, § 26, 7-10-2018)

Sec. 40.22.613. Handicap parking.

All uses, other than residential served by on-lot parking, shall provide parking spaces for motor vehicles which transport disabled persons in accordance with this Section's standards and the American with Disabilities Act (ADA), or as may be amended, whichever is more restrictive.

- A. Handicap parking spaces shall be a minimum of eight (8) feet wide by eighteen (18) feet long with an adjacent parallel access aisle five (5) feet wide. The adjacent parallel access aisle may be shared by two (2) accessible parking spaces. One (1) in every eight (8) accessible spaces shall have an access aisle a minimum of eight (8) feet wide (rather than five (5) feet) and shall be signed "van accessible."

- B. Handicap parking spaces shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area and building without assistance. Where feasible, this means locations where there is no need to cross vehicular access lanes or aisles. Ramps shall be provided at curbs.
- C. Handicap parking spaces shall be posted and marked with both a ground-mounted sign and pavement marking which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by disabled persons.

Table 40.22.613
REQUIRED NUMBER OF OFF-STREET HANDICAP PARKING SPACES

Number of Parking Spaces Provided	Number of Handicap Spaces Required
1—25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501—1000	2 percent
1001 or more	20 spaces + 1 percent of spaces over 1,000

- D. Residential units designed for occupancy by disabled persons shall provide one (1) handicap parking space for each dwelling unit designed for such occupancy.
- E. Off-street parking spaces required for the disabled by this Chapter shall count toward fulfilling this Chapter's total off-street parking requirements.
- F. Other Code guidelines for handicap accessibility to public facilities shall be in accordance with regulations issued by federal agencies, including the United States Department of Justice, under the Americans with Disabilities Act of 1990. More specifically, these regulations include 28 CFR Part 36 "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Final Rule."

(Ord. No. 97-172, § 3(ch. 13, § 22.613), 12-31-1997)

Sec. 40.22.614. Existing nonconforming parking.

The standards and requirements contained in this Section shall apply to all new vehicle parking areas. However, when an existing nonconforming parking lot is to incorporate additional spaces either within the confines of the existing parking lot or through construction of new parking spaces, for whatever reason, the Department shall determine the practicality of incorporating all or some of the current dimensional and design standards into the existing parking lot. The Department will balance the benefits of requiring all or some of the current dimensional and design standards with the physical restraints of the existing nonconforming parking lot to permit such an improvement. The Department shall be guided by the following circumstances and conditions:

- A. *New parking area.* Any new parking area (an area not within the confines of an existing parking area) shall comply with all the current parking lot dimensional and design standards regardless of the number

of spaces, regardless of the reason for the new spaces and regardless of whether a plan must be reviewed by the Department. When the new parking spaces are to be added to an existing nonconforming parking area, the Department may require that all or a portion of the existing nonconforming parking area be brought into compliance with the current parking lot dimensional and design standards. The Department shall determine the practicality of which dimensional and design standards can be incorporated into the existing nonconforming parking area. The degree to which the existing parking area is to be brought into compliance shall be directly related to the proportional increase of the new parking spaces to the existing parking spaces.

- B. *Restriping or reconfiguration of existing nonconforming parking areas not resulting from use changes or new buildings.* The restriping or reconfiguration of an existing nonconforming parking lot with the same or fewer parking spaces may continue to exist with the same dimensional and design standards under which it was established. The restriping or reconfiguration of an existing nonconforming parking lot which proposes to apply some but not all of the current parking lot dimensional and design standards and which could result in additional parking spaces within the confines of the existing parking area shall require review and approval by the Department. The Department shall determine the degree to which an existing nonconforming parking lot can be restriped or reconfigured using some but not all of the current dimensional and design standards.
- C. *Restriping or reconfiguration of existing nonconforming parking areas resulting from use changes and/or the construction of new buildings.* The restriping or reconfiguration of an existing nonconforming parking lot to accommodate a use change and/or an additional building regardless of whether any additional parking spaces are created may require that all or a portion of the existing nonconforming parking area be brought into compliance with the current parking lot dimensional and design standards. When a new building is involved or when a new use requires additional parking spaces which can be accommodated within the confines of the existing nonconforming parking lot, the degree to which the existing nonconforming parking area is to be brought into compliance shall be directly related to the proportional increase of the gross floor area of the new building to the gross floor area of the existing building or to the proportional increase of the additional parking spaces to the existing parking spaces. The method which results in the greater proportional increase shall be used. The Department shall determine the practicality of which dimensional and design standards can be incorporated into the restriping or reconfiguration plan.
- D. Notwithstanding the foregoing, restriping or reconfiguration of existing nonconforming parking must comply with ADA standards.

(Ord. No. 97-172, § 3(ch. 13, § 22.614), 12-31-1997; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 18-021 , § 27, 7-10-2018)

Sec. 40.22.615. Parking reduction.

Where a unique situation is proposed or exists which will not generate the need for as many parking spaces as required by this Article, the applicant may petition the Department to authorize such reduction. The request for a parking reduction shall include a parking demand and needs analysis (PDNA) as described in this subsection which shall be submitted to the Department for review and approval. The Department shall be authorized to grant a reduction to the parking requirements when a PDNA shows that the requirements, as applied to the particular use, would exceed the minimum necessary to conveniently serve the customers, clients, visitors and employees. A PDNA must include the following components:

- A. A narrative discussion of the type of use and an explanation of why such use is unique from a parking needs standpoint.
- B. Basic traffic generation data such as numbers of anticipated vehicles entering and exiting the site at peak hours.
- C. Existing or proposed public transit facilities available to the site.

- D. Proposed means of parking/traffic mitigation measures such as carpools/vanpools, varied work shifts, company-operated buses or shuttles and employee incentives for utilizing alternate modes of transportation.
- E. With the exception of plans where the Comprehensive Plan identifies a site as being in either a Type 1 Commercial Corridor Development or Community Development Area, and includes elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7, the number of required parking spaces reduced by an approved PDNA, must be shown on-site as potential parking to accommodate future parking needs. If the proposed uses identified in the PDNA change the reductions granted will no longer be applicable.

(Ord. No. 97-172, § 3(ch. 13, § 22.615), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 24-057, 9-24-2024)

Sec. 40.22.616. Parking reduction for multiple use development.

The purpose of this Section is to permit a reduction in the total number of parking spaces which would otherwise be required in instances when any land and/or building is used or occupied by two (2) or more uses which typically do not experience peak parking demands at the same time. Notwithstanding Section 40.03.522, for individual land uses, when any land or building is used for two (2) or more distinguishable purposes listed in this Section, the minimum total number of required parking spaces for land or building shall be determined by the following procedure:

- A. Multiply the minimum parking requirement for each individual use as set forth in Section 40.03.522 by the appropriate percentage as set forth in Table 40.22.616 for each of the five (5) designated time periods.
- B. Add the resulting sums for each of the five (5) vertical columns in the table.
- C. The minimum parking requirement is the highest sum among the five (5) columns resulting from the calculation in B of this Section.
- D. The factors used for the calculations are described in Table 40.22.616.

Table 40.22.616

	Weekday Daytime: 6:00 a.m. to 6:00 p.m. (%)	Weekday Evening: 6:00 p.m. to midnight. (%)	Weekend Daytime: 6:00 a.m. to 6:00 p.m. (%)	Weekend Evening: 6:00 p.m. to midnight. (%)	Nighttime: Midnight to 6:00 a.m. (%)
Residential	60	90	80	90	100
Office/industrial	100	10	10	5	5
Retail	60	90	100	70	5
Hotel, motel, inn	75	100	75	100	75
Restaurant	50	100	100	100	10
Entertainment/recreational	40	100	80	100	10
Church	10	30	100	30	5
School	100	30	30	10	5
All other uses	100	100	100	100	100

- E. The following conditions shall apply to any parking lot for developments comprised of more than one (1) land use type:

1. The multiple use property and shared parking lot must be located within six hundred (600) feet walking distance of the entrance to the establishment to be served.
2. The Department shall determine at the time of parking plan approval or exploratory sketch plan approval or minor record plan approval, whichever is applicable, that shared parking is possible and appropriate at the location proposed. Particular attention is needed to ensure that sufficient and convenient short-term parking will be available to the commercial establishments during the weekday-daytime period. The shared parking spaces must be located in the most convenient and visible area of the parking facility nearest the establishment being served.
3. A subsequent change in use requires a new certificate of use and/or occupancy and proof that sufficient parking will be available.
4. Cross access easements shall be established and noted on the parking plan.
5. The subdivision or land development shall contain additional open areas in amounts equivalent to that needed to accommodate the total number of parking spaces required without applying the reductions permitted by this Section.

(Ord. No. 97-172, § 3(ch. 13, § 22.616), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.22.620. Loading.

The number of loading areas shall be governed by Article 3.

- A. Site plans involving uses which require loading facilities must be designed to ensure the functional separation between loading spaces/truck turnaround areas and between vehicular/pedestrian areas.
- B. Internal site circulation lanes are to be designed with adequate turning radii to accommodate the size and efficient maneuvering of delivery vehicles.

(Ord. No. 97-172, § 3(ch. 13, § 22.620), 12-31-1997)

Sec. 40.22.621. Outdoor loading bay area standards.

- A. *Dimensions.* Each outdoor loading bay area's minimum dimensions shall be twelve (12) feet wide and sixty (60) feet long. At no time shall any part of a truck or van be allowed to extend into a public thoroughfare or right-of-way while the truck or van is being loaded or unloaded. If the outdoor loading area is covered, but not totally enclosed, the minimum height of the outdoor loading bay area shall be fourteen (14) feet.
- B. *Maneuvering space.* Adequate off-street truck maneuvering space shall be provided on lot and not within any public street right-of-way or other public lands.
- C. *Location.* All loading areas are required to be located on the same lot as the building or lot served by the loading area.
- D. *Obstructions.* All loading spaces and maneuvering spaces shall be accessible at all times.
- E. *Fire exit or emergency access.* Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency access facilities to either a building or site.
- F. *Screening.* A loading bay, including all cartways, loading platforms, and structures shall be screened from view from adjacent residential zoning districts, residential uses, public rights-of-way and public access thoroughfares. Screening shall consist of a combination of structures, walls, and landscaping and shall provide year-round screening.

(Ord. No. 97-172, § 3(ch. 13, § 22.621), 12-31-1997; Ord. No. 18-021, § 28, 7-10-2018)

Division 40.22.700. Exterior lighting standards.

Exterior lighting is regulated to eliminate light spillover and glare on motor vehicle operators, pedestrians, and land uses within the light source's proximity. Safety and environmental considerations are the basis of the regulations, and address potential hazards impacting the safe operation of motor vehicles due to glare or excessive light, as well as minimizing the negative ecological impacts of light pollution at night.

(Ord. No. 97-172, § 3(ch. 13, div. 22.700), 12-31-1997; Ord. No. 21-024 , § 1, 8-31-2021)

Sec. 40.22.710. Exterior lighting plan.

Any time exterior lighting is installed or substantially modified, and whenever a zoning permit is sought (as required in Section 40.31.240), an exterior lighting plan shall be submitted to the Department to determine whether this Article's requirements have been met and that adjoining property will not be adversely impacted by the proposed lighting. All exterior lighting plans submitted after January 1, 2022 shall utilize Light-Emitting Diode (LED) or other luminaire technologies that are at least as energy efficient as LEDs.

(Ord. No. 97-172, § 3(ch. 13, § 22.710), 12-31-1997; Ord. No. 21-024 , § 1, 8-31-2021)

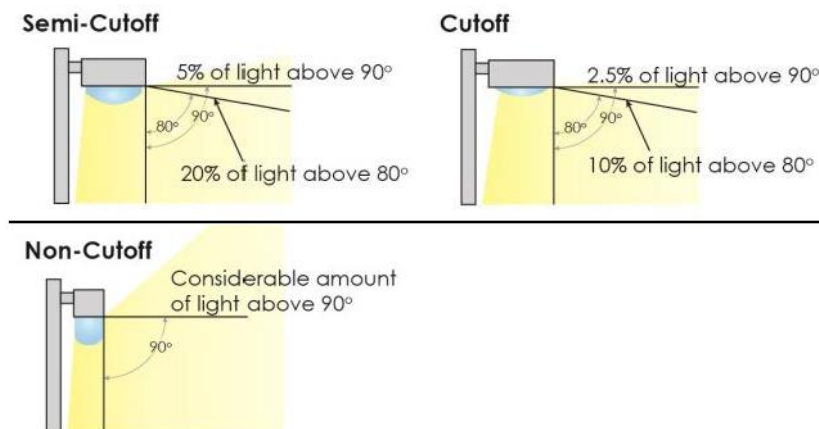
Sec. 40.22.720. Lighting standards.

A. Light fixtures, or luminaires, are available in different types including (see Figure 40.22.720):

1. Non-cutoff fixtures, which are prohibited;
2. Semi-cutoff fixtures, which direct the light to partially limit view of the light source; and
3. Full cutoff fixtures which shield the light source from view and prevent upward light. "Full cutoff" is the condition where the light emitted from a fixture does not extend upward beyond its bottom.

The maximum permitted illumination and luminaire height are set forth in Table 40.04.111.

Figure 40.22.720
TYPES OF LUMINAIRE



- B. All luminaire output is to be aimed downward and shall meet Illuminating Engineering Society ("IES") full-cutoff/fully shielded criteria where possible, and have no direct uplight.
- C. Luminaires with an aggregate rated lamp output not exceeding five hundred (500) lumens, e.g., the rated output of a standard non-directional 40-watt incandescent, 10-watt LED, or 10-watt compact fluorescent lamp, are exempt from the requirements of this Section.

- D. When a non-residential use is adjacent to a residential zoning district or use, the maximum illumination from the non-residential use shall not exceed one-tenth (0.1) foot candle as measured at the residential property line.

(Ord. No. 97-172, § 3(ch. 13, § 22.720), 12-31-1997; Ord. No. 99-084, § 1, 4-11-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 21-024, § 1, 8-31-2021; Ord. No. 23-122, § 1, 5-14-2024)

Sec. 40.22.730. Street lights.

- A. Public street lighting shall conform to standards set by DelDOT and the Department.
- B. Streetlights in residential areas may be authorized by the establishment of a special tax assessment district by action of the County Council.
- C. Adequate lighting of driveways, parking lots, walkways and other public and semi-public and employee areas shall be provided in all commercial, industrial, and multi-family residential developments, in accordance with accepted illuminating engineering standards while recognizing that because of the higher luminous efficiency of LEDs and potential environmental and ecological impacts and cost savings, plans for exterior lighting should seek to avoid over-lighting.
- D. All street light and lighting plans regulated under this Chapter and submitted after January 1, 2022 shall:
1. Utilize LED or other luminaire technologies that are at least as energy efficient as LED;
 2. Be fully shielded and emit no upward light;
 3. Use "warm-white" or filtered LEDs (Correlated Color Temperature (CCT) $\leq$ 3000K; S/P (Scotopic/Photopic) ratio $\leq$ 1.2) to minimize blue light emission.

(Ord. No. 97-172, § 3(ch. 13, § 22.730), 12-31-1997; Ord. No. 21-024, § 1, 8-31-2021)

Sec. 40.22.740. Exterior lighting for outdoor recreational uses.

Ball diamonds, playing fields, and tennis courts have unique requirements for nighttime visibility and generally have limited hours of operation. These uses may meet the following limited use standards for approval of lighting in excess of the exterior lighting standards of Table 40.04.111. A special use permit shall be required when the light structure or the area to be lit is within five hundred (500) feet of a residential property where a residential use is built or where a residential dwelling can be built.

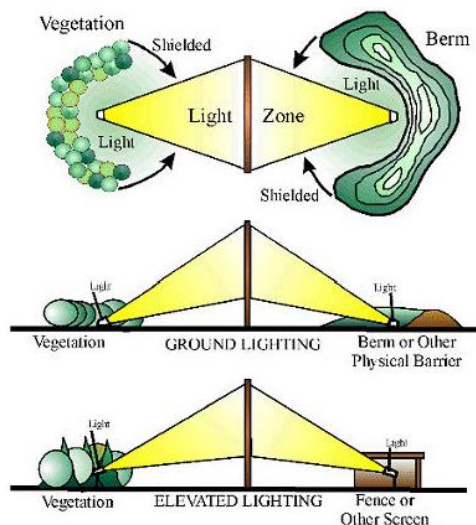
- A. The site plan meets all other Code requirements and, to the maximum extent possible, lighting is located to avoid shining at residential uses.
- B. Exterior light sources do not exceed the maximum permitted post height of eighty (80) feet.
- C. The light source or luminaire shall be cutoff fixtures. For all plans submitted after January 1, 2022, the light source or luminaire shall be equipped with LED or other luminaire technologies that are at least as energy efficient as LED. The luminaire may have a cutoff angle that extends beyond the property boundaries if:
1. A landscaped bufferyard is provided to prevent light and glare spillover to adjacent residential property. The Department shall be able to require denser bufferyards than those in Table 40.04.111 to achieve this objective.
 2. The maximum permitted illumination shall not exceed one-tenth (0.1) footcandle at the residential property line or the street curb, whichever is less.

(Ord. No. 97-172, § 3(ch. 13, § 22.740), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 11-042, § 3, 11-22-2011; Ord. No. 21-024, § 1, 8-31-2021)

Sec. 40.22.741. Sign lighting, shielded spotlights.

- A. Spotlights and floodlights shall be screened by walls, berms, and/or cutoff shielding so the light source is not visible off site. In most cases, a combination of cutoff shielding and a landscape or other feature will be needed to provide the necessary screening. Figure 40.22.741 provides an example of how this objective is to be accomplished.
- B. Spotlights and floodlights are to be installed and aimed so that they do not project their output onto neighboring residential properties, past the object being illuminated, skyward, or onto a public roadway. Spotlights and floodlights installed above grade shall not be aimed out more than forty-five (45) percent from straight down. When a spotlight or floodlight creates glare, as viewed from a neighboring residential property, it shall be re-aimed and/or fitted with a shielding device, if not already in place, to block the direct view of the glare from neighboring residences.

Figure 40.22.741
SPOTLIGHTS FOR SIGNS



- C. Vegetation screens must not be the primary means for shielding. Rather, glare control shall be achieved primarily through the use of full cutoff/fully shielded luminaires, shields and baffles, and appropriate application of luminaire mounting height, wattage, aiming angle, and luminaire placement.
- D. Spotlights and floodlights with an aggregate rated lamp output not exceeding five hundred (500) lumens, e.g., the rated output of a standard nondirectional 40-watt incandescent, 6-watt LED, or 10-watt compact fluorescent lamp, are exempt from the requirements of this Section.

(Ord. No. 97-172, § 3(ch. 13, § 22.741), 12-31-1997; Ord. No. [21-024](#), § 1, 8-31-2021; Ord. No. [23-122](#), § 2, 5-14-2024)

Sec. 40.22.750. Lighting, generally.

- A. Exterior lights shall be shielded, shaded, or directed, as best as is reasonably possible, so that light intensity and glare shall not adversely affect neighboring property owners, pedestrians, or passing motorists, consistent with [Section 40.22.720](#), and emit no upward light. Such lighting shall be considered to adversely affect someone when the lighting would disturb a person of normal sensibilities.
- B. All exterior lights depicted in lighting plans shall utilize LED or other light emitting technologies that are at least as energy efficient as LEDs, having a light source efficacy of no less than ninety (90) lumens per watt, and utilize

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"warm-white" or filtered LEDs (Correlated Color Temperature (CCT)) $\leq 3000\text{K}$; S/P (Scotopic/Photopic) ratio ≤ 1.2) to minimize blue light emission.

- C. Because of the higher luminous efficiency of LEDs and potential environmental and ecological impacts and cost savings, plans for exterior lighting should strive to avoid over-lighting.

(Ord. No. 97-172, § 3(ch. 13, § 22.750), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 22.750), 9-22-1998; Ord. No. [21-024](#), § 1, 8-31-2021; Ord. No. [23-122](#), § 3, 5-14-2024)

ARTICLE 23. LANDSCAPING, TREES, PLANT MAINTENANCE, AND EROSION AND SEDIMENT CONTROL¹

Division 40.23.000. Purpose.

This Article provides the detailed landscaping standards for installing and maintaining landscaping materials and protecting specimen trees. This Article also provides the requirements for erosion and sediment control.

(Ord. No. 97-172, § 3(ch. 13, div. 23.000), 12-31-1997)

Sec. 40.23.010. Applicability.

All developments shall comply with Divisions 40.23.100, 40.23.200, 40.23.300, 40.23.400 and 40.23.500. Minor residential subdivisions shall be required only to comply with street tree and tree replacement requirements, except for residential developments in the NC2a zoning district, which are exempted. Major subdivisions and land developments, minor nonresidential subdivisions, and minor land developments shall comply with all divisions. Bufferyard standards may be reduced where it can be demonstrated through a viewshed plan that reductions in planting or buffering protect or enhance the scenic viewshed.

(Ord. No. 97-172, § 3(ch. 13, § 23.010), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021, § 30, 7-10-2018; Ord. No. 22-072, § 11, 10-11-2022)

Division 40.23.100. Plant units and materials.

This Division establishes a standard landscaping element called a "plant unit." The plant unit serves as a basic measure of plant material required for all landscaping, except natural areas, or mitigation. The plant unit provides a balance of vegetation.

(Ord. No. 97-172, § 3(ch. 13, div. 23.100), 12-31-1997)

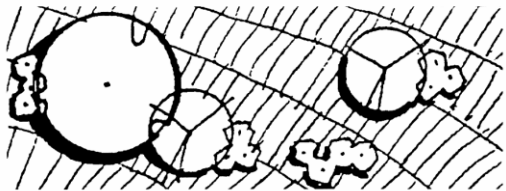
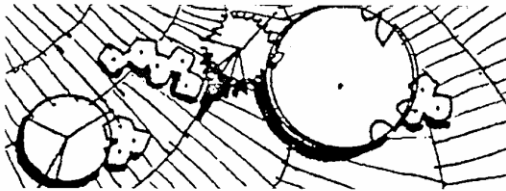
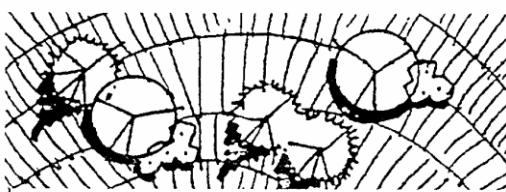
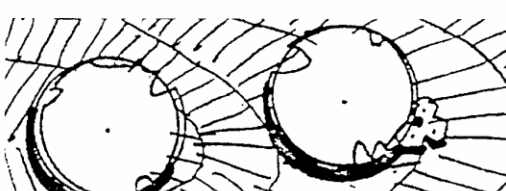
Sec. 40.23.110. Standard plant units.

- A. The plant unit types in Table 40.23.110 are generally interchangeable with each other.
- B. The landscape architect may use any one (1) or a combination of plant unit types. However, some types are preferred given certain objectives. For example, plant unit type 5 is best suited for the interior of parking lots or other places where clear, low-level views are desired or where fences exist, and may not be used for bufferyard plantings.
- C. Where year-round screening is required, plant unit types 3 or 4 are preferred. In some cases, this Chapter or a condition of land development or site plan review may specify a specific plant unit type.
- D. The Department may approve a proposed alternative plant unit type(s) if they address a unique situation and provide screening or plant coverage equivalent to plant unit type 1. The total calculated area of the alternative plant unit type(s) as shown in the Bufferyard Model shall be greater than plant unit type 1 and utilize at least two (2) different plant types.
- E. When creating an alternative plant unit type, a note or graphic exhibit must be included on the landscape plan that describes or depicts the unique situation and demonstrates how the alternative plant unit meets the requirements of Subsection D. above.

¹Editor's note(s)—Ord. No. 18-021, § 29, adopted July 10, 2018, changed the title of Article 23 from "Landscaping, trees, and erosion" to "Landscaping, trees, plant maintenance, and erosion and sediment control."

Chapter 40 - UNIFIED DEVELOPMENT CODE
 ARTICLE 23. LANDSCAPING, TREES, PLANT MAINTENANCE, AND EROSION AND SEDIMENT CONTROL

Table 40.23.110
 PLANT UNIT TYPES

Plant Unit Type		Quantity, Size & Type of Plants Required	Illustration
Type 1	1 2 13	canopy tree*** 1½" to 2" caliper understory 1½' to 3' high shrubs****	
Type 2*	1 1 1 12	Canopy tree*** 1½" to 2" caliper understory 5' to 6' high evergreen tree 1½' to 3' high shrubs****	
Type 3*	2 3 7	1½" to 2" caliper understory 5' to 6' high evergreen trees 1½' to 3' high shrubs****	
Type 4*	4 15	5' to 6' high evergreen trees 1½' to 3' high shrubs****	
Type 5**	2 6	canopy trees*** 1½' to 3' high shrubs****	

* Preferred for year-round screen.

** May be required where visibility is required for safe automobile operation.

*** Canopy trees within plant unit types shall be planted greater than 2" in caliper size as measured 6" above the established ground level.

**** The Department may permit approved herbaceous vegetation in lieu of required woody shrubs. The ratio of 5, one-gallon medium to large growing herbaceous perennials or grasses that reach a mature height of greater than 18" may be substituted for one shrub in any plant unit configuration not to exceed 50% of the shrubs required in any given planting area.

(Ord. No. 97-172, § 3(ch. 13, § 23.110), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 18-021, §§ 31, 32, 7-10-2018)

Sec. 40.23.120. On-lot and open space landscaping.

- A. In general, the on-lot landscaping shall be distributed around the lot, planted close to the buildings where foundation plantings are appropriate to create visual interest, planted to provide shading or stormwater management benefits, or distributed in some combination as part of a planting scheme.
- B. In general, open space landscaping shall be distributed throughout open space to delineate areas, augment buffer plantings, create visual interest and design continuity, provide shading and spatial guidance for multi-modal transportation systems, integrate with stormwater management areas, or be distributed in some combination as part of a planting scheme.
- C. Landscape design for front yards is particularly important to preserving community character. Certain residential development unit types require additional planting material, as indicated in Section 40.23.121.
- D. The Department may grant a partial on-lot or open space landscape credit where planting for green technology stormwater best management practices is in excess of the planting requirements contained in Articles 4 and 23.
- E. Turf and meadow grass areas within open space shall be delineated on the landscape plan and be referenced to a corresponding maintenance matrix defining the seed mixture and mowing frequency for each designated area.

(Ord. No. 97-172, § 3(ch. 13, § 23.120), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 18-021, § 33, 7-10-2018)

Editor's note(s)—Ord. No. 18-021, § 33, adopted July 10, 2018, changed the title of Section 40.23.120 from "On-lot landscaping" to "On-lot and open space landscaping." The historical notation has been preserved for reference purposes.

Sec. 40.23.121. Special residential landscaping.

All residential lots of twelve thousand (12,000) square feet or less or any unit using side-load garages shall install special landscaping in addition to the landscaping required by Table 40.04.111.

- A. *Village house.* Village house street yards shall be landscaped with two (2) additional items. Select two (2) from the following categories. These additions shall be included in one (1) of two (2) ways. The plan shall identify the techniques on each lot, or options may be included in the house price and selected by the home purchaser.
 - 1. *Street property-line border.*
 - a. Stone wall, wood or wrought-iron fence at least three (3) feet in height; or
 - b. Hedge with shrubs planted at a maximum of three (3) feet on center; or
 - c. A grade change of at least two (2) feet, raising the street yard above the sidewalk grade. This option is available only where the natural topography slopes up from the sidewalk on that side of the street. This option must run across at least three (3) consecutive lots and be identified on grading plans to ensure adequate drainage.
 - 2. *Additional landscaping.*
 - a. Two (2) flowering understory trees at one and one-half (1.5) inch caliper.
 - b. Two (2) evergreen trees at least five (5) feet high.
 - c. Thirteen (13) decorative evergreen trees in at least five (5) gallon pots.
 - d. A perennial flower bed having a minimum of five (5) species over eighty (80) square feet and one (1) understory or evergreen of the size indicated in Subsections A.2.a and A.2.b.

3. *Structure.* One (1) of the following and ten (10) flowering or evergreen shrubs at least twenty-four (24) inches high. These options are not available where a front-load garage is used on a lot with less than ninety (90) feet of frontage.
 - a. A roofed porch which is not enclosed or screened, running three-quarters (0.75) the width of the house front and having a minimum width of seven (7) feet.
 - b. A masonry or stone patio raised a minimum of eighteen (18) inches above the front yard, minimum eight (8) foot width, and at least five hundred (500) square feet.
- B. *Lot line houses.* Lot line houses shall install an additional one and a half (1.5) plant units in the front yard whose purpose, location, and design is to screen the view into the side yard and enhance the privacy of this space. The developer may use hedges or substitute a fence for eighty (80) percent of the shrubs.
- C. *Other single-family lots less than twelve thousand (12,000) square feet.* These lots shall require an additional plant unit.
- D. *Side-loading garages.* Where a side-loading garage is permitted in front of the house proper, an extra plant unit shall be required between the street and the side of the garage facing the street, or the developer may propose planting options that, in the Department's opinion, are approximately equal in cost and effectiveness.
- E. *Attached and multi-family.* All attached units shall have on-lot landscaping of one (1) plant unit. The landscaping material shall be distributed in the front, rear, or side yards. In multi-family developments, the yard areas associated with each unit shall be landscaped with five (5) plant units per acre.

(Ord. No. 97-172, § 3(ch. 13, § 23.121), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

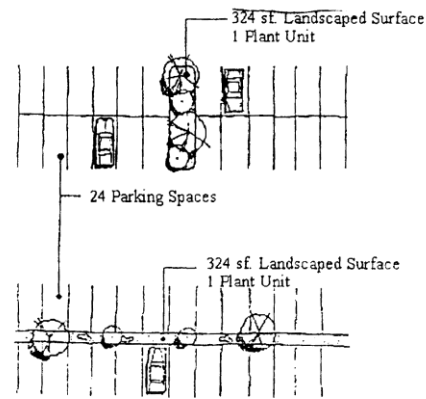
Sec. 40.23.130. Parking lot landscaping.

Parking lot landscaping shall be one (1) plant unit per number of parking spaces specified in Table 40.04.111. Each plant unit shall be planted in a planting island(s) or space with a minimum total area of three hundred twenty-four (324) square feet. The plant unit may be distributed between two (2) landscaping islands or in larger continuous islands. If two (2) smaller islands are selected, each shall contain a minimum of one hundred sixty-two (162) square feet in area. In small parking lots, the island(s) may be the lot's corners. The landscaping required by Table 40.04.111 shall be located within the parking lot or adjoining entrance drives and circulation drives. Figure 40.23.130 illustrates appropriate planting areas, preservation of existing trees, and several configurations of one (1) plant unit per twenty-four (24) parking spaces.

- A. Parking lot landscaping plants shall be capable of tolerating difficult growing conditions such as deicing salts, soil compaction, drought, mechanical damage/heavy pruning, and reflected heat.
- B. Soils in parking lot planting areas shall be amended backfill as deemed necessary in accordance with Tree Care Industry Association ANSI A300-2011 guidance, as may be amended.
- C. Irrigation in the form of an automated system, regular watering schedule, integrated stormwater management system or other method shall be provided for the long-term health and viability of parking lot landscaping.

(Ord. No. 97-172, § 3(ch. 13, § 23.130), 12-31-1997; Ord. No. 18-021 , § 34, 7-10-2018)

Figure 40.23.130
EXAMPLES OF PARKING LOT LANDSCAPING CONFIGURATIONS



Illustrating 1.0 Plant Unit per 24 parking spaces

Sec. 40.23.140. Standards for bufferyard plantings.

- A. Table 40.23.140 depicts the narrowest permitted bufferyard at the top of each opacity category. This is the minimum width of buffer permitted. The widths of bufferyards, the plant materials in plant units, and any proposed structures or berms shall be analyzed collectively to reach given levels of opacity or buffer type required by Table 40.04.111.
- B. Table 40.23.140 presents two (2) bufferyard parameters (minimum and maximum width and number of plant units). A wide range of other combinations also would meet the respective opacity rating. Flexibility and creativity are encouraged. By using the interactive bufferyard system in Section 40.23.141, the designer may create and test a buffer.
- C. These standards are based on a one hundred (100) linear foot buffer measured at the bufferyard's centerline.
- D. Figure 40.23.140 is an example that shows the two (2) bufferyard options set forth to achieve a five-tenths (0.50) opacity using Section 40.23.141.
- E. Some limited or conditional uses have requirements (Table 40.03.110) that increase bufferyards; these requirements must be met by adding the opacities of the district bufferyard and the limited or conditional use. For example, if the district requires a three-tenths (0.3) bufferyard and the specific use requires a two-tenths (0.2) bufferyard, then a five-tenths (0.5) bufferyard shall be selected.

Figure 40.23.140
BUFFERYARD OPTIONS FOR A 0.50 OPACITY

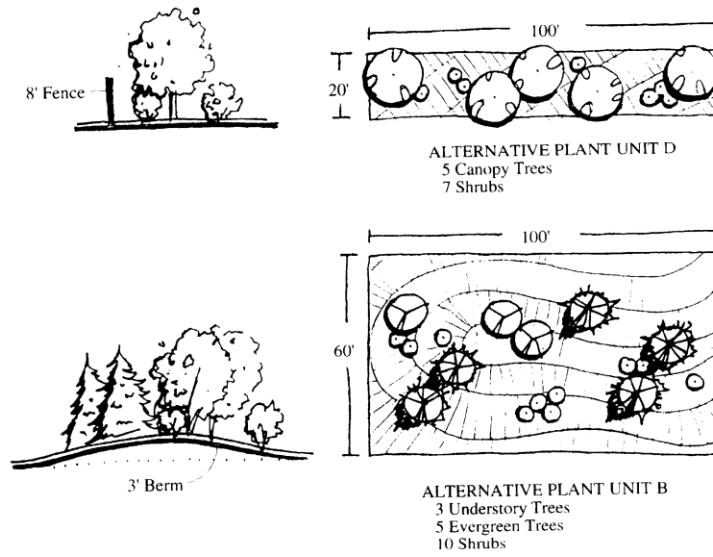


Table 40.23.140
BUFFERYARD REQUIREMENTS PER 100 LINEAR FEET

Opacity	Min/Max Bufferyard Width (ft.)	Number of Plant Units (per Plant Unit Type 1)
.10	10 min.	0.85
	30 max.	0.46
.20	15 min.	1.53
	30 max.	1.13
.30	15 min.	2.43*
	30 max.	1.86
.40	20 min.	3.18*
	40 max.	2.20
.50	25 min.	3.91*
	60 max.	2.01
.60	30 min.	4.61*
	110 max.	1.00
.70	40 min.	4.81*
	130 max.	1.00
.80	40 min.	5.99*
	150 max.	1.00
.90	50 min.	6.00*
	170 max.	1.00
1.00	50 min.	7.46*
	200 max.	1.00
See Section 40.23.141 for developing intermediate buffers.		
Note: Where indicated by an * in this table, berms, fences, walls, hedges or other screening structures are recommended to be provided in conjunction with plant materials; otherwise the minimum bufferyard width should be expanded.		

(Ord. No. 97-172, § 3(ch. 13, § 23.140), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 23.140), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 18-021, §§ 35, 36, 7-10-2018)

Sec. 40.23.141. Bufferyards.

- A. The standards in Table 40.23.140 have been tested to ensure they meet the opacity standard. Numerous other mixes can meet the standard. The bufferyards were created using the Bufferyard Model. This model is available within the Unified Development Code available online.
- B. Any bufferyard that meets the required opacity rating within the width limits in Table 40.23.140 is permitted. The Bufferyard Model also can be used. Table 40.23.141 lists the settings that shall be used in running the model. This model determines whether or not the tested bufferyard is adequate. The plant type settings are shown, but are not to be altered. The number of plant units may be revised. The width of the buffer may be increased above the minimum for each opacity given in Table 40.23.140. The height of the structure may be varied only if modifying the parking buffer. Users shall supply the Department with a printout of the model run for a buffer that is proposed which shall be verified by the Department. Flexibility and creativity with

respect to buffer width, utilization of plant unit types and the utilization of berms, fences, walls and hedges are encouraged.

Table 40.23.141
BUFFERYARD MODEL SETTINGS

Factor	Setting			
Building height	30 ft.			
Viewpoint	140 ft.			
Opacity of row	0.65			
Minimum buffer width	10 ft.			
Plant unit area	1,600 sq. ft.			
Plant unit compaction	0.50			
Plant Type Settings:				
Factor	Canopy	Understory	Conifer	Shrub
Shape	2	3	4	6
Height	26.0	16.0	18.0	3.5
% Opacity	0.85	0.85	1.00	0.80
Standard Plant Unit = a minimum of 507.6 sf. Total area				
Number	1	2	0	13
Building height shall be reduced to 5 feet to test parking buffers.				

- C. Buffers over fifty (50) feet wide must meet the height screening requirement of the model without a berm. Narrower buffers shall be permitted without meeting the model's height screening.
- D. A visual screen consisting of a planted hedge may be used as an alternative to a wall or a fence. Hedges may be comprised of evergreens, deciduous plants or a mix of plant species.
 1. In the Bufferyard Model, the following standards shall apply:
 - a. For an evergreen hedge, the Structure Solidity category may equal up to a ninety (90) percent solidity rating and must be a minimum of four (4) feet tall at the time of planting.
 - b. For a deciduous hedge, the Structure Solidity category may equal up to a seventy (70) percent solidity rating and must be a minimum of four (4) feet tall at the time of planting.
 - c. The Structure Height category shall be set no greater than two (2) feet above the height of the hedge at installation.
 - d. The Structure Placement category shall correspond to the centerline location of the hedge with respect to the bufferyard property line.
 2. Each plant component of a hedge shall be planted no further than four (4) feet on-center from one another. A reduction in spacing may be required depending on the plant species or cultivar selected.
 3. Individual plants used in a hedge may be counted toward portions of the required plant units within the same bufferyard. However, the minimum number of plants required in Table 40.23.110 shall be provided.
 4. The selection of other required bufferyard plant units and the placement of plants adjacent to the hedge shall take into account any spatial or shading conflicts with the hedge planting.
 5. A detailed description of the size, shape and plant species of any proposed hedge and perpetual maintenance responsibilities shall be placed on the landscape plan.

(Ord. No. 97-172, § 3(ch. 13, § 23.141), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 18-021 , § 37, 7-10-2018)

Sec. 40.23.142. Bufferyard opacity reduction.

Where the build-to line is permitted to be less than the required minimum street yard setback, the Department may approve a reduction in opacity standards. Reductions shall:

- A. be calculated on a percentile basis commensurate to the reduction of the bufferyard width plus the width of any publicly-accessible pedestrian or bicycle facility physically located within the bufferyard; and
- B. only be permitted directly along those portions of the facade adjacent to the build-to line.

(Ord. No. 18-021 , § 38, 7-10-2018)

Sec. 40.23.150. Street right-of-way.

All unpaved areas within street rights-of-way shall be seeded or sodded. Before the release of the twelve (12) month maintenance bond, all unpaved areas between the edge of the road pavement and the right-of-way line shall have:

- A. A minimum depth of four (4) inches of topsoil; and
- B. A growth of an acceptable healthy grass turf; and
- C. Trees growing in vigorous, healthy condition and as required in Section 40.23.151.

(Ord. No. 97-172, § 3(ch. 13, § 23.150), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.23.151. Street trees.

- A. In new subdivisions, or when the development of property occurs, the Department shall review for approval proposed landscaping plans, and shall require street trees to be planted within or alongside any of the rights-of-way of streets and parkways and other public places abutting lands henceforth developed or subdivided as required in Article 31.
- B. Large canopy street trees shall be planted on each side of the right-of-way at the minimum rate of one (1) tree per forty (40) linear feet of right-of-way. There is an exception for interior streets in nonresidential subdivisions not designated as arterials or collectors, wherein trees shall be planted on each side of the right-of-way at the minimum rate of one (1) tree per fifty (50) linear feet of right-of-way.
- C. When street trees are located in center medians, the median shall have a minimum width of ten (10) feet and shall have one (1) additional large or medium canopy tree planted for every forty (40) linear feet. Medians having a width greater than twenty (20) feet shall have one and one-half (1½) large or medium canopy trees planted every forty (40) linear feet.
- D. No one (1) tree species utilized for street tree plantings may make up more than twenty (20) percent of the planting stock of the entire development.
- E. Tree quality and size. All large or medium canopy street trees shall be balled and burlapped, single-stemmed trunks, branched no lower than six (6) feet above ground or when adjacent to vehicular cartways or parking facilities and pedestrian or bicycle facilities, eight (8) feet above ground, and no less than three (3)-inch caliper as measured six (6) inches above the established ground level. Small canopy or understory trees may be planted at two (2)-inch caliper.
 - 1. Small canopy or understory trees with multi-stemmed trunks are permitted to be planted within center medians.
 - 2. All plant classifications, measurement of plants and planting methods shall be in accordance with the American Standard for Nursery Stock ANSI Z60.1-2014, as may be amended.

-
- F. Minimum spacing. Outside of reforestation or afforestation situations, no large canopy trees may be planted closer together than thirty (30) feet and no medium or small canopy or understory trees may be planted closer together than fifteen (15) feet, except that special plantings may be clustered if the Department determines that the long-term survivability of the trees will not be impaired.
 - G. Substitution. In certain situations, such as the presence of overhead utility wires or constrained planting areas, each required large canopy street tree may be substituted with one (1) medium canopy or one and one-half (1½) small canopy or understory trees suitable for street tree planting. See Appendix 3 to this chapter for a list of recommended tree species and further street tree planting guidance.

(Ord. No. 97-172, § 3(ch. 13, § 23.151), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 23.151), 9-22-1998; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 18-021 , § 39, 7-10-2018)

Division 40.23.200. Landscaping installation requirements.

To ensure plant materials are installed and properly maintained, a landscape plan will be required of all developments. This plan shall show the location of all required plant materials and provide planting details for all proposed plant types and planting situations. A plant list shall accompany the plan, indicating species, size, and number provided. Appendix 3 to this Chapter provides a list of unacceptable and suggested plant species.

- A. The source of all plant material for the site shall be from within one whole number hardiness zone as defined by the United States Department of Agriculture (USDA) of the zone that covers the majority of New Castle County.
- B. The handling, planting and perpetual maintenance of all tree and plant material shall conform to Tree Care Industry Association ANSI A300-2011 standards.

(Ord. No. 97-172, § 3(ch. 13, div. 23.200), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 23.200), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021 , § 40, 7-10-2018)

Sec. 40.23.210. Reserved.

Editor's note(s)—Ord. No. 07-012, § 1, adopted May 8, 2007, repealed § 40.23.210 in its entirety. Formerly, said section pertained to performance bonds as enacted by Ord. No. 97-172, § 3(ch. 13, § 23.210), adopted Dec. 31, 1997.

Sec. 40.23.220. Reserved.

Editor's note(s)—Ord. No. 07-012, § 1, adopted May 8, 2007, repealed § 40.23.220 in its entirety. Formerly, said section pertained to replacement as enacted by Ord. No. 97-172, § 3(ch. 13, § 23.220), adopted Dec. 31, 1997; as amended by Ord. No. 03-045, § 1(Exh. A), adopted July 8, 2003.

Sec. 40.23.230. Planting locations.

The exact placement of required plants and structures shall be the decision of each user, except for the following requirements that shall be met:

- A. Trees and shrubs shall be planted clear of the road-salt spray area, or the planting area shall consist of more highly salt tolerant plants.
- B. Evergreen trees and evergreen shrubs shall be planted with appropriate spacing in accordance with their habit and growth to maximize their chance for long-term survival.
- C. Location. No large canopy tree species shall be planted, as measured from the center of the tree trunk, under or within ten (10) lateral feet of any existing overhead utility wire, or over or within five (5) lateral feet of any existing underground water line, sewer line, transmission line, or other utility. Medium

canopy tree or small canopy or understory tree species may be permitted. Additional mitigation such as specific cultivar selection, special planting and pruning techniques may be required.

- D. All trees and shrubs shall be placed so that they will not block or obstruct necessary sight-lines or rights-of-way.

(Ord. No. 97-172, § 3(ch. 13, § 23.230), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 18-021 , § 41, 7-10-2018)

Sec. 40.23.240. Afforestation/reforestation requirements.

All forest mitigation areas or open spaces to be afforested/reforested shall be planted pursuant to one or a combination of alternatives set forth in Table 40.23.240 using the plant species listed in Appendix 3 to this Chapter.

- A. The area around each tree shall be mulched. The entire area may be mulched or seeded in a perennial grass mix with a minimum thirty (30) percent indigenous herbaceous forest, or grassland species.
- B. Trees shall be selected to provide a diversity of native plants. All plants and trees used for afforestation/reforestation must consist only of species native and indigenous to Delaware. Selected plants and trees may not include cultivars or hybrids of species or State rare or endangered species.
- C. Plants and trees shall be selected and arranged within the afforestation/reforestation area in accordance with site conditions.
- D. Afforestation/reforestation plantings shall include a minimum of six (6) species. Where more than two hundred (200) trees are provided, a minimum of eight (8) species shall be used; no one (1) species shall have less than five (5) or more than twenty (20) percent of the total trees.
- E. Appendix 3 to this Chapter provides a list of unacceptable and suggested plant species and afforestation/reforestation planting guidelines.
- F. A plan for perpetual maintenance of any afforestation/reforestation area must be provided with the landscape plan and approved by the Department. The plan must include methodology for removing invasive plants while protecting reforestation plantings and facilitating the establishment of a leaf-litter layer on the ground within the reforestation area.
- G. The survival rate for reforestation areas shall be a minimum of one hundred (100) trees per acre or at least seventy-five (75) percent of the total number of trees planted per acre under the approved plan, whichever is greater. Replanting shall be required to meet this minimum standard for sites where the survival threshold is not met. Infill planting also may be required where planting fails in large contiguous areas, resulting in tree spacing greater than twenty-five (25) feet.

Table 40.23.240
AFFORESTATION/REFORESTATION PLANTING RATE ALTERNATIVES PER ACRE

No. of Trees per Acre	Minimum Size and Approximate Spacing
120*	1 $\frac{1}{2}$ " caliper trees (20' x 20' spacing)
200*	$\frac{3}{4}$ " caliper trees (15' x 15' spacing)
300*	3' to 6' tall whip trees (11' x 11' spacing)
700*	Container or bare root seedling trees** (8' x 8' spacing)
* Includes canopy and understory tree species with understory trees constituting a minimum of 5%, and a maximum of 10% of the total (see Appendix 3).	
** Seedlings are trees installed at less than 2' tall.	
Note: spacing indicated does not imply that trees must be planted in a grid pattern.	

(Ord. No. 97-172, § 3(ch. 13, § 23.240), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021 , §§ 42, 43, 7-10-2018; Ord. No. 21-009 , § 7, 12-14-2021)

Editor's note(s)—Ord. No. 21-009 , § 7, adopted December 14, 2021, changed the title of Section 40.23.240 from "Reforestation requirements" to "Afforestation/reforestation requirements." The historical notation has been preserved for reference purposes.

Sec. 40.23.250. Existing vegetation.

Where natural vegetation will be preserved on-lot or within open space, scenic easements, bufferyards, parking lots, or along roadway frontages, that plant material shall be credited towards that specific landscaping requirement in accordance with Table 40.23.250.

Table 40.23.250
PRESERVED TREES CREDITED TOWARDS REQUIREMENTS

Preserved Tree Size (DBH in inches)	Number of Trees For Open Space, Bufferyards, Parking Lots, Lots or Street Trees
42.00 or greater	7
32.00 to 41.99	5
24.00 to 31.99	4
16.00 to 23.99	3
8.00 to 15.99	2
3.00 to 7.99	1

Also, the following requirements must be met:

- A. A tree survey is conducted locating the individual trees to be preserved or, in the case of a forest, trees within fifty (50) feet of the edge of the limits of disturbance.
- B. Individual trees described in the tree survey as healthy and intended to count toward the landscaping or afforestation requirements shall count only if sufficient protection is provided as follows:
 1. Trees greater than sixteen (16) inches DBH:
 - a. No area within the Critical Root Zone (CRZ) shall be disturbed. No topographic change greater than eighteen (18) inches shall occur at the edge of the protected area.
 - b. A qualified forester, arborist or landscape architect shall provide professional judgment as to the probability that the tree will survive in a healthy and vigorous condition following the completion of construction activities.
 - c. This may include recommendations for pruning, fertilization and other means to ensure the tree's survival both during and after completion of construction activities. Only those trees with a high probability of survival may be credited.
 2. Trees between three (3) and less than sixteen (16) inches DBH: No more than thirty (30) percent of the area within the CRZ shall be disturbed.
- C. Trees sixteen (16) inches or greater DBH whose natural drainage is cut off by re-grading or exposed to heavier drainage shall not be credited toward a landscaping requirement unless a management plan approved by a qualified forester, arborist or landscape architect is established to protect the tree.
- D. Areas classified as Tier 1, 2, or 3 forests or defined as forest under the General Definition in Article 33 shall count as meeting the following landscaping requirement provided:
 1. Open space. The forested area is at least one-half (0.5) acre, seventy-five (75) feet wide, and will be left undisturbed. Where the area is less than one-half (0.5) acre or less than seventy-five (75) feet wide and is to remain undisturbed, a tree survey is required and the trees to be credited will be calculated individually as in Table 40.23.250.

-
2. Bufferyards.
 - a. Where the forested area is two (2) times the width of the bufferyard or seventy-five (75) feet wide, whichever is greater, and to remain undisturbed, the bufferyard requirement shall be considered met. No tree survey is required.
 - b. Where the forested area width equals or exceeds the minimum bufferyard width of the required opacity that does not include a fence, hedge, or berm (Table 40.23.140), all trees with less than ten (10) percent of their CRZ undisturbed shall be credited in accordance with Table 40.23.250.
 3. Lots. The developer shall place a conservation easement on the lot in accordance with Section 40.20.242.
- E. Existing trees used to fill any landscape requirements shall meet the requirements of Section 40.23.280.
 - F. Preserved vegetation shall count for only one (1) landscaping requirement. For example, a sixteen (16)-inch tree to be preserved along a property line may count for three (3) open space trees or three (3) bufferyard trees.
 - G. Preserved tree types (canopy, understory, or evergreen) shall only be credited for the same tree type requirement, except in forests where preservation of forest areas of at least fifty (50) feet in width shall count where all trees in the preserved forest are protected as required in Subsection B. of this Section.

(Ord. No. 97-172, § 3(ch. 13, § 23.250), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021 , § 44, 7-10-2018; Ord. No. 21-009 , § 7, 12-14-2021)

Sec. 40.23.260. Diversity requirements.

Diversity among required plant material shall be required not only for visual interest, but also to reduce the risk of losing large populations of plants due to disease. No one (1) species shall make up more than twenty (20) percent of the planting stock of the entire development.

(Ord. No. 97-172, § 3(ch. 13, § 23.260), 12-31-1997)

Sec. 40.23.270. Tree and plant material quality.

Unless approved by the Department, all trees planted shall be grown in nurseries from within one whole number hardiness zone as the development site as defined by the United States Department of Agriculture (USDA). All plants, plant sizes and planting methods shall be in accordance with the American Standard for Nursery Stock (ANSI Z60.1-2014), as may be amended. All plants used to fulfill the landscape requirements shall come from the permitted plant list in Section 40.23.280, unless the Department approves a different, non-invasive species that it determines is comparable in terms of its ability to accomplish the purpose of this Article, its survivability, and any offsetting environmental or stormwater management benefits.

(Ord. No. 97-172, § 3(ch. 13, § 23.270), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 23.270), 9-22-1998; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 18-021 , § 45, 7-10-2018)

Editor's note(s)—Ord. No. 18-021 , § 45, adopted July 10, 2018, changed the title of Section 40.23.270 from "Tree quality" to "Tree and plant material quality." The historical notation has been preserved for reference purposes.

Sec. 40.23.280. Plant lists.

Appendix 3 to this Chapter contains three (3) plant lists as guidance for plant selection: Part 1: Recommended Plant List; Part 2: Plants to Avoid; and Part 3: Native Plant Species of Special Interest. These lists are not intended to be comprehensive, nor does the use of these plants guarantee Department approval or availability at plant nurseries.

(Ord. No. 97-172, § 3(ch. 13, § 23.280), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-021 , § 46, 7-10-2018)

Editor's note(s)—Ord. No. 18-021 , § 46, adopted July 10, 2018, changed the title of Section 40.23.280 from "Plant material species" to "Plant lists." The historical notation has been preserved for reference purposes.

Division 40.23.300. Tree protection.

Specimen trees shall be located and identified to the species taxonomic level on the site plan or land development plan. The development design shall preserve specimen trees wherever practical. The County may require plan revision where additional preservation is possible without affecting density. Where preservation is not feasible, tree replacement shall be required as mitigation. Any mitigation shall be in addition to the other landscaping requirements of this Code.

(Ord. No. 97-172, § 3(ch. 13, div. 23.300), 12-31-1997; Ord. No. 18-021 , § 47, 7-10-2018)

Sec. 40.23.310. Preserving specimen trees.

A specimen tree is preserved by protecting one hundred (100) percent of the area within the tree's CRZ. The following techniques shall be used to preserve the maximum number of specimen trees:

- A. During construction, the CRZ shall be fenced with five (5) foot temporary fencing, and no earth moving, material storage, vehicular storage or vehicular incursions shall be permitted inside the fenced area. Existing impervious cover within the CRZ may be removed or altered with limited disturbance, provided measures are taken to minimize root disturbance and soil compaction. This may include recommendations for pruning, fertilization and other means to ensure the tree's survival both during and after completion of construction activities. Only those trees with a high probability of survival may be credited.
- B. Development design shall attempt to protect specimen trees by locating them in side yard or other setbacks.
- C. Horizontal road alignments may be reduced. Pavement centerlines may meander in rights-of-way.
- D. Building pads altering the building envelope may be required.
- E. Multi-story buildings may be required to reduce or reconfigure building footprints.

(Ord. No. 97-172, § 3(ch. 13, § 23.310), 12-31-1997; Ord. No. 18-021 , § 48, 7-10-2018; Ord. No. 21-009 , § 8, 12-14-2021)

Sec. 40.23.320. Tree replacement.

- A. Where specimen trees are removed, they shall be replaced in accordance with Table 40.23.320. The replacement trees shall be planted on the same parcel as the tree being removed. The Department may allow some or all of the replacement trees to be planted on an adjacent or nearby parcel with the establishment of a conservation easement and provisions to ensure the perpetual maintenance of the trees. Off-site replacement trees shall be planted at a ratio of two to one (2:1).
- B. The Growth Categories of individual tree species are provided in Appendix 3 of this Chapter.
 - 1. Tree species that generally exhibit slower annual growth rates are accorded a smaller size threshold for specimen tree status.
 - 2. Tree species that generally exhibit faster annual growth rates are accorded a larger size threshold for specimen tree status.
 - 3. For tree species not listed in Appendix 3, the applicant may provide appropriate arboricultural justification for Growth Category assignment.

- C. Upon Department approval, if the site or an adjacent parcel or nearby parcel cannot accommodate the number of required replacement trees, the applicant may meet the requirements of this section by increasing the caliper of trees required by other sections of this Chapter. Determining the size of the caliper shall be calculated as follows and as illustrated in Appendix 3:
1. The sum total of the cross-sectional area of the trunks for all required replacement trees as calculated pursuant to Table 40.23.320 divided by the number of larger trees.
 2. This figure is then added to the trunk cross-sectional area for each of the larger trees.
 3. New caliper figures for each of the larger trees are then calculated from their respective increased cross-sectional areas. Caliper figures shall be rounded up to the nearest one-half (½) inch.
- D. A note indicating the reason for planting trees with larger minimum calipers shall be placed on the landscape plan and referenced to each planting location.

Table 40.23.320
SPECIMEN TREE REPLACEMENT

Size of Specimen Tree (DBH in inches)	Tree Species Growth Category (see Appendix 3)	Number of Replacement Trees	Size and Type
16.00 to 23.99	1	5	3" canopy trees
24.00 to 31.99	1 and 2	7	3" canopy trees
32.00 to 39.99	1, 2 and 3	9	3" canopy trees
40.00 or greater	1, 2 and 3	12	6 - 4" and 6 - 3" canopy trees

(Ord. No. 97-172, § 3(ch. 13, § 23.320), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 18-021 , §§ 49, 50, 7-10-2018)

Division 40.23.400. Sediment and erosion control.

All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook.

(Ord. No. 97-172, § 3(ch. 13, div. 23.400), 12-31-1997)

Division 40.23.500. Tree and plant material maintenance and replacement.

This Division establishes standards for tree and plant material maintenance and replacement.

(Ord. No. 18-021 , § 51, 7-10-2018)

Editor's note(s)—Prior to the reenactment of Division 40.23.500 by Ord. No. 18-021 , § 51, adopted July 10, 2018, Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed Div. 40.23.500, § 40.23.510, in its entirety. Formerly, said division and section pertained to open space and design standards, respectively; as adopted by Ord. No. 97-172, § 3(ch. 13, § 23.510), adopted Dec. 31, 1997. See the Unified Development Comparative Table.

Sec. 40.23.510. Tree and plant material maintenance.

All trees, shrubs and woody plantings required to be planted by this Chapter shall be maintained in a natural growing condition. Pruning or trimming may not alter the general growth habit, appearance or form of a tree, shrub or woody planting, beyond what is typically found in arboricultural or horticultural practices for the given planting context or as designated on the approved landscape plan.

(Ord. No. 18-021 , § 52, 7-10-2018)

Sec. 40.23.520. Tree and plant material replacement.

Tree and plant material required by this Chapter shall be maintained in a healthy manner. After the warranty against defect period, a level of attrition of tree and plant material is allowable.

- A. Allowable attrition rates for total number of plants located within the planting areas defined in Article 4 shall be:
 - 1. Zero (0) percent for street trees and parking lots;
 - 2. Five (5) percent for street and peripheral bufferyards;
 - 3. Ten (10) percent for open space; and
 - 4. Fifteen (15) percent for on-lot.
- B. Any dead, damaged or diseased tree or plant material exceeding the allowable attrition rates shall be replaced unless, as documented by a professional arborist, forester or landscape architect, such tree or plant material can be made healthy.
- C. The Department may consider a limited amount of plant species substitutions for plant material shown on a landscape plan, as amended by a professional landscape architect, without the filing of a new landscape plan.

(Ord. No. 18-021 , § 53, 7-10-2018)

ARTICLE 24. SPECIAL SUBDIVISIONS

Division 40.24.000. Purpose.

In addition to those subdivisions permitted by this Chapter, this Special Subdivisions Article has been provided to encourage the preservation of agricultural areas.

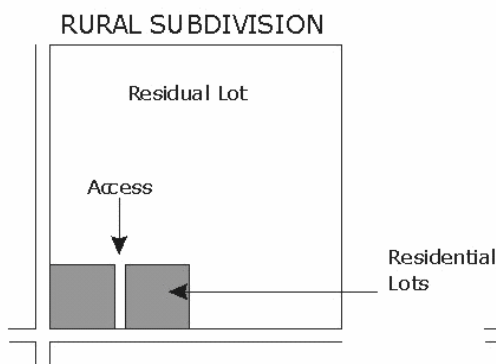
(Ord. No. 97-172, § 3(ch. 13, div. 24.000), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.24.010. Types of special subdivisions.

The authorized special subdivisions and their purposes are as listed below and shown in Figure 40.24.010.

- A. *Rural subdivision.* This subdivision provides limited development opportunity in the Suburban Reserve if the landowner desires to continue agricultural operations, house family members, or raise income to supplement agricultural operations. It may also be used in areas where growth potential is limited by facilities capacity. This subdivision permits development at minimal cost while providing access protection along existing streets. The rural subdivision permits a landowner to subdivide a large tract up into four (4) lots; these lots are designated the "residential lots." The remaining parcel is designated the "residual lot." The "residual lot" shall be included as part of the final plan for recordation purposes. The "residential lot" shall be used in part for access and as a reserve for future development that promotes sound land use patterns. The "residual lot" shall contain a note alerting the "residual lot" owner of the requirements for development at such time further subdivision on such "lot" is proposed.

Figure 40.24.010
SPECIAL SUBDIVISIONS



(Ord. No. 97-172, § 3(ch. 13, § 24.010), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Division 40.24.100. Rural subdivision.

All special subdivisions permit development with special treatment of local streets. No parcel, in existence at the time this Code takes effect, shall use this special subdivision process more than once regardless of change in ownership. No further subdivision of a lot or the residual lot created by a special subdivision shall be permitted except as a major subdivision meeting the requirements of this Code. The requirements in Sections 40.24.110 through 40.24.130 must be met for a development to qualify as a special subdivision.

(Ord. No. 97-172, § 3(ch. 13, div. 24.100), 12-31-1997)

Sec. 40.24.110. Rural subdivisions.

The parcel upon which a rural subdivision is proposed shall have at least two (2) and no more than four (4) lots in addition to the residual lot. No parcel shall be able to use the rural subdivision standards unless it meets the minimum area standards in Table 40.24.110. Lot sizes shall be no smaller than two (2) acres.

Table 40.24.110
MINIMUM AREA STANDARDS FOR RURAL SUBDIVISIONS

Number of Lots	Acreage
2	35
3	55
4	75

(Ord. No. 97-172, § 3(ch. 13, § 24.110), 12-31-1997)

Sec. 40.24.120. Conditions and limitations.

Special subdivisions shall meet the following conditions and limitations. Where the adjoining public right-of-way is an arterial or collector street the required right-of-way of such streets shall be dedicated to standards as designated by DelDOT.

- A. All lots shall take access from an easement having a minimum width of sixty (60) feet located on the residual parcel. The access easement shall be improved in accordance with Division 40.21.200.
- B. Any lot abutting a public right-of-way, classified as a collector or above, shall have an accompanying plan note prohibiting access to that road or street.
- C. The responsibility of the residual lot owner to pave roads and install all public utilities, water, sewer, and storm drainage for the initial lots shall be noted on the final plan.

(Ord. No. 97-172, § 3(ch. 13, § 24.120), 12-31-1997)

Sec. 40.24.130. Requirement for residual lots.

A note shall appear on all plans for rural subdivisions specifying that the residual lot cannot be further subdivided until all public improvements for water, sewer, and roads are satisfied, or when infrastructure improvement results in an increased density pursuant to Article 5. The note on the plan shall specify that the developer of the residual lot shall be responsible to improve all streets, utilities, and drainage for the subdivision's initial lots in accordance with this Code, in conjunction with the subsequent planning of the residual parcel.

(Ord. No. 97-172, § 3(ch. 13, § 24.130), 12-31-1997)

Division 40.24.200. Reserved.¹

Secs. 40.24.210, 40.24.220. Reserved.

Division 40.24.300. Reserved.²

Sec. 40.24.310. Reserved.

¹Editor's note(s)—Ord. No. 09-037, § 1, adopted October 13, 2009, repealed the former Division 40.24.200, §§ 40.24.210 and 40.24.220 in its entirety, which pertained to village staged development, and derived from Ord. No. 97-172, § 3(ch. 13, div. 24.200, §§ 24.210, 24.220), adopted December 31, 1997.

²Editor's note(s)—Ord. No. 10-113, § 1(Exh. A), adopted January 18, 2011, repealed the former Division 40.24.300, § 40.24.310 in its entirety, which pertained to staged septic development, and derived from Ord. No. 97-172, § 3(ch. 13, § 24.310), adopted December 31, 1997.

ARTICLE 25. DESIGN

Division 40.25.000. Purpose.

- A. This Article addresses the design standards to be applied to specific uses and general subdivisions. It also provides regulations to ensure the quality of development and prevent monotony. Villages, hamlets, and the Traditional Neighborhood (TN) District all require special design controls if they are to be successful.
- B. In traditional communities and neighborhoods around the nation as well as in the County, buildings were built incrementally in small numbers so blocks developed over an extended period. The result is a great diversity in scale, style, and detail. Modern development practices often result in large numbers of mass produced housing that is often monotonous and has given large areas of the County a less than desirable character. Article 25 addresses the design issues of various developments.

(Ord. No. 97-172, § 3(ch. 13, div. 25.000), 12-31-1997)

Division 40.25.100. Hamlet and village design.¹

Sec. 40.25.105. Purpose.

The 2007 New Castle County Comprehensive Development Plan Update recognized that while the UDC has made great strides to improving the quality of development and the protection of natural resources in New Castle County since its adoption in December 1997, the ability of the hamlet and village options as written to incorporate and embrace the core principle focus of smart growth development was lacking. The standards and design criteria in this Division now support and sustain the following ten (10) principles of smart growth development.

- A. Provide and encourage for a variety of transportation choices.
- B. Encourage and create mixed land use.
- C. Create a range of housing choices and opportunities.
- D. Create walkable neighborhoods.
- E. Encourage community and stakeholder collaboration.
- F. Foster distinctive, attractive communities with a strong sense of place.
- G. Make development decisions predictable, fair and cost effective.
- H. Preserve open space, farmland, natural beauty and critical environmental areas.
- I. Strengthen and direct development towards existing communities.
- J. Take advantage of compact building design and efficient transportation design.

(Ord. No. 09-037, § 1, 10-13-2009)

¹Editor's note(s)—Ord. No. 09-037, § 1, adopted October 13, 2009, amended Division 40.25.100 in its entirety to read as herein set out. Formerly, Division 40.25.100, §§ 40.25.110—40.25.170 pertained to similar subject matter, and derived from Ord. No. 97-172, § 3(ch. 13, §§ 25.110—25.170), adopted December 31, 1997, and Ord. No. 98-080, § 1(ch. 13, § 25.130), adopted September 22, 1998.

Sec. 40.25.110. General to all plans.

Sec. 40.25.111. Applicability.

- A. Provisions in this Division are activated by "shall" when required and "should" when recommended.
- B. The provisions of this Division, when in conflict, shall take precedence over other Divisions and Sections in this Code.
- C. This Code shall continue to be applicable to standards and regulations not covered by this Division. The nonresidential standards in Table 40.10.010 pertaining to resource protection levels shall apply to village and hamlet development.
- D. Section 40.25.150 contains regulatory language that is integral to this Division. Those terms not defined in either Section 40.25.150 or Article 33 shall be accorded their commonly accepted meanings. In the event of conflicts between these definitions and those used elsewhere in this Code, those of this Division shall take precedence.
- E. All Tables referenced in this Division are located in Section 40.25.140.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.25.112. Process.

All plans submitted in accordance of this Division shall be processed pursuant to Article 31 and Appendix 1 of this Chapter.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.25.113. Waivers and variances.

- A. There shall be two (2) types of deviation from the requirements of this Division: waivers and variances.
- B. A waiver is a ruling that would permit a practice that is not consistent with a specific provision of this Division but is justified by purpose of this Division. The Department shall have the authority to approve or disapprove administratively a request for a waiver pursuant to standards promulgated by the Department. When a particular standard is waived or the requirements are reduced, the Department shall require that a note be placed on the record plan identifying the reasons why a particular standard was reduced or waived.
- C. A variance is any ruling on a deviation other than a waiver. Variance applications shall be heard by the Planning Board pursuant to the standards and processes of Section 40.31.452 through Section 40.31.455.
 - 1. During the processing of the plan and prior to recordation or during a resubdivision to change or modify the design of the project all variances shall be considered a subdivision variance and shall be heard and decided by the Planning Board.
 - 2. Any dimensional variance requests subsequent to recordation of the plan for an individual lot by a property owner shall be considered a zoning variance and heard and decided by the Board of Adjustment.
- D. The request for a waiver or variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the specific issue requiring the relief.
- E. The following standards and requirements shall not be available for waivers:
 - 1. The required provision of rear alleys and rear lanes.
 - 2. The permission to build accessory buildings.
 - 3. The minimum requirements for parking.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-055, § 1, 12-17-2013)

Sec. 40.25.120. Hamlet and village plans.

Sec. 40.25.121. Instructions.

- A. The use of this Division for new projects containing at least fifty (50) contiguous acres shall be available by right.
- B. Projects proposed in this Division must be zoned Suburban (S) and be served or planned to be served by public sewer in the Comprehensive Development Plan.
- C. Section 40.25.120 plans must include a regulating plan consisting of one (1) or more maps showing the following, in compliance with the standards described in this Division:
 - 1. Transect zones.
 - 2. Civic areas.
 - 3. Thoroughfare network.
 - 4. Special requirements, if any.
 - 5. Requested waivers or variances, if any.
- D. Section 40.25.120 plans must comply with the Traditional Neighborhood Housing Program provisions of Division 40.07.500, which are incorporated herein by reference.
- E. Any other density bonus established by this Chapter is not available for this development option.
- F. Prior to Section 40.25.120 plan approval, the developer shall establish or identify the appropriate organization that shall be responsible for owning, maintaining and managing all civic areas that are intended to be shared among multiple communities. Cross-access and maintenance agreements for shared civic areas shall be established as required by the Department. Article 27 shall apply to this development option to the extent practicable. However, due to the unique design features of the village and hamlet development option, the Department may approve alternative ownership and maintenance arrangements for the civic areas. All forms shall be approved by the Department and the Office of Law prior to recordation.
- G. The project must propose access to transit services. Access to transit services shall mean:
 - 1. Any proposed development or portion thereof within a one-quarter ($\frac{1}{4}$) mile walking distance to the nearest bus stop; or
 - 2. Any proposed development or portion thereof within a two (2) mile radius of an existing transit park and ride facility or one that is proposed and constructed prior to the issuance of the first certificate of occupancy.
- H. Proposed revisions to recorded land development plans must be approved by County Council.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-055, § 2, 12-17-2013; Ord. No. [23-084](#), § 1, 1-9-2024)

Sec. 40.25.122. Sequence of community design.

- A. The site shall be structured using one (1) or several pedestrian sheds, responding to existing conditions, adjacent developments, connecting thoroughfares, and natural features. The site or any community within it may be smaller than its pedestrian shed.
- B. The pedestrian sheds shall determine the approximate boundaries and centers of the community types.
- C. Transect zones shall be allocated by pedestrian shed according to the applicable community type in Section 40.25.123.
- D. Civic areas shall be assigned according to Section 40.25.125.

- E. The thoroughfare network shall be laid out according to Section 40.25.126.
 - F. Density shall be calculated according to Section 40.25.127.
 - G. Remnants of the site outside the pedestrian sheds shall be assigned to transect zones or civic space.
- (Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 13-055, § 3, 12-17-2013)

Sec. 40.25.123. Community types.

- A. *Hamlet.*
 - 1. A hamlet shall be structured by a minimum of one (1) standard pedestrian shed and shall consist of no fewer than fifty (50) acres and no more than one hundred (100) acres.
 - 2. A hamlet shall include transect zones as allocated on Table 14. A minimum of thirty-five (35) percent of the community shall be permanently allocated to a T1 Natural Zone and/or T2 Rural Zone.
- B. *Village.*
 - 1. A village shall be structured by one (1) or more standard or linear pedestrian sheds and shall be no fewer than one hundred (100) acres.
 - 2. A village shall include transect zones as allocated on Table 14.
 - 3. Larger sites shall be designed and developed as multiple communities, each subject to the individual transect zone requirements for its type as allocated on Table 14. The simultaneous planning of adjacent parcels is encouraged.
 - 4. In the T-4 General Urban Zone, a minimum residential mix of three (3) building disposition types (none less than twenty (20) percent) shall be required, selected from Table 9.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.124. Transect zones.

- A. Transect zones shall be assigned and mapped on each Section 40.25.120 plan according to the percentages allocated on Table 14.
- B. A transect zone may include any of the elements indicated for its T-Zone number throughout this Division, in accordance with the metric standards summarized in Table 14.
- C. Transect zones are not zoning districts, but are applicable only to the Section 40.25.120 development plan. The underlying New Castle County zoning districts will continue to be applicable to standards and regulations not addressed by the development plan.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.125. Civic areas.

- A. *General.* Civic areas dedicated for community or public use shall be required for each community and designated on the Section 40.25.120 plan as civic spaces (CS), civic buildings (CB) and civic parking (CP) areas.
 - 1. Civic spaces are sites permanently dedicated to open space.
 - 2. Civic building areas are sites dedicated for buildings generally operated by governmental or not-for-profit organizations dedicated to culture, education, religion, government, recreation, transit and municipal parking, or for other similar uses approved by the Department.
 - 3. Civic parking areas are off-street and off-lot parking areas or structures available for use by the general public.

4. Civic buildings and civic parking areas shall be designated on the Section 40.25.120 plan.
 5. All civic areas shall have an underlying transect zone, and the acreage of civic areas shall be calculated as part of the allocation of pedestrian sheds required by Section 40.25.140 Table 14 (a).
- B. *Civic areas specific to T1 and T2 zones.* Civic buildings and civic spaces within T1 natural and T2 rural zones shall be permitted pursuant to Table 40.10.210.
- C. *Civic areas specific to T3-T5 zones.*
1. Each pedestrian shed shall assign at least five (5) percent of its urbanized area to civic spaces and/or civic building areas. Thoroughfares and civic parking areas shall not be included within this calculation.
 2. Civic spaces shall be designed as generally described in Table 40.25.140 13a-13e distributed throughout transect zones as described in Table 40.25.104 14.
 3. Each pedestrian shed shall contain at least one (1) main civic space. The main civic space shall be within eight hundred (800) feet of the geographic center of each pedestrian shed, unless topographic conditions, pre-existing thoroughfare alignments or other existing circumstances prevent such location. A main civic space shall conform to one (1) of the types specified in Table 13b, 13c, or 13d.
 4. Each civic space shall have a minimum of fifty (50) percent of its perimeter enfronting a thoroughfare, except for playgrounds and rambles.
 5. Parks may be permitted in transect zones T4 and T5.
 6. Rambles shall be permitted as civic spaces, but only if the five (5) percent minimum civic space is satisfied by other types in Section 40.25.140, Table 40.25.140 13.
- D. *Civic building areas specific to T3-T5 zones.*
1. Civic building areas shall not occupy more than twenty (20) percent of the area of each pedestrian shed.
 2. Civic building areas should be located within or adjacent to a civic space, or at the axial termination of a significant thoroughfare.
 3. Civic building areas shall be designed as generally described in Table 40.25.140 13f.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-055, § 4, 12-17-2013)

Editor's note(s)—Ord. No. 13-055, § 4, adopted December 17, 2013, changed the title of Section 40.25.125 from "Civic zones" to "Civic areas." The historical notation has been preserved for reference purposes.

Sec. 40.25.126. Thoroughfare standards.

The purpose of these thoroughfare standards is to serve as a guide for the design of the hamlet and/or village plan. Final thoroughfare standards shall be as approved by DelDOT. Items that are not in the right-of-way are subject to County approval.

A. *General.*

1. Thoroughfares are intended for use by vehicular, bicycle and pedestrian traffic and to provide access to lots and open spaces.
2. Thoroughfares shall generally consist of vehicular lanes and public frontages.
3. Thoroughfares shall be designed in context with the urban form and desired design speed of the transect zones through which they pass. The public frontages of thoroughfares that pass from one (1) transect zone to another shall be adjusted accordingly or, alternatively, the transect zone may follow the alignment of the thoroughfare to the depth of one (1) lot, retaining a single public frontage throughout its trajectory.

4. Within the most rural zones (T1 and T2) pedestrian comfort shall be a secondary consideration of the thoroughfare. Design conflict between vehicular and pedestrian generally shall be decided in favor of the vehicle. Within the more urban transect zones (T3 through T5) pedestrian comfort shall be a primary consideration of the thoroughfare. Design conflict between vehicular and pedestrian movement generally shall be decided in favor of the pedestrian.
 5. The thoroughfare network shall be designed to define blocks not exceeding the size prescribed in Table 14. The perimeter shall be measured as the sum of lot frontage lines.
 6. All thoroughfares shall terminate at other thoroughfares, forming a network. Internal thoroughfares shall connect when feasible to those on adjacent sites. Culs-de-sac may be permitted to accommodate specific site conditions only.
 7. Each lot shall enfront a vehicular thoroughfare, except that twenty (20) percent of the lots within each transect zone may enfront a passage or sidewalk.
 8. Thoroughfares along a designated B-grid may be exempted by waiver from one (1) or more of the specified public frontage or private frontage requirements.
 9. Standards for paths and bicycle trails shall be a minimum of five (5) foot paved surface. For multi-use paths, the Department may require wider paths.
- B. *Vehicular lanes.*
1. Thoroughfares may include vehicular lanes in a variety of widths for parked and for moving vehicles, including bicycles.
 2. A bicycle network consisting of bicycle trails, bicycle routes, bicycle lanes and bike racks at regular intervals shall be provided throughout as defined in Section 40.25.150. The community bicycle network shall be connected to existing or proposed regional networks wherever possible.
- C. *Public frontages.*
1. *General to all zones T1, T2, T3, T4, T5.*
 - a. The public frontage contributes to the character of the transect zone, and includes the types of sidewalk, curb, planter, bike lanes and street trees.
 - b. Public frontages shall be designed as shown in Table 4A and Table 4B.
 - c. Within the public frontages, the prescribed types of public planting and public lighting shall be as shown in Table 4A and Table 4B, and in Section 40.04.111. The spacing for street trees may be adjusted to accommodate specific site conditions.
 2. *Specific to zones T1, T2, T3.*
 - a. The public frontage shall include trees of various species, naturalistically clustered, as well as understory.
 - b. The introduced landscape shall consist primarily of native species requiring minimal irrigation, fertilization and maintenance.
 3. *Specific to zones T4, T5.* The introduced landscape shall consist primarily of durable species tolerant of soil compaction.
 - a. Rear lanes or rear alleys shall be required in T4 and T5.
 - b. The provisions of Section 40.04.240 shall not be applicable to T4 and T5 transect zones.
 4. *Specific to zone T4.* The public frontage shall include trees planted in a regularly-spaced allee pattern of single or alternated species with shade canopies of a height that, at maturity, clears at least one (1) story.
-

5. *Specific to zone T5.* The public frontage shall include trees planted in a regularly-spaced allee pattern of single species with shade canopies of a height that, at maturity, clears at least one (1) story. At retail frontages, the spacing of the trees may be irregular, to avoid visually obscuring the shopfronts.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-055, § 5, 12-17-2013)

Sec. 40.25.127. Density calculations.

- A. All areas of the Section 40.25.120 plan site that are not part of T-1 shall be considered cumulatively the net site area. The net site area shall be allocated to the various transect zones according to the parameters specified in Table 14a. All protected resources from Article 10 shall be included in T-1.
- B. Density shall be expressed in terms of housing units per acre as specified for the area of each transect zone by Table 14b. For purposes of density calculation, the transect zones include the thoroughfares.
- C. Reserved.
- D. Within the percentage range shown on Table 14b for other functions, the housing units specified on Table 14b shall be exchanged at the following rates:
 1. For lodging: Two (2) bedrooms for each unit of net site area density.
 2. For office or retail: One thousand three hundred (1,300) square feet for each unit of net site area density.
- E. The housing and other functions for each transect zone shall be subject to further adjustment at the building scale as limited by Table 10 and Table 11 and Section 40.25.130.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.25.128. Special requirements.

- A. A Section 40.25.120 plan shall designate any of the following special requirements:
 1. A differentiation of the thoroughfares as A-grid and B-grid. Buildings along the A-grid shall be held to the highest standard of this Code in support of pedestrian activity. Buildings along the B-grid may be designed for more automobile-oriented standards. The frontages assigned to the B-grid shall not exceed thirty (30) percent of the total length of frontages within a pedestrian shed.
 2. Designations for mandatory and/or recommended retail frontage requiring or advising that a building provide a shopfront at sidewalk level along the entire length of its private frontage. The shopfront shall be no less than seventy (70) percent glazed in clear glass and shaded by an awning overlapping the sidewalk as generally illustrated in Table 7. The first floor shall be confined to retail use through the depth of the second layer.
 3. Designations for mandatory and/or recommended gallery frontage, requiring or advising that a building provide a permanent cover over the sidewalk, either cantilevered or supported by columns. The gallery frontage designation may be combined with a retail frontage designation.
 4. Reserved.
 5. Reserved.
 6. Designations for mandatory and/or recommended terminated vista locations, requiring or advising that the building be provided with architectural articulation of a type and character that responds visually to the location, as approved by the Department.
 7. A designation for cross block passages, requiring that a minimum eight-foot wide pedestrian access be reserved between buildings.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.130. Building scale plans.

Sec. 40.25.131. Instructions.

Lots and buildings located within Section 40.25.120 plans subject to this Division shall be subject to the requirements of Sections 40.25.132 through 40.25.139.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.132. Reserved.

Sec. 40.25.133. Building disposition.

- A. *Specific to zone T2.* Building disposition setback shall be a minimum of thirty-six (36) feet off the public frontage. Side yard setbacks shall be a minimum of twenty-four (24) feet and rear yard setbacks shall be a minimum of twenty-four (24) feet.
- B. *Specific to zones T3, T4, T5.*
 - 1. Newly platted lots shall be dimensioned according to Table 14f and Table 15.
 - 2. Building disposition types shall be as shown in Table 9.
 - 3. Buildings shall be disposed in relation to the boundaries of their lots according to Table 14g and Table 15.
 - 4. One (1) principal building at the frontage, and one (1) outbuilding to the rear of the principal building, may be built on each lot.
 - 5. Lot coverage by building shall not exceed that recorded in Table 14f and Table 15.
 - 6. Facades shall be built parallel to a rectilinear principal frontage line or to the tangent of a curved principal frontage line, and along a minimum percentage of the frontage length at the setback, as specified on Table 14g and Table 15.
 - 7. Setbacks for principal buildings shall be as shown in Table 14g and Table 15.
 - 8. Rear setbacks for outbuildings shall be a minimum of twelve (12) feet measured from the centerline of the rear alley or rear lane easement. in the absence of rear alley or rear lane, the rear setback shall be as shown in Table 14h and Table 15.
 - 9. Encroachments shall not project into a ROW, except to the extent permitted by DelDOT.
- C. *Specific to zone T4.* A minimum residential housing mix of three (3) types (none less than twenty (20) percent) shall be required in the T4 zone.
- D. *Specific to zone T5.* The principal entrance shall be on a frontage line.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.134. Building configuration.

- A. *General to zones T2, T3, T4, T5.*
 - 1. The private frontage of buildings shall conform to and be allocated in accordance with Table 7 and Table 14i.
 - 2. Buildings on corner lots shall have two (2) private frontages. Prescriptions for the parking layers (Tables 15 and 16) pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages.
 - 3. Building heights and stepbacks shall conform to Table 8 and Table 14j.

4. Stories may not exceed fourteen (14) feet in height from finished floor to finished ceiling, except for a first floor commercial function, which shall be a minimum of eleven (11) feet, with a maximum of twenty-five (25) feet. A single floor level exceeding fourteen (14) feet, or twenty-five (25) feet at ground level, shall be counted as two (2) stories. Mezzanines extending beyond thirty-three (33) percent of the floor area shall be counted as an additional story. Established residential uses may be converted to a commercial use without meeting the minimum eleven (11) foot first floor height standard.
 5. In a parking structure or garage, each level counts as a single story regardless of its relationship to habitable stories.
 6. Height limits do not apply to attics or raised basements, masts, belfries, clock towers, chimney flues, water tanks, or elevator bulkheads.
 7. Encroachments shall not project into a ROW, except to the extent permitted by DelDOT.
- B. *Specific to zones T2, T3, T4, T5.* The minimum size of a dwelling within a principal building shall be three hundred (300) square feet in interior space. Outbuildings may be any size.
- C. *Specific to zone T3.*
1. No portion of the private frontage may encroach the sidewalk, unless permitted by DelDOT.
 2. Open porches may encroach the first layer fifty (50) percent of its depth.
 3. Balconies and bay windows may encroach the first layer twenty-five (25) percent of its depth.
- D. *Specific to zone T4.*
1. Balconies, open porches and bay windows may encroach the first layer fifty (50) percent of its depth.
 2. To the extent permitted by DelDOT, awnings may encroach the sidewalk to within two (2) feet of the curb but must clear the sidewalk vertically by at least eight (8) feet.
- E. *Specific to zone T5.*
1. To the extent permitted by DelDOT, awnings, arcades, and galleries may encroach the sidewalk to no closer than two (2) feet of the curb but must clear the sidewalk vertically by at least eight (8) feet.
 2. Stoops, lightwells, balconies, bay windows, and terraces may encroach the first layer one hundred (100) percent of its depth. To the extent permitted by DelDOT, balconies and bay windows may encroach the sidewalk twenty-five (25) percent of its depth.
 3. Loading docks shall not be permitted on frontages.
 4. In the absence of a building facade along any part of a frontage line, a streetscreen shall be built coplanar with the facade.
 5. Streetscreens should be between three and one-half (3.5) and eight (8) feet in height. The streetscreen may be replaced by a hedge. Streetscreens shall have openings no larger than necessary to allow automobile and pedestrian access.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 13-055, § 6, 12-17-2013)

Sec. 40.25.135. Building function.

- A. *General to zones T2, T3, T4, T5.* Buildings in each transect zone shall conform to the functions on Table 10 and Table 12 and Table 14k. Uses not permitted by Table 12, may be permitted if the underlying zoning district permits such use as a permitted, limited use, or special use and subject to the same standards and limitations.
- B. *Specific to zones T2, T3.* Accessory functions of restricted lodging or restricted office shall be permitted within an outbuilding. See Table 10.

- C. *Specific to zones T4, T5.* Accessory functions of limited lodging or limited office shall be permitted within an outbuilding. See Table 10.
- D. *Specific to zone T5.*
 - 1. First story commercial functions shall be permitted.
 - 2. Reserved.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.136. Parking and density calculations.

- A. *Specific to zones T2, T3.* Buildable density on a lot shall be determined by the actual parking provided within the lot as applied to the functions permitted in Table 10.
- B. *Specific to zones T4, T5.*
 - 1. Buildable density on a lot shall be determined by the sum of the actual parking calculated as that provided: (1) within the lot; (2) along the parking lane corresponding to the lot frontage; and, (3) by purchase or lease from a civic parking reserve within the pedestrian shed, if available.
 - 2. The actual parking may be adjusted upward according to the shared parking factor of Table 11 to determine the effective parking. The shared parking factor is available for any two (2) functions within any pair of adjacent blocks.
 - 3. Based on the effective parking available, the density of the projected function may be determined according to Table 10.
 - 4. Reserved.
 - 5. The total density within each transect zone shall not exceed that specified by an approved Section 40.25.120 plan.
 - 6. Accessory units do not count toward density calculations.
 - 7. Liner buildings less than thirty (30) feet deep and no more than two (2) stories shall be exempt from parking requirements.
- C. *Parking space maximums for any transect zone.* Table 11 provides a limit to the maximum number of parking spaces that may be provided on-site.

(Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.137. Parking location standards.

- A. *General to zones T2, T3, T4, T5.*
 - 1. Parking shall be accessed by rear alleys or rear lanes, when such are available on the regulating plan.
 - 2. Open parking areas shall be masked from the frontage by a building or streetscreen.
- B. *Specific to zones T2, T3.*
 - 1. Open parking areas shall be located at the second and third lot layers, except that driveways, drop-offs and unpaved parking areas may be located at the first lot layer.
 - 2. Garages shall be located at the third lot layer except that side- or rear-entry types may be allowed in the first or second lot layer by waiver.
 - 3. Reserved.
- C. *Specific to zones T3, T4.* Driveways at frontages shall be no wider than ten (10) feet in the first layer.
- D. *Specific to zone T4.* All parking areas and garages shall be located at the second or third layer.
- E. *Specific to zone T5.*
 - 1. All parking lots, garages, and parking structures shall be located at the second or third lot layer.
 - 2. Vehicular entrances to parking lots, garages, and parking structures shall be no wider than twenty-four (24) feet at the frontage.
 - 3. Pedestrian exits from all parking lots, garages, and parking structures shall be directly to a frontage line and may include direct access to a building.
 - 4. Parking structures on A-grids shall have liner buildings lining the first and second stories.
 - 5. Bicycle parking shall be provided pursuant to Section 40.03.527 and as part of the public streetscape at locations approved by the Department.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.25.138. Landscape standards.

- A. *General to zones T2, T3, T4, T5.*
 - 1. Impermeable surface shall be confined to the ratio of lot coverage specified in Table 14f.
 - 2. Perimeter buffers of three-tenths (0.3) opacity shall be established except where like developments exist. An additional one-tenth (0.1) opacity parking buffer is also required.
- B. *Specific to zones T2, T3.*
 - 1. The first layer may not be paved, with the exception of driveways as specified in Section 40.25.137.
 - 2. Landscaping standards shall be pursuant to Section 40.04.111.
- C. *Specific to T4.* A minimum of one (1) tree shall be planted within the first layer for each thirty (30) feet of frontage line or portion thereof.
- D. *Reserved.*
- E. *Specific to zone T5.* Landscaping shall be required for all parking lots and shall require a four-foot high masonry wall, fence, or landscape screen.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

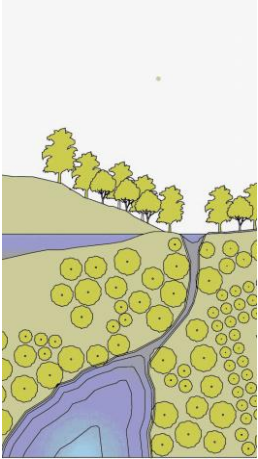
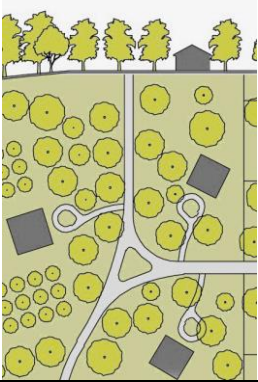
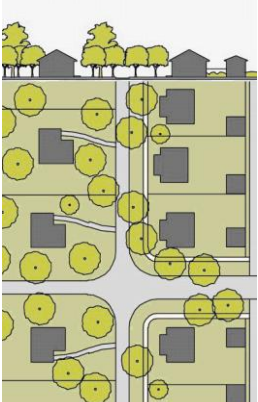
Sec. 40.25.139. Reserved.

Sec. 40.25.140. Standards and tables.

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Table 1. Transect Zone Descriptions
(This table describes the intent of each transect zone.)

Transect Zone	Picture	Description Type	
T1— Natural		General character	Natural landscape with some agricultural use
		Building placement	Not applicable
		Frontage types	Not applicable
		Typical building height	Not applicable
		Type of civic space	Parks, greenways
T2— Rural		General character	Primarily agricultural with woodland and scattered buildings
		Building placement	Variable setbacks
		Frontage types	Not applicable
		Typical building height	1 to 2 story
		Type of civic space	Parks, greenways
T3— Suburban		General character	Lawns, and landscaped yards surrounding detached single-family houses; pedestrians occasionally
		Building placement	Large and variable front and side yard setbacks
		Frontage types	Porches, fences, naturalistic tree planting
		Typical building height	1 to 2 story with some 3 story
		Type of civic space	Parks, greenways
T4— General Urban		General character	Mix of houses, townhouses and small apartment buildings, with scattered commercial activity; balance landscape and buildings; presence of pedestrians

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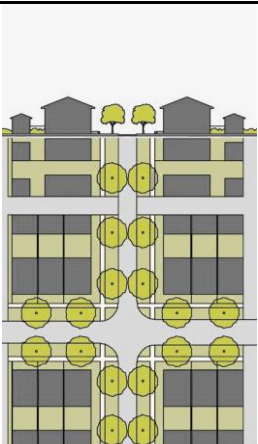
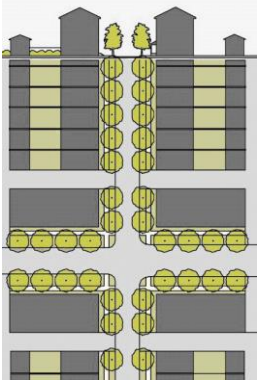
		Building placement	Shallow to medium front and rear yard setbacks
		Frontage types	Porches, fences, dooryards
		Typical building height	2 to 3 story with a few taller mixed use buildings
		Type of civic space	Squares, greens
T5— Urban Center		General character	Shops mixed with townhouses, larger apartment houses, offices workplaces, and civic buildings; predominantly attached buildings; trees within the public right-of-way; substantial pedestrian activity
		Building placement	Shallow setbacks or none; building oriented to street defining a street wall
		Frontage types	Stoops, shopfronts, galleries
		Typical building height	2 to 5 story with some single story limited to 20% of nonresidential GFA. Subject to Department approval, to ensure that the design elements and facade contribute to the viability of the urban center.
		Type of civic space	Parks, plazas and squares, median landscaping

Table 2. Reserved. (Sector/Community Allocation)

Table 3A. Reserved. (Vehicular Lane Dimensions)

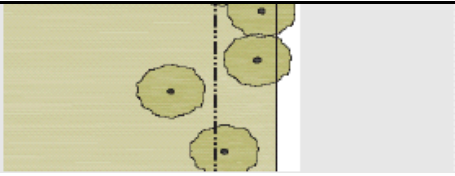
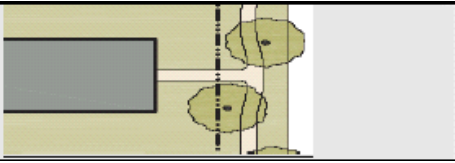
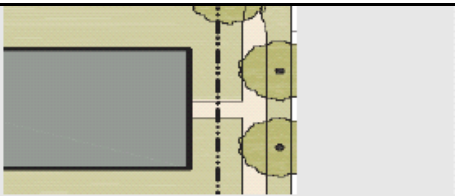
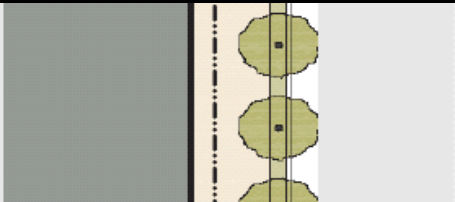
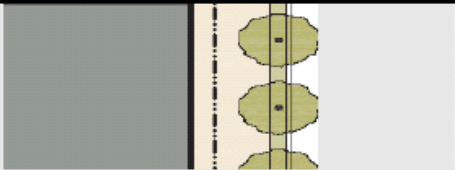
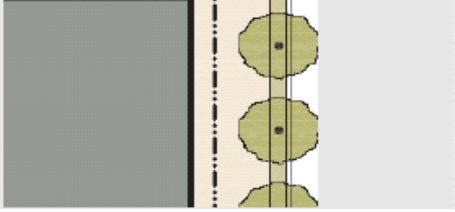
Table 3B. Reserved. (Vehicular Lane and Parking Assemblies)

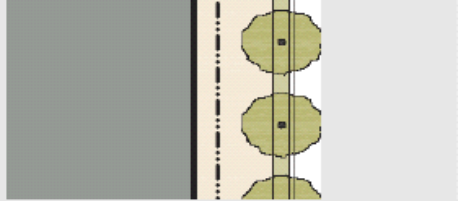
Table 3C. Reserved. (Thoroughfare Assemblies)

Table 4A. Public Frontages—General

(The public frontage is the area between the private lot line and the edge of the vehicular lands. Dimensions are given in Table 4B.)

Transect Zones	Thoroughfare Types	Plan			
		Lot	⇒	⇐	R.O.W.
		Private Frontage	⇒	⇐	Public Frontage

T1 T2 T3	a. Highway (HW): This frontage has open swales drained by percolation, bicycle trails and no parking. The landscaping consists of the natural condition or multiple species arrayed in naturalistic clusters. Buildings are buffered by distance or berms.	
T1 T2 T3	b. Road (RD): This frontage has open swales drained by percolation and a walking path or bicycle trail alone one (1) or both sides and yield parking. The landscaping consists of multiple species arrayed in naturalistic clusters.	
T3 T4 T5	c. (ST) for street: This frontage has raised curbs drained by inlets and sidewalks separated from the vehicular lanes by individual or continuous planters, with parking on one (1) or both sides. The landscaping consists of street trees or a single or alternating species aligned in a regularly spaced alley.	
T3 T4 T5	d. (DR) for drive: This frontage has raised curbs drained by inlets and a wide sidewalk or paved path along one (1) side, related to greenway or waterfront. It is separated from the vehicular lanes by individual or continuous planters. The landscaping consists of street trees of a single or alternating species aligned in a regularly spaced alley.	
T3 T4 T5	e. (AV) for avenue: This frontage has raised curbs drained by inlets and wide sidewalks separated from the vehicular lanes by a narrow continuous planter with parking on both sides. The landscaping consists of a single tree species aligned in a regularly spaced alley.	
T5	f. (CS) (AV) for commercial street or avenue: This frontage has raised curbs drained by inlets and very wide sidewalks along both sides separated from the vehicular lanes by separate tree wells with grates and parking on both sides. The landscaping consists of a single tree aligned with regular	

	spacing where possible but clears the storefront entrances.	
T3 T4 T5	g. (BV) for boulevard: This frontage has slip roads on both sides. It consists of raised curbs drained by inlets and sidewalks along both sides, separated from the vehicular lanes by planters. The landscaping consists of double rows of a single tree species aligned in a regularly spaced allee.	

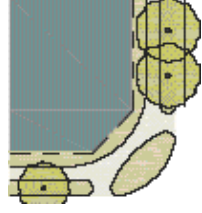
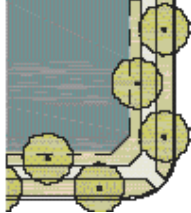
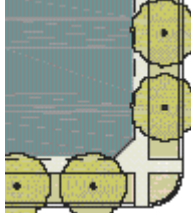
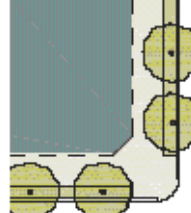
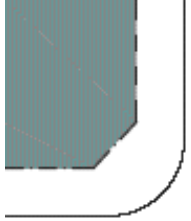
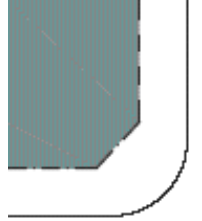
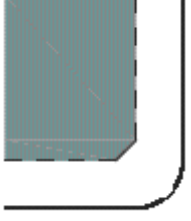
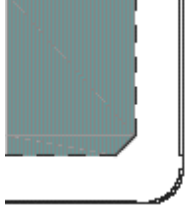
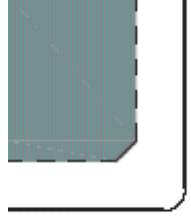
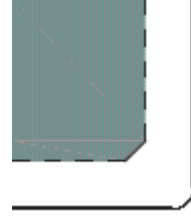
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Table 4B. Public Frontages—Specific

(This table assembles prescriptions and dimensions for the public frontage elements - curbs, walkways and planters - relative to specific thoroughfare types within transect zones.

Locally appropriate planting species should be filled in to the calibrated code.)

For illustrative purposes only. Subject to DelDOT approval.

Transect	T1, T2, T3	T1, T2, T3	T3, T4	T4, T5	T5	T5
Zone						
Public	HW and RD	RD and ST	ST, DR, and AV	ST, DR, AV, and BV	CS, DR, AV, and BV	CS, DR, AV, and BV
Frontage						
Type						
Assembly: The principal variables are the type and dimension of curbs, walkways, planters and landscape.						
Total width	16—24 feet	12—24 feet	12—18 feet	12—18 feet	18—24 feet	18—30 feet
Curb: The detailing of the edge of the vehicular pavement, incorporating drainage.						
Type	open swale	open swale	raised curb	raised curb	raised curb	raised curb
Radius	10—30 feet	10—30 feet	5—20 feet	5—20 feet	5—20 feet	5—20 feet

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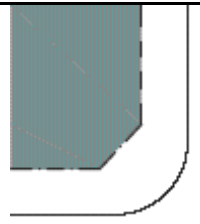
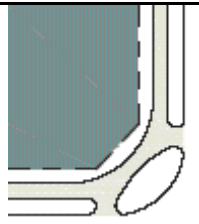
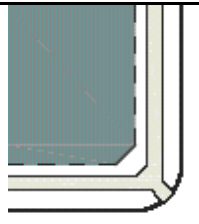
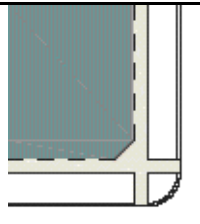
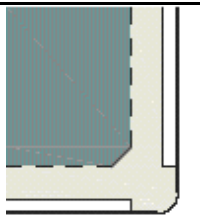
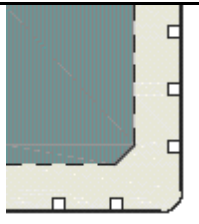
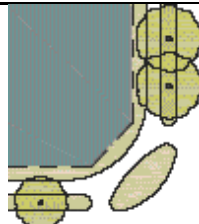
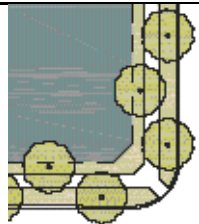
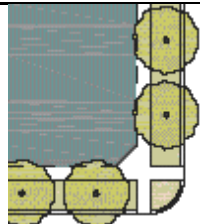
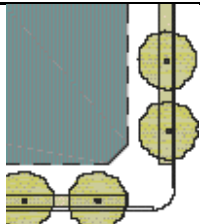
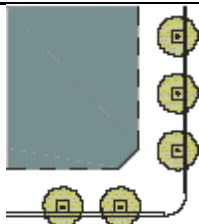
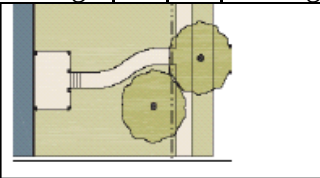
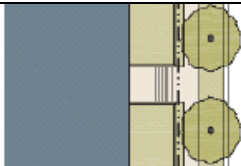
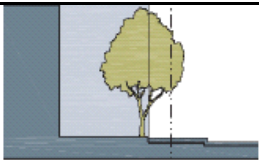
Walkway: The pavement dedicated exclusively to pedestrian activity.						
Type	path optional	path	sidewalk	sidewalk	sidewalk	sidewalk
Width	n/a	4—8 feet	4—8 feet	4—8 feet	12—20 feet	12—30 feet
Planter: The layer which accommodates street trees and other landscaping.						
Arrangement	clustered	clustered	regular	regular	regular	opportunistic
Species	multiple	multiple	alternating	single	single	single
Planter type	continuous swale	continuous swale	continuous planter	continuous planter	continuous planter	tree well
Planter width	8—16 feet	8—16 feet	8—12 feet	8—12 feet	4-6 feet	4—6 feet
Landscape: See Section 40.25.138 for landscaping standards.						
Lighting: See Section 40.04.111 for lighting standards.						

Table 5. Reserved. (Public Lighting)

Table 6. Reserved. (Public Planting)

Table 7. Private Frontages

(The private frontage is the area between the building facades and the lot lines. Encroachments shall not project into a ROW, except to the extent permitted by DelDOT.)

Transect Zones	Private frontage character	Section				Plan			
		Lot	⇒	⇐	ROW	Lot	⇒	⇐	ROW
		Private	⇒	⇐	Public	Private	⇒	⇐	Public
		frontage			frontage	frontage			frontage
T2 T3	Common yard: A planted frontage wherein the facade is set back substantially from the frontage line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep setback provides a buffer from the higher speed thoroughfares.								
T3 T4 T5	Porch and fence: A planted frontage wherein the facade is set back from the frontage line with an attached porch permitted to encroach. A fence at the frontage line maintains street spatial definition. Porches shall be no less than eight (8) feet deep.								
T4 T5	Terrace or lightwell: A frontage wherein the facade is set back from the frontage line by an elevated terrace or a sunken lightwell. This type buffers residential uses from urban sidewalks and removes the private yard from public encroachment. Terraces are suitable for conversion to outdoor cafes. (Syn.: dooryard).								
T4 T5	Forecourt: A frontage wherein a portion of the facade is close to the frontage line and the central portion is setback. The forecourt created								

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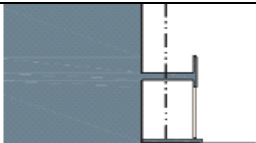
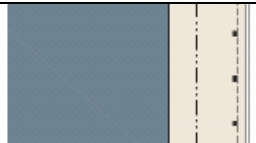
	is suitable for vehicular. This type should be allocated in conjunction with other frontage types. Large trees within the forecourt may overhang the sidewalks.		
T4 T5	Stoop: A frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground floor residential use.		
T4 T5	Shopfront: A frontage wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing on the sidewalk level and an awning that should overlap the sidewalk to within two (2) feet of the curb. Syn.: retail frontage.		
T4 T5	Gallery: A frontage wherein the facade is aligned close to the frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. This type is conventional for retail use. The gallery shall be no less than ten (10) feet wide and should overlap the sidewalk to within two (2) feet of the curb.		

Table 8. Building Configuration

(This table shows the configurations for different building heights for each Transect Zone. Recess lines and expression lines shall occur on higher buildings as shown.

N = maximum height as specified in Table 14K.)

T2 and T3 Transect Zones	T4 Transect Zone	T5 Transect Zone
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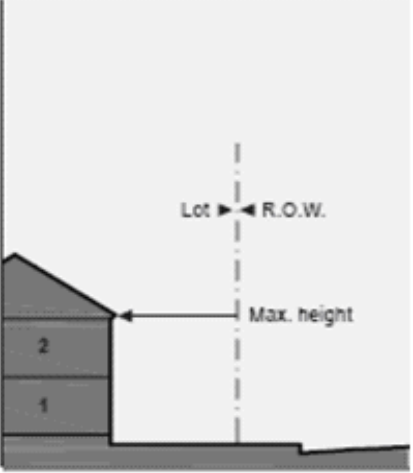
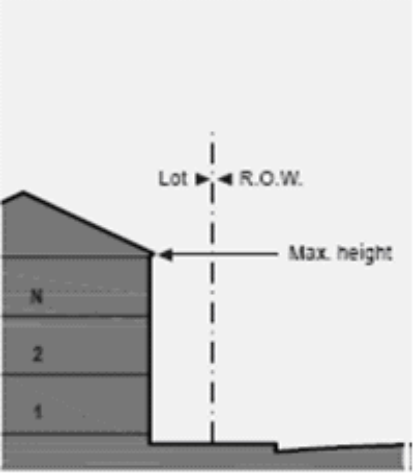
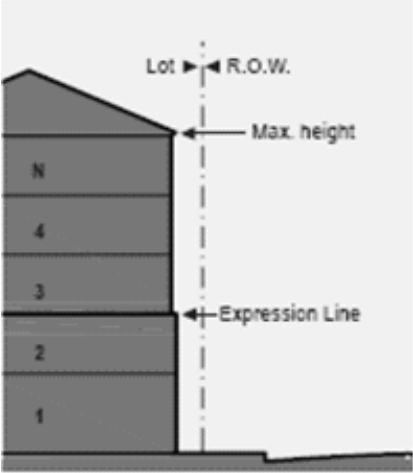
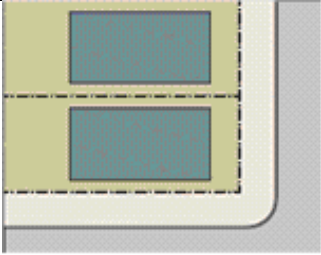
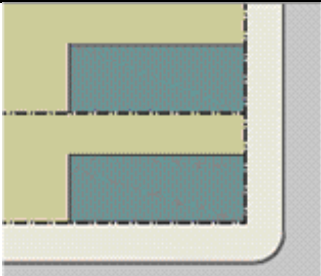
		
1. Building height shall be measured in number of stories, excluding attics and raised basements. Height limits also do not apply to masts, belfries, clock towers, chimney flues, water tanks, elevator bulkheads and similar structures.		
2. Stories may not exceed fourteen (14) feet in height from finished floor to finished ceiling, except for a first floor commercial function, which shall be a minimum of eleven (11) feet, with a maximum of twenty-five (25) feet.		
3. Height shall be measured from the average enfronting sidewalk grade to the uppermost eave of a main pitched roof (not of a dormer), or to the uppermost roof deck (not the top of parapet) of a flat roof.		

Table 9. Building Disposition

(This table approximates the location of the structure relative to the boundaries of each individual lot, establishing suitable basic building types for each Transect zone)

Transect Zone	Yard	Illustration
T2 T3 T4 T5	a. EDGEYARD: Specific types—Single family house, cottage, villa, estate house, urban villa. A building that occupies the center of its lot with setbacks on all sides. This is the least urban of types as the front yard sets it back from the frontage, while the side yards weaken the spatial definition of the public thoroughfare space. The front yard is intended to be visually continuous with the yards of adjacent buildings. The rear yard can be secured for privacy by fences and a well-placed backbuilding and/or outbuilding.	
T4 T5	b. SIDEYARD: Specific types—Charleston single house, double house, zero lot line house, twin. A building that occupies one (1) side of the lot with the setback to the other side. A shallow frontage setback defines a more urban condition. If the adjacent building is similar with a blank party wall, the yard can be quite private. This type permits systematic climatic orientation in response to the sun or the breeze. If a	

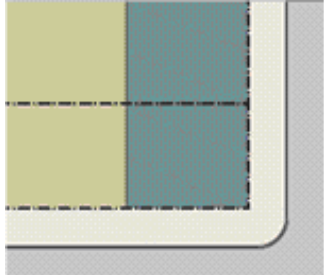
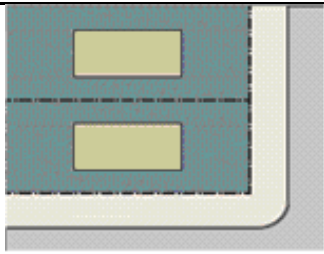
	sideyard house abuts a neighboring sideyard house, the type is known as a twin or double house. Energy costs, and sometimes noise, are reduced by sharing a party wall in this disposition.	
T4 T5	c. REARYARD: Specific types—Townhouse, rowhouse, live-work unit, loft building, apartment house, mixed use block, flex building, perimeter block. A building that occupies the full frontage, leaving the rear of the lot as the sole yard. This is a very urban type as the continuous facade steadily defines the public thoroughfare. The rear elevations may be articulated for functional purposes. In its residential form, this type is the rowhouse. For its commercial form, the rear yard can accommodate substantial parking.	
T5	d. COURTYARD: Specific types—Patio house. A building that occupies the boundaries of its lot while internally defining one (1) or more private patios. This is the most urban of types, as it is able to shield the private realm from all sides while strongly defining the public thoroughfare. Because of its ability to accommodate incompatible activities, masking them from all sides, it is recommended for workshops, lodging and schools. The high security provided by the continuous enclosure is useful for crime-prone areas.	

Table 10. Building Function—General

(This table categorizes building functions within transect zones. Parking requirements are correlated to function intensity. For specific function and use permitted by right, see Table 12)

USE	T2 T3	T4	T5
a. RESIDENTIAL	Restricted residential: The number of dwellings on each lot is restricted to one (1) within a principal building and one (1) within an accessory building, with two (2.0) parking places for each. Both dwellings shall be under single ownership. The habitable area of the accessory dwelling shall not exceed five hundred (500) square feet.	Limited residential: The number of dwellings on each lot is limited by the requirement of one and one-half (1.5) parking spaces for each dwelling, a ratio which may be reduced according to the shared parking standards (See Table 11).	Open residential: The number of dwellings on each lot is limited by the requirement of one (1.0) parking places for each dwelling, a ratio which may be reduced according to the shared parking standards (See Table 11)

b. LODGING	Restricted lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of one (1.0) assigned parking place for each bedroom, up to five (5), in addition to the parking requirement for the dwelling. The lodging must be owner-occupied. Food service may be provided in the a.m. The maximum length of stay shall not exceed ten (10) days.	Limited lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of one (1.0) assigned parking places for each bedroom, up to twelve (12), in addition to the parking requirements for the dwelling. The lodging must be owner occupied. Food service may be provided in the a.m. The maximum length of stay shall not exceed ten (10) days.	Open lodging: The number of bedrooms on each lot for lodging is limited by the requirement of one (1.0) assigned parking place for each bedroom. Food service may be provided at all times. The area allocated for food service shall be calculated and provided with parking according to retail function.
c. OFFICE	Restricted office: The building area available for office use on each lot is restricted to the first story of the principal or accessory building and by the requirement of three (3.0) assigned parking places per one thousand (1,000) square feet of net office space in addition to the parking requirements for each dwelling.	Limited office: The building area available for office use on each lot is limited to the first story of the principal building and/or the accessory building, and by the requirement of three (3.0) assigned parking spaces per one thousand (1,000) square feet of net office space in addition to the parking requirements for each dwelling	Open office: The building area available for office use on each lot is limited by the requirement of two (2.0) assigned parking places per one thousand (1,000) square feet of net office space.
d. RETAIL	Restricted retail: The building area available for retail use is restricted to one (1) block corner location at the first story for each three hundred (300) dwelling units and by the requirement of four (4.0) assigned parking places per one thousand (1,000) square feet of net retail space in addition to the parking requirement of each dwelling. The specific use shall be further limited	Limited retail: The building area available for retail use is limited to the first story of buildings at corner locations, not more than one (1) per block, and by the requirement of four (4.0) assigned parking places per one thousand (1,000) square feet of net retail space in addition to the parking requirement of each dwelling. The specific use shall be further limited to neighborhood store, or	Open retail: The building area available for retail use is limited by the requirement of three (3.0) assigned parking places per one thousand (1,000) square feet of net retail space. Retail spaces under one thousand five hundred (1,500) square feet are exempt from parking requirements.

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	to neighborhood store, or food service seating no more than twenty (20).	food service seating no more than forty (40).	
c. CI	See Table 12	See Table 12	See Table 12
f. O	See Table 12	See Table 12	See Table 12

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Table 11 Parking Calculations			
(The required parking table summarizes the minimum parking requirements of Table 10 for each site or, conversely, the amount of building allowed on each site given the parking available)			
	<i>T2 T3</i>	<i>T4</i>	<i>T5</i>
Residential	2.0/dwelling	1.5/dwelling	1.0/dwelling
Lodging	1.0/bedroom	1.0/bedroom	1.0/bedroom
Office	3.0/1000 sq. ft.	3.0/1000 sq. ft.	2.0/1000 sq. ft.
Retail	4.0/1000 sq. ft.	4.0/1000 sq. ft.	3.0/1000 sq. ft.
Civic	To be determined by special studies		
Other	To be determined by special studies		

Shared Parking Factor				
<i>Function</i>	<i>Residential</i>	<i>Lodging</i>	<i>Office</i>	<i>Retail</i>
Residential	1.0	1.1	1.4	1.2
Lodging	1.1	1.0	1.7	1.3
Office	1.4	1.7	1.0	1.2
Retail	1.2	1.3	1.2	1.0

Maximum Number of Parking Places	
(The numbers presented in Tables 10 and 11 are minimum requirements for the specific uses.)	
A property owner is permitted to provide more parking places, however, the maximum number of parking places shall not exceed the following:	
<i>Use</i>	<i>Percent increase over minimum required</i>
Lodging	30%
Office	15%
Retail	20%

Table 12. Specific Function and Use

(This table expands the categories of Table 10 to delegate specific functions and uses within Transect Zones)

■ - permitted by right

Use	T1	T2	T3	T4	T5		Use	T1	T2	T3	T4	T5
a. Residential							f. Other: Agriculture					
Mixed use block					■		Grain storage	■	■			
Flex building				■	■		Livestock pen	■				
Apartment building				■	■		Greenhouse	■	■			
Live/work unit			■	■	■		Stable	■	■			
Row house				■	■		Kennel		■			
Twin house				■	■							
Courtyard house				■	■		f. Other: Automotive					

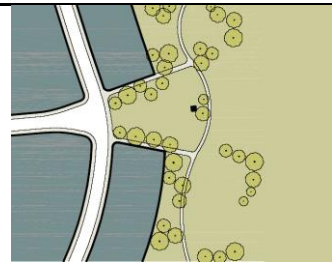
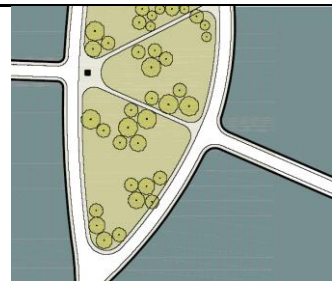
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Sideyard house				■	■		Gasoline						
Cottage			■	■			Automobile service						
House		■	■	■			Truck maintenance						
[Reserved]							Drive-through facility						
Accessory unit		■	■	■	■		Rest stop	■	■				
							Roadside stand	■	■				
b. Lodging							Billboard						
Hotel (no room limit)					■		Shopping center						
Inn (up to 12 rooms)				■	■		Shopping mall						
Bed and Breakfast		■	■	■	■								
S.R.O. hotel							f. Other: Civil support						
School dormitory				■	■		Fire station			■	■	■	
							Police station				■	■	
c. Office							Cemetery		■				
Office building				■	■		Funeral home				■	■	
Live/work unit			■	■	■		Hospital						■
							Medical clinic				■	■	
d. Retail													
Open-market building			■	■	■		f. Other: Education						
Retail building				■	■		College						■
Display gallery				■	■		High school				■	■	
Restaurant				■	■		Trade school						■
Kiosk				■	■		Elementary school			■	■	■	
Push cart					■		Other - childcare center		■	■	■	■	
Adult entertainment													
							f. Other: Industrial						
							Heavy industrial facility						
e. Civic							Light industrial facility						
Bus shelter			■	■	■		Truck depot						
Conference center					■		Laboratory facility						

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Exhibition center					■		Water supply facility						
Fountain/public art		■	■	■	■		Sewer and waste facility						
Library				■	■		Electric substation	■	■	■	■	■	
Live theater					■		Wireless transmitter	■	■				
Movie theater					■		Cremation facility						
Museum					■		Warehouse						
Outdoor auditorium		■	■		■		Produce storage						
Parking structure					■		Mini-storage						
Passenger terminal					■								
Playground		■	■	■	■								
Sports stadium													
Surface parking lot				■	■								
Religious assembly		■	■	■	■								
Other uses listed as permitted, limited, or permitted by special use within the S zoning district per Table 40.03.110 may be additional permitted uses within the various transects.													

Table 13. Civic Areas

T1 T2 T3	a. Park: A natural preserve available for unstructured recreation. A park may be independent of surrounding building frontages. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be lineal, following the trajectories of natural corridors. The minimum size shall be eight (8) acres. Larger parks may be approved by waiver as special districts in all zones	
T3 T4 T5	b. Green: An open space available for unstructured recreation. A green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be one-fourth (¼) acre and the maximum size shall be eight (8) acres.	

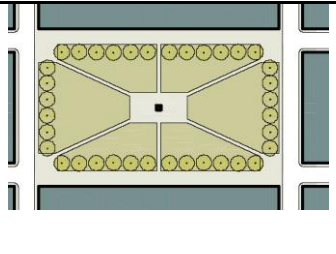
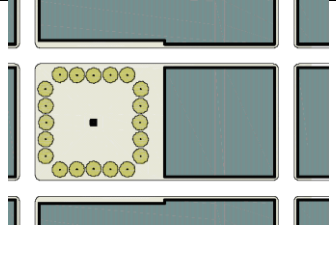
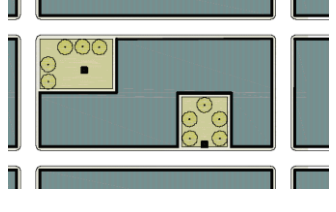
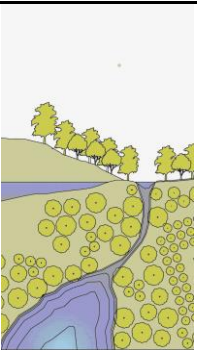
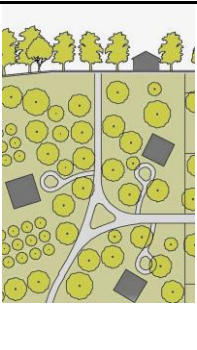
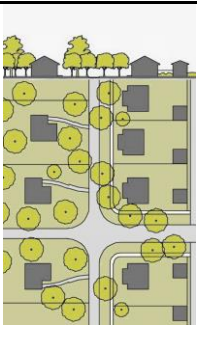
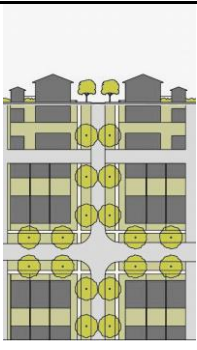
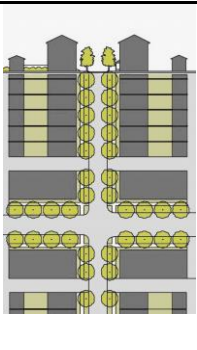
T4 T5	c. Square: An open space available for unstructured recreation and civic purposes. A square is spatially defined by building frontage. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important thoroughfares. The minimum size shall be one-fourth ($\frac{1}{4}$) acre and the maximum size shall be five (5) acres.	 A diagram showing a square open space at the intersection of two streets. The space is divided into four quadrants by a central path. Each quadrant contains a lawn area with a central tree and is bordered by building footprints. The surrounding streets are shown with building frontages.
T5	d. Plaza: An open space available for civic purposes and commercial activities. A plaza shall be spatially defined by building frontages. Its landscape shall consist primarily of pavement. Trees are optional. Plazas should be located at the intersection of important streets. The minimum size shall be one-half ($\frac{1}{2}$) acre and the maximum size shall be two (2) acres.	 A diagram showing a rectangular plaza open space at the intersection of two streets. The plaza is paved and surrounded by building frontages. A small central area is marked with a dot, and a few trees are shown along the perimeter. The surrounding streets are shown with building frontages.
T1 T2 T3 T4 T5	e. Playground: An open space designed and equipped for the recreation of children. A playground should be fenced and may include an open shelter. Playgrounds shall be interspersed within residential areas and may be placed within a block. Playgrounds may be included within parks and greens. There shall be no minimum or maximum size.	 A diagram showing a fenced rectangular playground within a residential block. The playground is marked with a yellow square and contains several trees. It is surrounded by building footprints and a street. The surrounding streets are shown with building frontages.
T5	f. Civic building area: A civic area containing a building or structure permitted in accordance with Section 40.25.125 A 3. A civic building area shall comply with all limitations, requirements, and metrics of its underlying transect with the exceptions that (1) the maximum lot size shall be ten (10) acres; (2) rear lanes and/or rear alleys are not mandatory unless required by the Department; (3) there shall be no maximum lot width; (4) there shall be no maximum front setback requirement in the T4 and T5 transects; and (5) there shall be no minimum frontage buildout requirement in the T4 and T5 transects. Civic buildings must be designed to contribute to and enhance the urban design of the built environment.	

Table 14. Smart Code Summary

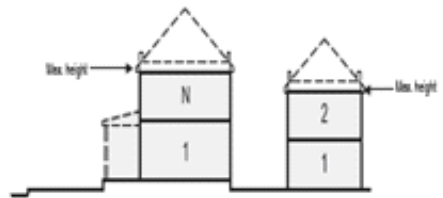
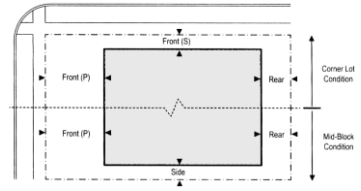
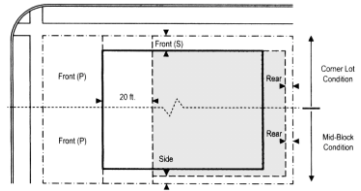
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	T1 - Natural Zone	T2 - Rural zone	T3 - Suburban zone	T4 - General urban zone	T5 - Urban center zone
a. Allocation of zones per pedestrian shed					
Hamlet requires	35%	No minimum	10—30%	20—40%	0—5%
Village requires	No minimum	No minimum	10—30%	30—60%	10—30%
b. Maximum residential density, see Section 40.25.127					
By right	Not applicable	1 unit/20 ac. avg.	6 units/ac. gross	12 units/ac. gross	27 units/ac. gross
(Reserved)					
Other functions	By variance	By variance	15% max.	30% max.	50% max.
c. Block size					
Block perimeter	No maximum	No maximum	3,000 ft. max.	2,400 ft. max.	2,000 ft. max.
d. Thoroughfares (reserved, requires DelDOT review and approval)					
e. Civic spaces, see Table 13					
Park	permitted	permitted	permitted	not permitted	not permitted
Green/Ramble	not permitted	not permitted	permitted	permitted	permitted
Square	not permitted	not permitted	not permitted	permitted	permitted
Plaza	not permitted	not permitted	not permitted	not permitted	permitted
Playground	permitted	permitted	permitted	permitted	permitted
f. Lot occupation (building disposition)					
Lot width	Not applicable	Not applicable	72' min. 120' max.	18' min. 96' max.	15' min. 180' max.
Building coverage	Not applicable	Not applicable	60% max.	70% max.	80% max.
g. Setbacks - principal building (building disposition)					
Front setback (principal)	Not applicable	36' min.	24' min.	6' min. 20' max.	0' min. 20' max.

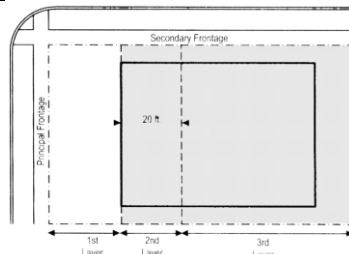
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Front setback (secondary)	Not applicable	24' min	16' min.	6' min. 20' max.	0' min. 20' max.
Side setback	Not applicable	24' min	10' total	0' min.	0' min. 24' max.
Rear setback	Not applicable	24' min.	12' min.	3' min.	3' min.
Frontage buildout	Not applicable	Not applicable	40% min.	60% min.	80% min.
h. Setbacks - outbuilding (building disposition)					
Front setback	Not applicable	40' min. + bldg. setback	20' min. + bldg. setback	24' min. + bldg. setback	40' max. from rear property line
Side setback	Not applicable	12' min.	3' or 6'	0' min. or 3'	0' min.
Rear setback	Not applicable	12' min.	3' min.	3'	3' max.
i. Building disposition, see Table 9					
Edgeyard	permitted	permitted	permitted	permitted	permitted
Sidyard	Not permitted	Not permitted	Not permitted	permitted	permitted
Rearyard	Not permitted	Not permitted	Not permitted	permitted	permitted
Courtyard	Not permitted	Not permitted	Not permitted	Not permitted	permitted
j. Private frontages, see Table 7 (building configuration)					
Common yard	Not applicable	permitted	permitted	Not permitted	Not permitted
Porch and fence	Not applicable	Not permitted	permitted	permitted	permitted
Terrance or L.C.	Not applicable	Not permitted	Not permitted	permitted	permitted
Forecourt	Not applicable	Not permitted	Not permitted	permitted	permitted
Stoop	Not applicable	Not permitted	Not permitted	permitted	permitted
Shopfront and Awning	Not applicable	Not permitted	Not permitted	permitted	permitted
Gallery	Not applicable	Not permitted	Not permitted	permitted	permitted
Arcade	Not applicable	Not permitted	Not permitted	Not permitted	permitted
k. Building configuration, see Table 8					
Principal building	Not applicable	2 stories max.	2 stories max.	3 stories max.	5 stories max.
Outbuilding	Not applicable	2 stories max.	2 stories max.	2 stories max.	2 stories max.
l. Building function, see Table 10 and Table 12					
Residential	Not applicable	Restricted use	Restricted use	Limited use	Open use
Lodging	Not applicable	Restricted use	Restricted use	Limited use	Open use
Office	Not applicable	Restricted use	Restricted use	Limited use	Open use
Retail	Not applicable	Restricted use	Restricted use	Limited use	Open use

Table 15A. Form Based Code Graphics—T3 Transect Zone

		Building Configuration • Building height shall be measured in number of stories, excluding attics and raised basements. • Stories may not exceed fourteen (14) feet in height from finished floor to finished ceiling, except for a first floor commercial function which shall be a minimum of eleven (11) ft. with a maximum of twenty-five (25) feet. • Height shall be measured to the eave or roof deck as specified on Table 8.	
Building Function (see Table 10 and Table 12)			
residential	Restricted use	Setbacks—Principal Building • The facades and elevations of principal buildings shall be distanced from the lot lines as shown. • Facades shall be built along the principal frontage to the minimum specified width in the table.	
lodging	Restricted use		
office	Restricted use		
retail	Restricted use		
Building configuration (see table 8)			
principal building	2 stories max.	Setbacks—Outbuilding • The elevation of the outbuilding shall be distanced from the lot lines as shown.	
outbuilding	2 stories max.		
Lot occupation			
Lot width	72' min. 120' max.		
Building coverage	60% max.		
Building disposition (see Table 9)		Setbacks—Principal building	
Edgeward	Permitted		
Sideward	Not permitted		
Reardward	Not permitted		
Courtyard	Not permitted		
Setbacks—Principal building			
Front setback (P)	24' min.		
Front setback (S)	16' min.		
Side setback	10' total		
Rear Setback	12' min.*		

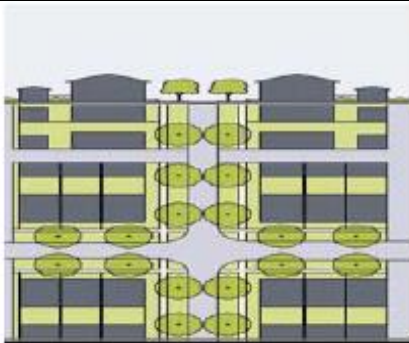
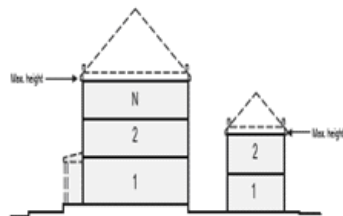
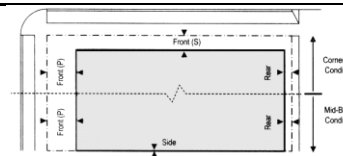
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Frontage buildout	40% min. at setback		
Setbacks—Outbuilding			
Front setback	20' min. + bldg. setback		
Side setback	3' or 6'		
Rear setback	3' min.		
Private frontages (see Table 7)		Parking Placement • Uncovered parking spaces may be provided within the 2nd and 3rd layer as shown in the diagram (see Table 17). • Covered parking shall be provided within the 3rd layer as shown in the diagram (see Table 17). • Trash containers shall be stored within the 3rd layer.	
Common lawn	permitted		
Porch and fence	permitted		
Terrace or L. C.	Not permitted		
Forecourt	Not permitted		
Stoop	Not permitted		
Shopfront and awning	Not permitted		
Gallery	Not permitted		

* or 15' from center line of alley.

Graphics are illustrative only. Refer to metrics for setback and height information.

Table 15B. Form Based Code Graphics—T4 Transect Zone

		Building Configuration • Building height shall be measured in number of stories, excluding attics and raised basements. • Stories may not exceed fourteen (14) feet in height from finished floor to finished ceiling, except for a first floor commercial function which shall be a minimum of eleven (11) ft. with a maximum of twenty-five (25) feet. • Height shall be measured to the eave or roof deck as specified on Table 8.	
Building Function (see Table 10 and Table 12)			
residential	Limited use		
lodging	Limited use		
office	Limited use		
retail	Limited use	Setbacks—Principal Building • The facades and elevations of principal buildings shall be distanced from the lot lines as shown. • Facades shall be built along	
Building configuration (see table 8)			
principal building	3 stories max., 2 min		
outbuilding	2 stories max.		
Lot occupation			
Lot width	18' min. 96' max.		

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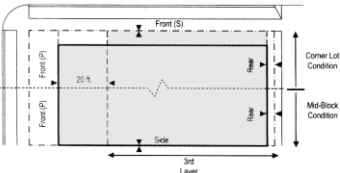
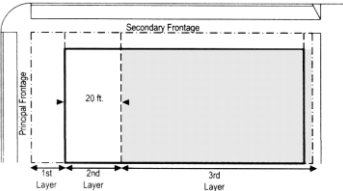
		the principal frontage to the minimum specified width in the table.	
Building coverage	70% max.	Setbacks—Outbuilding The elevation of the outbuilding shall be distanced from the lot lines as shown	
Building disposition (see Table 9)			
Edgeward	Permitted		
Sideward	Permitted		
Reward	Permitted		
Courtyard	Not permitted		
Setbacks—Principal building			
Front setback (P)	6' min, 20' max		
Front setback (S)	6' min, 20' max		
Side setback	0' min		
Rear Setback	3' min.*		
Frontage buildout	60% min. at setback	Parking Placement - Uncovered parking spaces may be provided within the 2nd and 3rd layer as shown in the diagram (see Table 17). - Covered parking shall be provided within the 3rd layer as shown in the diagram (see Table 17). - Trash containers shall be stored within the 3rd layer.	
Setbacks—Outbuilding			
Front setback	24' min. + bldg. setback		
Side setback	0' min or 3'		
Rear setback	3' min.		
Private frontages (see Table 7)			
Common lawn	not permitted		
Porch and fence	permitted		
Terrace or L. C.	permitted		
Forecourt	permitted		
Stoop	permitted		
Shopfront and awning	permitted		
Gallery	Not permitted		
* or 15' from center line of alley. Graphics are illustrative only. Refer to metrics for setback and height information.			

Table 15C. Form Based Code Graphics—T5 Transect Zone

	Building Configuration - Building height shall be measured in number of stories, excluding attics and raised basements. - Stories may not exceed fourteen (14) feet in height from finished floor to finished ceiling, except for a first floor commercial function which	
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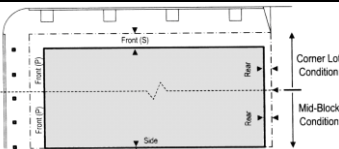
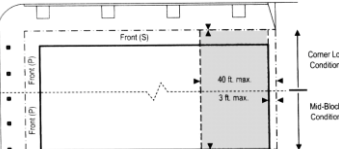
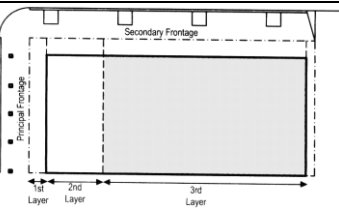
Building Function (see Table 10 and Table 12)		shall be a minimum of eleven (11) ft. with a maximum of twenty-five (25) feet. • Height shall be measured to the eave or roof deck as specified on Table 8. • Expression lines shall be as shown on Table 8	
residential	Open use		
lodging	Open use		
office	Open use		
retail	Open use	Setbacks—Principal Building • The facades and elevations of principal buildings shall be distanced from the lot lines as shown. • Facades shall be built along the principal frontage to the minimum specified width in the table.	
Building configuration (see table 8)			
principal building	5 stories max.		
outbuilding	2 stories max.		
Lot occupation			
Lot width	18' min. 180' max.		
Building coverage	80% max.		
Building disposition (see Table 9)			
Edgeyard	Permitted		
Sideyard	Permitted		
Rearyard	Permitted		
Courtyard	Permitted		
Setbacks—Principal building		Setbacks—Outbuilding • The elevation of the outbuilding shall be distanced from the lot lines as shown	
Front setback (P)	0' min, 20' max		
Front setback (S)	0' min, 20' max		
Side setback	0' min, 24' max		
Rear Setback	3' min. *		
Frontage buildout	80% min. at setback		
Setbacks—Outbuilding			
Front setback	40' min from rear prop.		
Side setback	0' min		
Rear setback	3' max.		
Private frontages (see Table 7)		Parking Placement • Uncovered parking spaces may be provided within the 3 rd layer as shown in the diagram (see Table 17). • Covered parking shall be provided within the 3 rd layer as shown in the diagram (see Table 17). • Trash containers shall be stored within the 3 rd layer.	
Common lawn	not permitted		
Porch and fence	permitted		
Terrace or L. C.	permitted		
Forecourt	permitted		
Stoop	permitted		
Shopfront and awning	permitted		
Gallery	permitted		
Arcade	Permitted		
* or 15' from center line of alley. Graphics are illustrative only. Refer to metrics for setback and height information.			

Table 16. Reserved. (Special District Standards)

Table 17. Definitions Illustrated

Thoroughfare and Frontages	
Building Private Frontage Public Frontage Vehicular Lanes Public Frontage Private Frontage Building Private Lot Thoroughfare (R.O.W.) Private Lot	
Turning Radius	Building Disposition
1-Radius at the Curb 2-Effective Turning Radius (± 8 ft)	1- Principal Building 2- Backbuilding 3- Outbuilding
Lot Layers	Frontage and Lot Lines
3rd layer 2nd layer 1st layer Principal Frontage Secondary Frontage 2nd & 3rd layer 1st layer	1-Frontage Line 2-Lot Line 3-Facades 4-Elevations
Setback Designations	Network Pedestrian Shed
1-Front Setback 2-Side Setback 3-Rear Setback	Theoretical 5-min walk 15-min walk

(Ord. No. 13-055, § 7, 12-17-2013)

Sec. 40.25.145. Application of Division 40.06.000 Applicability, Sign Regulations for hamlet and village developments.

- A. *Zoning district sign standards for development approved pursuant to the hamlet and village design standards of Division 40.25.100*
1. Commercial uses in hamlets and villages shall be subject to the sign standards for CN districts.
 2. Office uses in hamlets and villages shall be subject to the sign standards in ON districts.
 3. Residential and institutional uses shall be subject to the sign standards for residential uses.
 4. All signs in hamlets and villages may be limited more strictly pursuant to the design guidelines which are required as part of the plan approval process in order to meet the character of the area.
 5. For multiple-use in multi-story buildings within hamlet and village developments, commercial and office building signs shall be no higher than the sill line of the second floor windows. Where a wall of such building contains no windows, signs may be placed anywhere upon that facade.
- B. *Comprehensive Village and Hamlet Signage Plan.* The purpose of the Comprehensive Signage Plan is to encourage village and hamlet developments to remove the clutter and unorganized signage that has historically occurred in this County and to establish consistent, logical, and equitable signage for the development. As an alternative to the generic assignment of institutional, commercial, and office use sign to certain zoning districts per subparagraph A above, the owner or developer of the hamlet and village development may choose to design and submit a Master or Common Signage Plan for the entire development.
1. The signage plan shall specify standards for consistency among all signs to be erected on the property and shall include standards related to: color scheme, lettering or graphic style, lighting, location of each sign on the building(s), material, sign proportions, setbacks, height limits, numbers of permitted signs per building, lot or use. The signage plan shall apply to all property within the proposed village and hamlet development. No lot or area within the confines of the development may be excluded or exempt.
 2. Upon approval by the Department, the comprehensive signage plan shall be considered a part of the record plan for the village and hamlet development. It may be amended only upon approval of the Department.

(Ord. No. 13-055, § 8, 12-17-2013)

Sec. 40.25.150. Definitions.

This Section provides definitions for terms in this Division that are technical in nature or that otherwise may not reflect a common usage of the term. All definitions appearing in Article 33 shall be applicable to this Article, except to the extent of inconsistency with any definitions appearing in this Section.

A-grid. Cumulatively, those thoroughfares that by virtue of their pre-existing pedestrian-supportive qualities, or their future importance to pedestrian connectivity, are held to the highest standards prescribed by this Code. (See B-grid).

Allee. A regularly spaced and aligned row of trees usually planted along a thoroughfare or path.

Arcade. A private frontage conventional for retail use wherein the facade is a colonnade that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line.

Attic. The interior part of a building contained within its roof structure.

Avenue (AV). A thoroughfare of high vehicular capacity and low to moderate speed, acting as a short distance connector between urban centers, and usually equipped with a landscaped median.

B-grid. Cumulatively, those thoroughfares that by virtue of their use, location, or absence of pre-existing pedestrian-supportive qualities, may meet a standard lower than that of the A-grid.

Backbuilding. A single-story structure connecting a principal building to an outbuilding.

Base density. The number of dwelling units per acre before adjustment for other functions. (See Density.)

Bicycle lane (BL). A dedicated lane for cycling within a moderate-speed vehicular thoroughfare, demarcated by striping.

Bicycle route (BR). A thoroughfare suitable for the shared use of bicycles and automobiles moving at low speeds.

Bicycle trail (BT). A bicycle way running independently of a vehicular thoroughfare.

Block. The aggregate of private lots, passages, rear alleys and rear lanes, circumscribed by thoroughfares.

Block face. The aggregate of all the building facades on one (1) side of a block.

Boulevard (BV). A thoroughfare designed for high vehicular capacity and moderate speed, traversing an urbanized area. Boulevards are usually equipped with slip roads buffering sidewalks and buildings.

Civic. A term defining not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

Civic building. A building operated by governmental or not-for-profit organizations dedicated to arts, culture, education, religion, recreation, government, transit, and municipal parking, or for other similar uses as determined by the Department.

Civic building area (CB). Sites dedicated for civic buildings.

Civic parking area (CP). Parking structure or parking lot within a quarter-mile of the site that it serves. These off-street and off-lot parking areas or structures shall be available for use by the general public.

Civic space (CS). An outdoor area devoted for community or public use. Civic space types are defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping and their enfronting buildings. See Table 13.

Commercial. The term collectively defining workplace, office, retail, and lodging functions.

Common destination. An area of focused community activity, usually defining the approximate center of a pedestrian shed. It may include without limitation one (1) or more of the following: a civic space, a civic building, a commercial center, or a transit station, and may act as the social center of a neighborhood.

Common yard. A planted private frontage wherein the facade is set back from the frontage line. It is visually continuous with adjacent yards. See Table 7.

Community type. A regulatory category defining the physical form, density, and extent of a settlement. The two (2) community types addressed in this Code are hamlet and village.

Configuration. The form of a building, based on its massing, private frontage, and height.

Corridor. A lineal geographic system incorporating transportation and/or greenway trajectories. A transportation corridor may be a lineal transect zone.

Cottage. An edgeyard building type. A single-family dwelling, on a regular lot, often shared with an accessory building in the back yard.

Courtyard building. A building that occupies the boundaries of its lot while internally defining one (1) or more private patios. See Table 9.

Curb. The edge of the vehicular pavement that may be raised or flush to a swale. It usually incorporates the drainage system. See Table 4A and Table 4B.

Density. The number of dwelling units within a standard measure of land area.

Design speed. The velocity at which a thoroughfare tends to be driven without the constraints of signage or enforcement. There are four (4) ranges of speed: very low—below twenty (20) MPH; low—twenty (20) to twenty-

five (25) MPH; moderate—twenty-five (25) to thirty-five (35) MPH; high—above thirty-five (35) MPH. Lane width is determined by desired design speed. See Table 3A.

Developable areas. Lands other than those in T-1.

Disposition. The placement of a building on its lot. See Table 9.

Dooryard. A private frontage type with a shallow setback and front garden or patio, usually with a low wall at the frontage line. See Table 7.

Drive. A thoroughfare along the boundary between an urbanized and a natural condition, usually along a waterfront, park, or promontory. One (1) side has the urban character of a thoroughfare, with sidewalk and building, while the other has the qualities of a road or parkway, with naturalistic planting and rural details.

Driveway. A vehicular lane within a lot, often leading to a garage.

Edgeward building. A building that occupies the center of its lot with setbacks on all sides. See Table 9.

Effective parking. The amount of parking required for mixed use after adjustment by the shared parking factor. See Table 11.

Effective turning radius. The measurement of the inside turning radius taking parked cars into account.

Elevation. An exterior wall of a building not along a frontage line.

Encroachment. Any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, or above a height limit.

Enfront. To place an element along a frontage, as in "porches enfront the street."

Estate house. An edgeward building type. A single-family dwelling on a very large lot of rural character, often shared by one (1) or more accessory buildings.

Expression line. A line prescribed at a certain level of a building for the major part of the width of a facade, expressed by a variation in material or by a limited projection such as a molding or balcony. See Table 8.

Facade. The exterior wall of a building that is set along a frontage line.

Forecourt. A private frontage wherein a portion of the facade is close to the frontage line and the central portion is set back. See Table 7.

Frontage. The area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage. See Table 4A and Table 7.

Frontage line. A lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines. See Table 17.

Function. The use or uses accommodated by a building and its lot, categorized as restricted, limited, or open, according to the intensity of the use. See Table 10 and Table 12.

Gallery. A private frontage conventional for retail use wherein the facade is aligned close to the frontage line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk. See Table 7.

Green. A civic space type for unstructured recreation, spatially defined by landscaping rather than building frontages. See Table 13.

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

Hamlet. A community type structured by a standard pedestrian shed oriented toward a common destination such as a general store, meeting hall, schoolhouse, or church.

Highway. A rural and suburban thoroughfare of high vehicular speed and capacity. This type is allocated to the more rural transect zones (T1, T2 and T3).

Layer. A range of depth of a lot within which certain elements are permitted.

Lightwell. A private frontage type that is a below-grade entrance or recess designed to allow light into basements. See Table 7.

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

Live-work. A mixed use unit consisting of a commercial and residential function. The commercial function may be anywhere in the unit. It is intended to be occupied by a business operator who lives in the same structure that contains the commercial activity or industry.

Lot width. the length of the principal frontage line of a lot.

Main civic space. The primary outdoor gathering place for a community. The main civic space is often, but not always, associated with an important civic building.

Manufacturing. Premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their retail sale.

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

Net site area. All developable land within a site including thoroughfares but excluding land allocated as civic zones.

Network pedestrian shed. A pedestrian shed adjusted for average walk times along thoroughfares.

Open space. Land intended to remain undeveloped; it may be reserved for civic space.

Park. A civic space type that is a natural preserve available for unstructured recreation. See Table 13.

Parking structure. A building containing one (1) or more stories of parking above grade.

Passage (PS). A pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks and connect rear parking areas to frontages.

Path (PT). A pedestrian way traversing a park or rural area, with landscape matching the contiguous open space, ideally connecting directly with the urban sidewalk network.

Pedestrian shed. An area that is centered on a common destination. Its size is related to average walking distances for the applicable community type. Pedestrian sheds are applied to structure communities.

Pedestrian shed, linear. A pedestrian shed that is elongated along an important mixed use corridor such as a main street. A linear pedestrian shed extends approximately one-quarter ($\frac{1}{4}$) mile from each side of the corridor for the length of its mixed use portion. The resulting area is shaped like a lozenge.

Pedestrian shed, long. A pedestrian shed that is an average one-half ($\frac{1}{2}$) mile radius or two thousand six hundred forty (2,640) feet, used when a transit stop (bus or rail) is present or proposed as the common destination. A long pedestrian shed represents approximately a ten (10) minute walk at a leisurely pace.

Pedestrian shed, standard. A pedestrian shed that is an average one-quarter ($\frac{1}{4}$) mile radius or one thousand three hundred twenty (1,320) feet and represents approximately a five (5) minute walk at a leisurely pace.

Planter. The element of the public frontage which accommodates street trees, whether continuous or individual.

Plaza. A civic space type designed for civic purposes and commercial activities in the more urban transect zones, generally paved and spatially defined by building frontages.

Principal building. The main building on a lot, usually located toward the frontage.

Principal entrance. The main point of access for pedestrians into a building.

Principal frontage. On corner lots, the private frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width. Prescriptions for the parking layers pertain only to the principal frontage. Prescriptions for the first layer pertain to both frontages of a corner lot.

Private frontage. The privately held layer between the frontage line and the principal building facade. See Table 7.

Public frontage. The area between the curb of the vehicular lanes and the frontage line. See Table 4A and Table 4B.

Ramble. A civic space type for unstructured recreation, and occurring mid-block. A ramble is spatially defined by rear lanes or alleys and the rear yard of the perimeter buildings. The minimum size is one-quarter (¼) and the maximum size is five (5) acres.

Rear alley (RA). A vehicular way located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll curbs at the edges.

Rear lane (RL). A vehicular way located to the rear of lots providing access to service areas, parking, and outbuildings and containing utility easements. Rear lanes may be paved lightly to driveway standards. The streetscape consists of gravel or landscaped edges, has no raised curb, and is drained by percolation.

Rearyard building. A building that occupies the full frontage line, leaving the rear of the lot as the sole yard. See Table 9.

Recess line. A line prescribed for the full width of a facade, above which there is a stepback of a minimum distance, such that the height to this line (not the overall building height) effectively defines the enclosure of the enfronting public space. See Table 8.

Regulating plan. A map or set of maps that shows the transect zones, civic zones, and special requirements if any, of areas subject to, or potentially subject to, regulation by the hamlet/village in this Division.

Retail frontage. Frontage designated on a regulating plan that requires or recommends the provision of a shopfront, encouraging the ground level to be available for retail use.

Road. A local, rural and suburban thoroughfare of low-to-moderate vehicular speed and capacity. This type is allocated to the more rural transect zones (T1, T2, and T3).

Rowhouse. A single-family dwelling that shares a party wall with another of the same type and occupies the full frontage line.

Secondary frontage. On corner lots, the private frontage that is not the principal frontage. As it affects the public realm, its first layer is regulated.

Setback. The area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures.

Shared parking factor. An accounting for parking spaces that are available to more than one (1) function. See Table 11.

Shopfront. A private frontage conventional for retail use, with substantial glazing and an awning, wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. See Table 7.

Sidewalk. The paved section of the public frontage dedicated exclusively to pedestrian activity.

Sideyard building. A building that occupies one (1) side of the lot with a setback on the other side. This type can be a single or twin depending on whether it abuts the neighboring house. See Table 9.

Slip road. An outer vehicular lane or lanes of a thoroughfare, designed for slow speeds while inner lanes carry higher speed traffic, and separated from them by a planted median.

Specialized building. A building that is not subject to residential, commercial, or lodging classification. See Table 9.

Square. A civic space type designed for unstructured recreation and civic purposes, spatially defined by building frontages and consisting of paths, lawns and trees, formally disposed. See Table 13.

Stepback. A building setback of a specified distance that occurs at a prescribed number of stories above the ground. See Table 8.

Stoop. A private frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk for privacy, with an exterior stair and landing at the entrance. See Table 7.

Story. A habitable level within a building, excluding an attic or raised basement.

Street. A local urban thoroughfare of low speed and capacity.

Streetscreen. A freestanding wall built along the frontage line, or coplanar with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

Substantial modification. An alteration to a building that is valued at more than fifty (50) percent of the replacement cost of the entire building, if new.

Terminated vista. A location at the axial conclusion of a thoroughfare. A building located at a terminated vista designated on a regulating plan is required or recommended to be designed in response to the axis.

Thoroughfare. A way for use by vehicular and pedestrian traffic to provide access to lots and open spaces, consisting of vehicular lanes and the public frontage.

Townhouse. See Rearyard building.

Transect. A cross-section of the environment showing a range of different habitats. The rural-urban transect of the human environment used in the hamlet/village code is divided into five (5) transect zones. These zones describe the physical form and character of a place, according to the density and intensity of its land use and urbanism.

Transect zone (T-Zone). One (1) of five (5) zones on a land development plan regulated by the hamlet and village provisions of Division 40.25.100. Transect zones are administratively similar to the land use zones in conventional codes, except that in addition to the usual building use, density, height, and setback requirements, other elements of the intended habitat are integrated, including those of the private lot and building and public frontage.

Turning radius. The curved edge of a thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the turning radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.

Work-live. A mixed use unit consisting of a commercial and residential function. It typically has a substantial commercial component that may accommodate employees and walk-in trade. The unit is intended to function predominantly as work space with incidental residential accommodations that meet basic habitability requirements.

Yield. Characterizing a thoroughfare that has two-way traffic but only one (1) effective travel lane because of parked cars, necessitating slow movement and driver negotiation.

(Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 13-055, § 9, 12-17-2013)

Division 40.25.200. Traditional neighborhood design.

Sec. 40.25.210. Traditional neighborhood standards.

In traditional neighborhood plans, a concept plan including design guidelines shall be submitted at the exploratory plan stage and the design standards in Sections 40.25.220 to 40.25.240 shall be met.

(Ord. No. 97-172, § 3(ch. 13, § 25.210), 12-31-1997)

Sec. 40.25.220. Nonresidential uses.

Uses permitted by Table 40.03.110 as limited uses shall be permitted provided they meet the following:

- A. *Location.* They shall be permitted only in developments having a minimum of four hundred (400) dwelling units or where specified in Countywide or neighborhood plans adopted by County Council.
- B. *Road access.* All nonresidential uses shall be located on collector or arterial roads.
- C. *Design.* The structures shall be built to the sidewalk line unless another build-to line is approved for the entire development. All buildings shall be two (2) or three (3) stories high. Either commercial apartments shall be located above the commercial space, or the buildings shall meet the requirements of mixed use structures. The buildings shall be designed to harmonize with the surrounding residential areas.
- D. *Parking.* Parking shall be located behind and to the side of the building with the majority to the rear. The County will support the use of on-street parking where the plan and design permits this to be done safely.

(Ord. No. 97-172, § 3(ch. 13, § 25.220), 12-31-1997)

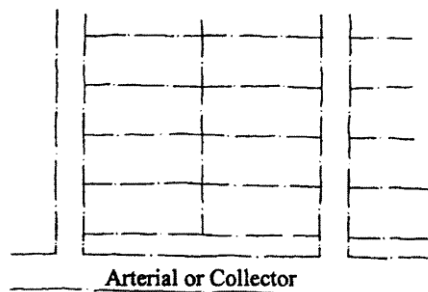
Sec. 40.25.230. Residential design.

The residential development is intended to provide the character of an urban neighborhood having rather formal open spaces serving as focal points. The residential development shall meet the following design criteria:

- A. *Roads and subdivision layout.* Where topography, site size and shape permits, the site should be developed using a grid or other formal pattern. The vehicular access to units should be via alleys. This permits the rather narrow building fronts to be free from driveways and garage doors. Where this is impossible, the following shall be used to reduce the impact of drives and garages (See Figure 40.25.140):
 - 1. Garages located to side and rear with a drive of no more than ten (10) feet in width providing access.
 - 2. Side-load front garages shall be used on at least forty (40) percent of lots where the garage is not to the rear of the lot.
 - 3. Hour-glass driveway design with one (1) plant unit per driveway shall be used on all other front loading garages.
- B. *Open space.* The open space in traditional neighborhoods is primarily a formal open space of squares, greens, or other formal open spaces.
 - 1. *Greens.* Greens are internal central spaces surrounded on at least three (3) sides by the development area. The minimum area in this type shall be twelve thousand (12,000) square feet with a minimum dimension of sixty (60) feet. Such areas shall be designed to permit recreational and/or social use by the community.
 - 2. *Parkway.* A divided street with open space in the center is considered a parkway. The minimum dimension of such areas shall be forty (40) feet, with a minimum area of ten thousand (10,000) square feet. Such areas shall be designed to permit passive recreational use by the community. Active recreation shall be permitted only where the area and traffic flows are such that it may safely be used for that purpose. Smaller parkways, islands, and cul-de-sac islands may count towards the open space provided they cumulatively do not constitute more than ten (10) percent of the total community open space.
 - 3. *Resource corridors.* Resource corridors are open space areas along a natural feature such as a stream, vegetation, or topographic feature. Passive recreational use and trails shall be provided in such areas as a minimum.

4. *Parks.* Park areas shall be designed to provide a range of active and passive recreational opportunities for the development's residents. The minimum area shall be at least four (4) acres. These facilities often do not have the ability to structure a traditional neighborhood. The County may opt to accept a fee in lieu of land if the proposed park does not enhance the design of the residential area. Note that tot lots and some courts can be integrated into parkways or greens so the type of open space may need to be tailored to those compatible with the design of the community.
 5. *Structures.* Formal activity areas should be built into open spaces. These include fountains, formal gardens and sitting areas, gazebos or similar facilities. These should serve the residents and provide a sense of identity to the various open spaces.
- C. *Block layout.* Where such developments are along an arterial or collector street one (1) of the following design treatments should be used:
1. The units should have side yards oriented to the arterial as shown in Figure 40.25.230C. Landscaping of the side yards shall include fence, wall, or hedges as required in Article 23 as buffers to orient the homes away from high traffic volumes.
 2. Where the units are intended to front onto the arterial or collector street, the lot size and front yard setbacks should be increased. The dimensions shall be chosen to ensure that the homes are set back and protected from the noise and pollution of these streets. This can also include larger street rights-of-way and greater setbacks for sidewalks and increased street trees.

Figure 40.25.230C



(Ord. No. 97-172, § 3(ch. 13, § 25.230), 12-31-1997; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.25.240. Dwelling design.

The units shall be designed in a manner that creates a unified design for the neighborhood. The design guidelines shall indicate style(s) to be used to ensure that the development has an overall unity or design without appearing monotonous. Units shall have front porches or stoops or other design features that orient the home to an active street.

(Ord. No. 97-172, § 3(ch. 13, § 25.240), 12-31-1997)

Division 40.25.300. Character standards.

This Division controls the character of buildings to ensure that the overall character of the communities is not eroded by poor design that is either monotonous or cluttered. The residential standards are contained in Sections 40.25.321 through 40.25.332. Nonresidential uses are governed by the standards of Sections 40.25.220 and 40.25.340 through 40.25.342.

(Ord. No. 97-172, § 3(ch. 13, div. 25.300), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

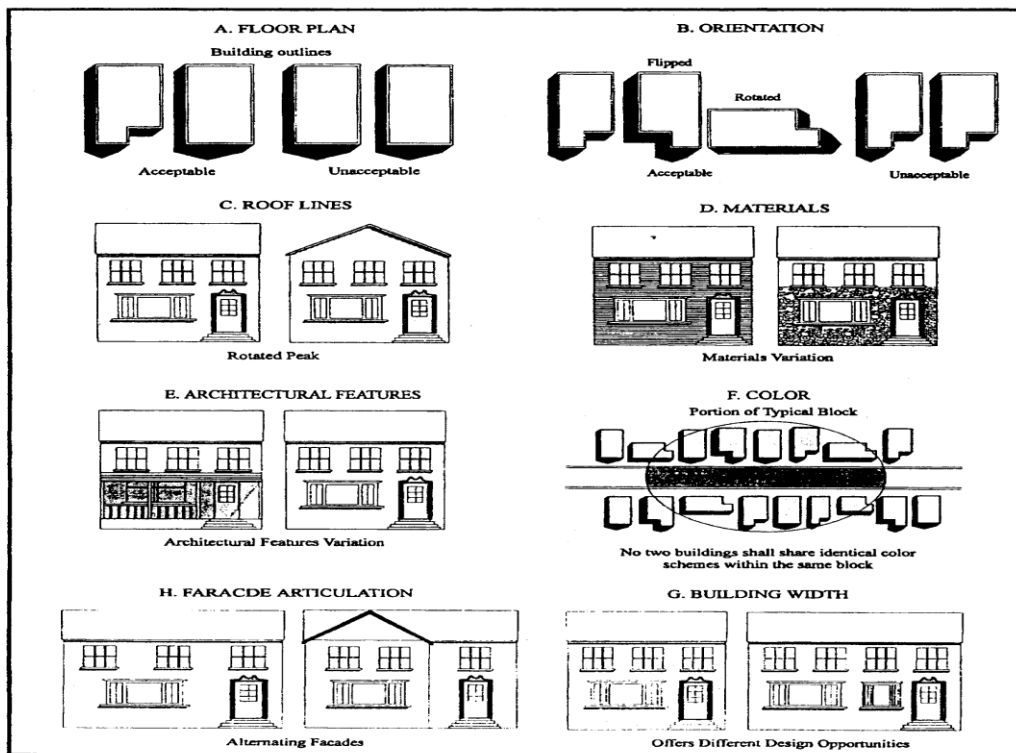
Sec. 40.25.310. Measures.

The following measures are used to evaluate developments and prevent monotony. Figure 40.25.310 illustrates the following points:

- A. *Floor plan.* The floor plan defines the arrangement of the building's form, arrangement of rooms, windows, and doors. Identical floor plans can lead to monotony. Floor plans that present different front facades are essential, so floor plans that do not have differing fronts do not count towards floor plan distinction.
- B. *Orientation.* This describes the orientation of building floor plan(s). A building rotated ninety (90) degrees will not appear identical even when the floor plans are identical. Similarly, flipping or reversing the floor plan creates a different look.
- C. *Roof lines.* Rotating the orientation of the roof peak, or otherwise altering the roof line in a significant manner can alter the appearance completely.
- D. *Materials.* Brick; stone; natural-stained wood vertical siding; horizontal siding in wood, fiberglass, or metal; stucco or Dri-vet; and shingles are all considered different exterior materials. Material differences should be over at least sixty (60) percent of the buildings front and should also extend in a logical fashion to the sides of buildings.
- E. *Architectural features.* The addition of a front porch, tower, or balcony are architectural features that change the facade sufficiently to create a difference.
- F. *Color.* Color can be used to provide a unifying sense to a development; it can create monotony; or it can create conflicts. Except in unusual conditions, color will not be used to distinguish units.
- G. *Building width.* The width of a building is important. Buildings that differ in width will provide differing design opportunities.
- H. *Facade articulation.* The articulation of a facade can create interest and diversity even when other elements, doors, windows, or building width are similar.
- I. *Richness in detail.* The traditional architecture is often defined with the richness of detail while some modern units look like boxes. Roof lines and architectural details of chimneys, doors, windows, or other architectural elements make for greater interest.
- J. *Roof overhangs.* Buildings without roof overhangs are too box-like, unless they are accurate representations of an historic style that had no roof overhangs.

(Ord. No. 97-172, § 3(ch. 13, § 25.310), 12-31-1997)

Figure 40.25.310



Sec. 40.25.320. Standards.

(Ord. No. 97-172, § 3(ch. 13, § 25.320), 12-31-1997)

Sec. 40.25.321. Single family.

The following anti-monotony standards shall be used to ensure that there is adequate diversity in the dwelling units to avoid monotony and provide an interesting neighborhood character. These standards shall be evaluated using the descriptions in Section 40.25.310 and Figure 40.25.310.

- A. No two (2) dwellings units on a street face (both sides) shall be identical in floor plan unless there are at least two (2) intervening lots separating the units, or they are on a street not visible from the one (1) unit or are differing by at least three (3) of the following (See Figure 40.25.310.):
1. The dwelling unit floor plans are rotated or reversed on the lot orientation.
 2. The dwelling units have different roof configuration or orientation.
 3. The dwelling units have different materials or exterior walls. A mix of materials may be used on buildings. For example: stone and shingle, or brick and horizontal siding. Except in unusual conditions, color shall not be used to distinguish units.
 4. The addition of architectural features such as full porches, entrance features, or bay windows that alter the appearance.
 5. Architectural styles are used for different models with the styles having significantly distinctive standard details, windows, doors, trim, roof lines and overhangs, or special features.
 6. Facade articulations of at least eight (8) feet to break-up and alter the facade of a building.

7. Other measures in Section 40.25.310 and Figure 40.25.310 are used that are acceptable to the Department as qualifying for anti-monotony.
- B. Design review. In some cases, as with attached units or subdivisions which seek to replicate a historic theme or themes, greater unity of design may actually enhance the character of the area. Such plans shall be permitted only where the developer submits architectural, landscaping, and sign reviews and receives Department approval.

(Ord. No. 97-172, § 3(ch. 13, § 25.321), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.25.322. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 25.322), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.25.330. Patio, attached, and multi-family standards.

These units pose a very different problem in that they tend to present a long street face that is composed of many units. Thus, trying to make each individual unit different as in a single-family project is likely to lead to a chaotic building. The length of the attached units is an element as is the richness of the design in detailing and street face texture of the buildings. Some degree of unity is desired. Repetitions of the same building design throughout a development is also a negative design factor. Sections 40.25.321 to 40.25.332 address these concerns for different dwelling types.

(Ord. No. 97-172, § 3(ch. 13, § 25.330), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Sec. 40.25.331. Patio and atrium homes.

Walls are the standard definition of the fronts of these units. The street face is thus a wall rather than the fronts of the actual house as seen across a front yard. The primary means of providing interest is in the provision of enough diversity to break up the street lined by a wall appearance. This is accomplished by the use of distinctive elements listed below and shown in Figure 40.26.231.

- A. Large vegetative mass. This may be the preservation of an existing tree having a DBH of at least twelve (12) inches that is located within eight (8) feet of the property line and where the wall is used to set this tree off so that it breaks the vista down the street.
- B. Fountain or public space that changes the character or the streetscape.
- C. A break in the wall of at least two (2) lots, with at least one (1) plant unit per lot being planted in the yard to create a distinctive change in texture.
- D. A break in the wall where a decorative fence or hedge is used.

(Ord. No. 97-172, § 3(ch. 13, § 25.331), 12-31-1997)

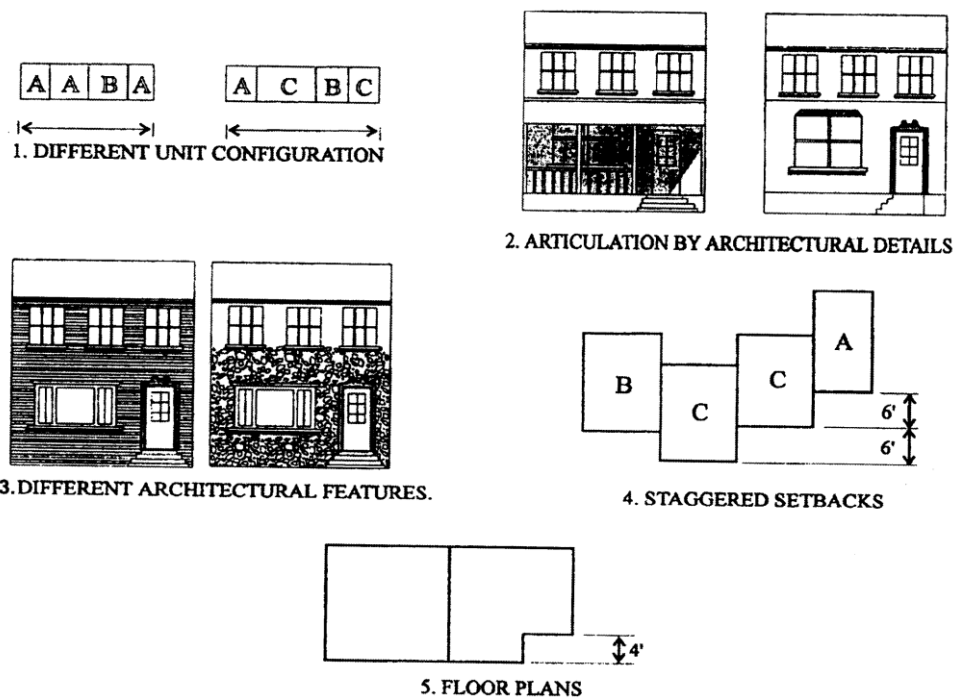
Sec. 40.25.332. Other attached units.

There are four (4) basic approaches to making interesting multi-family or attached units. The first approach is to limit the number of units in a row to prevent the group or building from becoming too long with no change in character. The second approach is to have sufficient changes in setback, roof lines, and architectural detail to break up the linear appearance of the building or group of buildings. In both these approaches there is the replication problem in other buildings or groups. The third approach is to use the building design, streetscape and open space to create a unique and interesting environment where the overall massing of the buildings and their relationship to the open space is powerful enough so that similar units are not monotonous. The fourth approach is to use quality materials and special unique detailing. The following standards shall be followed to create interesting multi-family or attached units:

- A. All multi-family and attached units shall meet the following:

1. Trim details shall be the same on all sides of the building.
 2. The overall scale of the project in total numbers of units shall also be considered in evaluating Subsections B through D, with greater requirements on the larger developments.
- B. Where the limit on the length that is specified in Table 40.04.112 to separate buildings, developers shall utilize at least three (3) of the following to achieve variety (See Figure 40.25.332):
1. Have different configurations of units; that is, different unit widths, location, and total building length.
 2. The individual dwelling units shall be articulated by architectural details such as porches or entry features, bay windows, or similar features.
 3. Architectural materials and detail features shall be different. This includes using different combinations of materials and using the materials in different ways on the units.
 4. The setbacks of individual units within a building shall be staggered to change the building's appearance with offsets of a minimum of six (6) feet.
 5. The floor plans differ to create articulation with changes of a minimum of four (4) feet.
 6. Different buildings shall have different combinations of the setbacks in Subsections B.1, B.2 and B.3.

Figure 40.25.332



- C. Where the combination of street, open space, and building design is used to create strongly differentiated building shapes and configurations (that create a common theme for the development, but a sharp differentiation between units) more units in a building may be allowed provided:
1. The development is designed to have a strong architectural design that provides cohesiveness throughout the project, and
 2. There are strong and distinctive details in architectural features such as porches, stoops, entryways, or other features that creates visual interest while maintaining a unity of design.

- D. The degree of differentiation in style and materials is not as essential where the materials used are quality materials, such as brick or stone that have long life and low maintenance demands provided:
 - 1. The development is designed to have a strong architectural design that provides cohesiveness throughout the project, and
 - 2. There are strong and distinctive details in architectural features such as porches, stoops, entryways, or other features that creates visual interest while maintaining a unity of design.
 - 3. The detailing of windows and doors also provides a strong image of quality architecture.

(Ord. No. 97-172, § 3(ch. 13, § 25.332), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.25.333 Pocket Neighborhoods

Pocket Neighborhoods are groups of smaller detached housing units, oriented around a common open space such as a courtyard, garden, or walkway. This development option is intended to create community-oriented, smaller scale housing that is an effective infill option for single family neighborhoods through context sensitive design with respect to the surrounding community aesthetics. In addition to the standards in Article 3 and Article 4 of this Chapter, the following standards apply:

- A. Pocket Neighborhoods may only include single-family detached dwellings on village lots and small single-family detached dwelling units on small single-family detached dwelling unit lots.
- B. The maximum gross floor area for any dwelling unit in a Pocket Neighborhood is 1,600 square feet. An additional 300 sf garage is permissible on lots with road or alley frontage.
- C. The maximum total GFA permitted for freestanding accessory structures on lots within a pocket neighborhood is the lesser of either three hundred (300) square feet of GFA or one half (½) of the footprint of the principle dwelling.
- D. Accessory Dwelling Units are not permitted within a Pocket Neighborhood.
- E. Lots within a pocket neighborhood are exempt from the requirements of Section 40.23.121.
- F. Private swimming pools are not permitted on small single-family detached dwelling unit lots within a Pocket Neighborhood.
- G. Pocket neighborhoods greater than 100 dwelling units in size are only permitted on land designated as an Investment Level 1 Area by the State of Delaware, in the Suburban, Suburban Transition, or Traditional Neighborhood zoning districts.
- H. Pocket Neighborhood developments may either be developed as fee simple or leasable lots. Land development plans for leasable lots must depict small single-family dwelling or village lot lines to ensure appropriate building spacing and setbacks are met.
- I. No dwelling unit within a Pocket Neighborhood may be located within two hundred (200) feet of a parcel with an industrial use (Section 40.33.270) and may not be located within one-half (0.5) mile of Heavy Industry zoned land.
- J. Dwelling units within Pocket Neighborhoods must be reviewed pursuant to Section 40.25.410.
- K. Pocket Neighborhoods must avoid monotony by varying at least three (3) of the measures from Section 40.25.310. The Department will review the proposed dwelling unit and may require specific measures from Section 40.25.310 to avoid monotony within a development.

- L. Pocket Neighborhoods must include dumpsters for communal trash and recycling service. All dumpsters must be fully enclosed with a wood fence, masonry wall, berm or enclosure made of other durable low maintenance materials, subject to approval by the Department.
- M. In Pocket Neighborhoods, small single-family detached dwelling lots must provide a minimum of 1.5 parking spaces per dwelling unit and village lots must provide a minimum of 2.0 parking spaces per dwelling unit. Parking may be provided either on-site or in a shared community parking lot.

(Ord. No. 24-137, 12-10-2024)

Sec. 40.25.340. Nonresidential uses.

Nonresidential uses are often built along a roadway as single buildings on individual lots over a period of years. The diversity of styles, colors, materials, shapes, and other architectural features that are often done to attract attention results in chaotic streetscapes. Other uses are unified (shopping centers for example), where the unified building has greater potential for good design, but has not always achieved this, and is still interspersed with other uses along the highway. The design review is intended to ensure that the degree of differentiation is not so great as to result in a cluttered streetscape, for the individual building or unified developments.

(Ord. No. 97-172, § 3(ch. 13, § 25.340), 12-31-1997)

Sec. 40.25.341. Individual buildings.

Where individual buildings are to be built, the review will look for the following:

- A. Buildings that use common materials, styles, or colors to create a strong sense of compatibility in the street face.
- B. Buildings that use roofs that unify the street face.
- C. Elimination or toning down of formula buildings.
- D. Differentiation should be encouraged through building shape (footprint), architectural details, and varied rooflines.

(Ord. No. 97-172, § 3(ch. 13, § 25.341), 12-31-1997)

Sec. 40.25.342. Complexes.

Where the development is a complex of buildings as a shopping center or an office or industrial park with its own design guidelines, the complex should have a strong sense of place and unity of design. The complex should not be out of keeping with the surrounding buildings, but may clearly establish its own identity. The following shall be used in evaluating the complex:

- A. The complex shall have a sense of place. This should be accomplished by several elements:
 - 1. Commonality of materials and style.
 - 2. A uniform sign package that limits style of letters, colors, and has rules for size based on building importance in the complex.
 - 3. An element or elements that provide a strong identifying image. The strength of the image should be related to the scale of the development. A small project should have an image that is more closely related to neighbors, while a large regional facility should have greater differentiation from its neighbors. Entrance features, including the use of architectural features like a clock tower or corner building that has a strong image, are ways in which a strong identity may be created.

(Ord. No. 97-172, § 3(ch. 13, § 25.342), 12-31-1997)

Division 40.25.400. Design review.

The design review shall be applied to the use of certain use types under Divisions 40.25.100 and 40.25.200 and monotony standards of Division 40.25.300. The Department shall conduct a design review as part of the plan approval process for a plan or site plan at the request of the developer.

(Ord. No. 97-172, § 3(ch. 13, div. 25.400), 12-31-1997)

Sec. 40.25.410. Design review standards.

In conducting the design review, the Department shall evaluate the plan against the following criteria. Approval requires that the criteria have been met or are inapplicable to the specific project and that the development is significantly superior to one that simply meets the Code requirements.

- A. The project is compatible with surrounding uses in terms of scale and adherence to the traditional architectural styles and materials of the County architecture.
- B. The architecture, project layout, landscaping, and signs contribute to a harmonious and diverse character that has a strong sense of unity.
- C. Monotony is avoided and the plan provides an environment that has interest and diversity without becoming chaotic or discordant.
- D. The buildings are designed to be part of individual communities or streetscapes, rather than a plan or character that can be applied to similar uses across the nation. Formula buildings and color schemes are undesirable.
- E. The streetscape protects or enhances the entrances to distinct areas of the County, making them different from similar land uses in other communities.
- F. The combination of architecture, signs, and landscaping creates a sense of place for those developments having many buildings, or which contribute to an overall sense of unity if the development is a single building.
- G. The streetscape and building design reduces the apparent building mass of large buildings to match the nearby residential areas.

(Ord. No. 97-172, § 3(ch. 13, § 25.410), 12-31-1997)

Division 40.25.500. Universal design standards.

Sec. 40.25.510. Purpose.

The purpose of universal design standards is to attempt to meet the short and long term housing needs of every segment of the population in the County. By encouraging the integration of universal design standards into new or substantially renovated housing stock, many of these needs may be achieved with the inclusion of minor design changes and improvements. This division encourages designers and builders to integrate universal design standards into every housing type to ensure availability of this housing in the County.

(Ord. No. 12-057, § 1, 1-8-2013)

Sec. 40.25.520. Design standard options.

- A. All dwelling units that are designed to universal design standards shall be in compliance with the applicable sections of Chapter 6.
- B. For any new age-restricted community, the developer shall present each buyer with the option to have the unit designed utilizing universal design standards, including, but not limited, to the following items:
 - 1. Step-less main entry;

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2. Offset tub/shower controls with adjacent clear floor space;
 3. Wide blocking installed in walls around tub/shower and toilet for future grab bars;
 4. Lever type door handles;
 5. Single lever faucets; and
 6. Utilization of minimum and maximum heights for switches and outlets.
- C. For non-age restricted communities, projects are encouraged to include universal design standards as enumerated in Subsection B.

(Ord. No. 12-057, § 1, 1-8-2013)

ARTICLE 26. MODIFICATION OF STANDARDS

Division 40.26.000. Purpose.

This Code uses hard standards in many places because a completely flexible performance standard would be too lengthy or complicated to administer. In other cases, uncommon, yet logical exceptions to a standard have been anticipated. Specific standards are identified in this Article that may be modified pursuant to the standards below.

(Ord. No. 97-172, § 3(ch. 13, div. 26.000), 12-31-1997)

Division 40.26.100. Modification approval.

Sec. 40.26.110. Review and approval.

The Department shall review all requests for modification of standards against this Article and the standards in Division 40.31.400. A note indicating the modification approval shall be placed on file and indicated by a note on the record plan or building permit.

(Ord. No. 97-172, § 3(ch. 13, § 26.110), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Division 40.26.200. Zoning modification.

The following sections address specific zoning standards that can be modified by the Department without the necessity of seeking a variance.

(Ord. No. 97-172, § 3(ch. 13, div. 26.200), 12-31-1997)

Sec. 40.26.210. Construction envelopes.

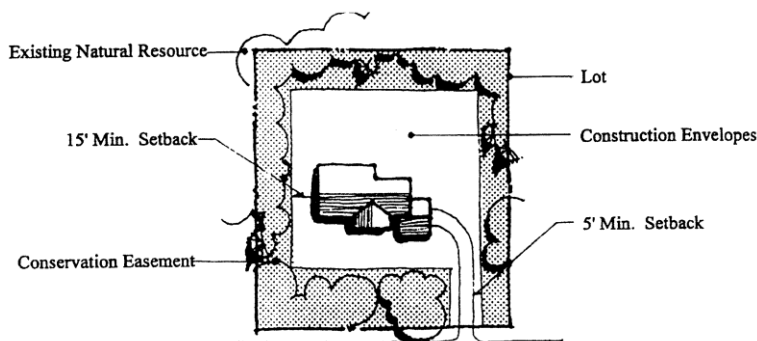
The site capacity calculations and net densities in Article 4 and Article 5 assume all of a residential lot will be disturbed during development. This Section provides the rules by which resource protection is permitted to occur on a lot. It is permitted only when the minimum lot size (Table 40.04.110) with sewer exceeds twenty thousand (20,000) square feet or where lots with tile fields exceed two (2) acres. All eligible lots shall place a conservation easement over the resource area in question, restricting the use of that land to open space uses and prohibiting fencing and the clearing, cutting, or disturbing of vegetation. All construction envelope developments shall follow this Section's standards.

- A. The net density in Table 40.26.120 shall be substituted for that in Table 40.04.110 based on the size of the maximum area of the construction envelope used in the development.
- B. The construction envelope may occupy no more than seventy-five (75) percent of the total area of the lot.
- C. All lot construction and clearing shall be confined to the construction envelope including buildings, decks or patios, driveways, lawns, pools, tennis courts, septic tanks and tile fields, and utility access. The construction envelope shall be extended fifteen (15) feet from the foundation and five (5) feet from any other area to be developed or disturbed to provide for machinery and earth movement. The construction envelope shall be temporarily fenced prior to construction or grading to prevent equipment from intruding into the conservation areas. Figure 40.26.120 shows the relationship between the lot, construction envelope, and conservation areas on a lot.
- D. The Department shall require that a mitigation bond be posted for one thousand dollars (\$1,000.00). The Department shall inspect for damaged trees in the conservation easement before occupancy and shall require mitigation for those trees damaged. The mitigation rate shall conform to Section 40.23.220.

Table 40.26.120
CONSTRUCTION ENVELOPE NET DENSITIES

Maximum Envelope Area (s.f.)	Gross Density (DU/Acre)	Net Density (DU/Acre)	Minimum Lot Area
10,000	1.36	1.65	20,000 sf.
15,000	1.53	1.65	20,000 sf.
20,000	0.74	0.80	1 ac.
25,000	0.73	0.80	1 ac.
30,000	0.75	0.80	1 ac.
40,000	0.53	0.55	1.50 ac.
40,000	0.33	0.48	1.75 ac.
40,000	0.39	0.43	2 ac.
50,000	0.32	0.35	2.5 ac.
60,000	0.27	0.30	3 ac.
80,000	0.21	0.30	3 ac.

Figure 40.26.120
LOT WITH CONSTRUCTION ENVELOPE



(Ord. No. 97-172, § 3(ch. 13, § 26.210), 12-31-1997)

Sec. 40.26.220. Bufferyards.

- A. *Bufferyard model.* The standards in Table 40.23.140 have been tested to ensure they meet the opacity standard. Numerous other mixes can meet the standard. The bufferyard calculation (or the Bufferyard Model) provided in Section 40.23.141 can be used to design an individualized buffer that meets the required opacity standard.
- B. *Bufferyard reduction for buildings at setback.* In the event a non-residential use is proposed at the minimum street yard setback in any zoning district where the bufferyard opacity standards of Table 40.04.111 requires an opacity standard with a wider minimum width than the street yard setback width, the bufferyard opacity may be reduced to a one-tenth (0.1) opacity.

(Ord. No. 97-172, § 3(ch. 13, § 26.220), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.26.230. Street yard setbacks.

The street yard is normally intended to ensure a safe setback from roads, but often results in all buildings being lined up in a row; however, landscaping that screens the buildings from the street or variations in setback can,

in some conditions, reduce the need for the rigid setback. In other cases, building form may dictate a different type of setback.

- A. *Single-family and lot line.* A combination of landscaping and facades that are articulated or staggered to give the sense that setbacks are varied can provide an environment equal to that in which all houses sit exactly on the setback line. The setback may be reduced where the following are met:
 - 1. When individual building construction envelopes, with varying setbacks, are described for each lot on the record plan to provide a streetscape with varied building locations.
 - 2. Where the setback in Table 40.04.110 is greater than thirty-five (35) feet, the average setback may be reduced by up to ten (10) percent on any block face. No single lot setback reduction shall be greater than thirty (30) percent.
 - 3. Where the setbacks in Table 40.04.110 are thirty-five (35) feet or less, the development's setbacks shall average the setback listed in Table 40.04.110. No single lot setback reduction shall be greater than twenty (20) percent.
 - 4. In addition to the street tree requirements (Table 40.04.111), the Department may require up to one (1) plant unit per two hundred (200) feet of street frontage be placed in the right-of-way or first ten (10) feet of the lot.
 - 5. All front-loading garages shall be set back the minimum distance to provide for adequate off-street parking.
 - 6. This provision shall only be used along the development's internal streets, not where single-family homes face homes in another subdivision across a street.
- B. *Adjoining lots are nonconforming.* In older parts of the County, setbacks may not conform or may vary from lot to lot. In these areas, the Department may approve unique setbacks under the following conditions:
 - 1. Where forty (40) percent of the lots on a block face are nonconforming, the unit may be set back so as to blend in with the average distance of existing nearby structures.
 - 2. Where existing block faces are all nonconforming, the Department, upon determining the local conditions, shall determine a setback.
- C. *Side-loading garages.* Side-loading attached garages located in front of the house shall be permitted on single-family detached house lots listed as fifteen thousand (15,000) square feet in Table 40.04.110. The setback for such garages may be reduced, provided the following are met:
 - 1. Side-load garage setbacks shall be a minimum of fifteen (15) feet.
 - 2. One (1) plant unit shall be installed for each side-load garage in the area between the garage and the right-of-way.
 - 3. Within a development, no more than forty (40) percent of the total lots may be side-load garages. No more than three (3) adjacent lots may contain side-load garages. The orientation shall be broken up so that garages do not all face the same direction.

(Ord. No. 97-172, § 3(ch. 13, § 26.230), 12-31-1997)

Sec. 40.26.231. Patio and atrium dwelling units.

The wall enclosing these lots may be eliminated or reduced in height or opacity where the unit faces open space. The street yard should be varied to avoid monotony. The following rules govern wall modulation:

- A. Where the wall abuts open space within the development, it may be reduced in height, length, or opacity in accordance with Table 40.26.231.

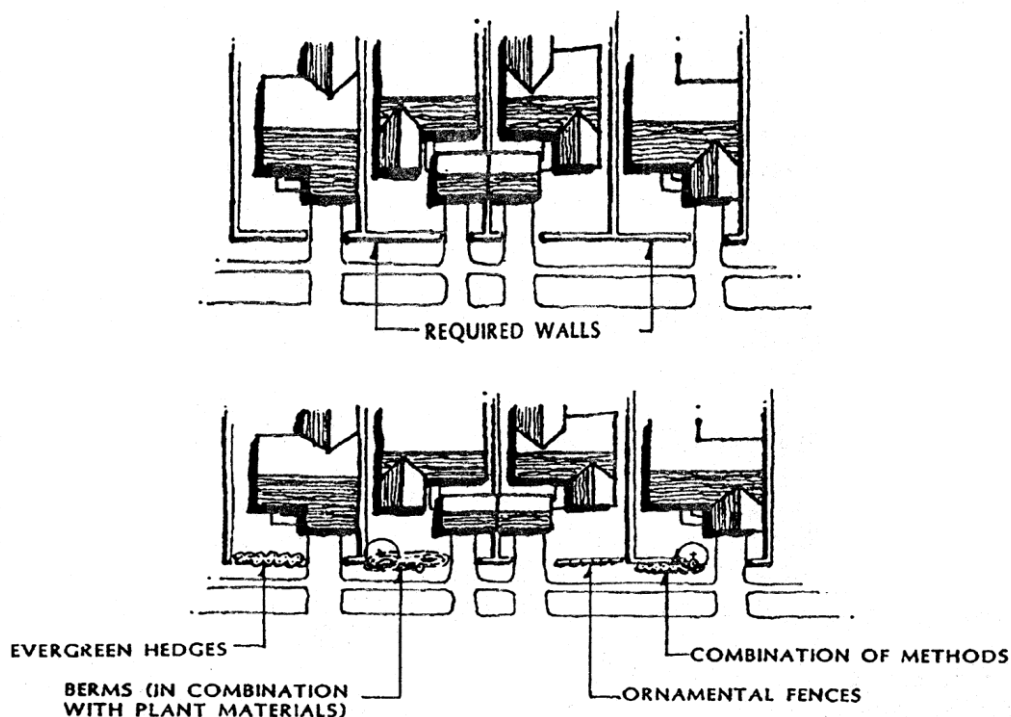
- B. A patio or atrium dwelling unit's street face (where applicable) may be articulated to avoid monotony. The wall requirement shall be eliminated in favor of some combination of the wall and one (1) or more of the techniques shown in Figure 40.26.231.

Table 40.26.231
PERCENT REDUCTION IN TOTAL AREA OF WALL

Type of Cover	Width of Open Space			
	30—40 ft.*	41—60 ft.*	61—100 ft.	101 ft. +
Lawn	10%	15%	30%	40%
Old field	30%	40%	60%	80%
Tier 3 Forest	50%	70%	90%	100%
Tier 1 or Tier 2 Forest	60%	80%	100%	100%

*If a trail or walk is present, add ten (10) feet to width.

Figure 40.26.231
TECHNIQUES FOR ARTICULATING PATIO AND ATRIUM STREET FACE WALLS



(Ord. No. 97-172, § 3(ch. 13, § 26.231), 12-31-1997; Ord. No. 21-009 , § 9, 12-14-2021)

Sec. 40.26.232. Windowless wall.

In lot-line, atrium, and patio units, windows are prohibited from looking into the neighboring yards. Windows shall be permitted in walls designated as windowless provided that one of the following conditions are met:

- The adjoining land is a public right-of-way.
- The adjoining land is open space having a minimum width of fifteen (15) feet, where the unit on the opposite side of the open space is walled.

- C. The adjoining land is open space having a minimum width of thirty (30) feet.
- D. The windows face a closed courtyard, or the windows are located at a height that prevents a view into the adjoining property.

(Ord. No. 97-172, § 3(ch. 13, § 26.232), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.26.233. Building separation.

This Section sets forth the residential building spacing regulations and standards. Various attached dwelling unit types have no side yard lines, since the individual dwelling units are attached. However, blocks of attached units are regulated by building spacing. A variety of situations can modify the basic standards. The normal separation assumes the building walls are generally parallel, but that need not be the case; this circumstance also changes the separation requirements needed to provide light, air and fire access. The following standards permit modification of building spacing under the specified conditions.

- A. *Irregular facing walls.* Where facing building planes are not a straight line, the average distance between the adjoining walls shall be used, provided no portion of the building is closer than eighty (80) percent of the minimum building spacing.
- B. *Nonparallel building alignment.* Where building walls are not parallel, the minimum building separation may be reduced. The average separation must be equal to the requirement of Table 40.04.112 and the minimum shall be no less than eighty (80) percent of that requirement.
- C. *Building Code.* Chapter 6 may establish increased requirements for fire-rated construction where building setbacks are reduced, thus increasing costs, or require stricter standards.

(Ord. No. 97-172, § 3(ch. 13, § 26.233), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.26.240. Modification of housing type.

This Code provides a variety of building types to insure diversity. Market or design constraints may be such that modification of building types may be permitted in order to achieve the desired character or meet market demands. The following modifications are expressly permitted:

- A. *Lot line and village units.* These lots have different sizes, provided the size and mix requirements are retained. Either design motif may be used as follows:
 - 1. The lot line house may be designed in the village mode, using the same front yard setback and retaining its build to line. The side yards should be a minimum of six (6) feet and a total of fourteen (14) feet.
 - 2. The village house may be designed in the lot line mode with a twenty (20) foot front yard setback and single side yard or building separation of fifteen (15) feet.
- B. *Build-to and setback lines.* The standards are designed to be used in small scale subdivisions where each subdivision in the district has common standards. In the Traditional Neighborhood, developments having over three hundred (300) dwelling units the Department may change these standards according to the following:
 - 1. Where design guidelines for the entire community in the Traditional Neighborhood suggest a different setback or build-to line, and this is done to achieve a specific look, it may be permitted, provided:
 - a. The setback does not result in greater exposure of the automobile to the streetscape.
 - b. The change does not result in a loss of landscaping to soften the street facades.
 - c. The change does not alter the urban character of the Traditional Neighborhood, an alternative may be used throughout the development.

(Ord. No. 98-080, § 1(ch. 13, § 26.240), 9-22-1998; Ord. No. 09-037, § 1, 10-13-2009)

Sec. 40.26.250. Additional dwelling unit types.

The Department shall review proposed additional dwelling unit types. The new types may be approved provided:

- A. They represent a significantly different housing style, not just a small lot;
- B. That the housing type address issues of privacy, usable yard space, and adequate light and air;
- C. That the parking be such that the unit does not create a situation where garages and drives dominate the front facades; and
- D. That there be a valid reason for the unit type such as, but not limited to, the following:
 - 1. The unit is designed for specific topographic conditions.
 - 2. The unit works to increase single-family attached densities near transit.
 - 3. The unit is particularly suited to increasing affordable housing and can be mixed into the overall fabric of the community without either creating an obvious unit type. For example, a unit type that makes a single-family home a two (2) unit building either with a granny flat or a second unit in a townhouse or village house situation.
 - 4. The design caters to a specific market segment such as elderly that have difficulty with one (1) of the normal housing types.
 - 5. The housing type fulfills a specific design function that enhances the design of the community and creates greater sense of place in the development.

(Ord. No. 98-080, § 1(ch. 13, § 26.250), 9-22-1998)

Sec. 40.26.260. - Large industrial structures.

For land development plan applications, the maximum size of a proposed industrial building or addition is two hundred thousand (200,000) square feet of GFA to prevent too large a building or structure from altering the general character of the community. Industrial buildings or additions larger than two hundred thousand (200,000) square feet of GFA may be approved dependent on compliance with this Chapter and the following standards:

- A. The design of the development incorporates the following techniques to minimize visual impact:
 - 1. The development has a common architectural design, including the use of common facade materials, window treatment, and roof lines.
 - 2. Proposed industrial buildings or additions must be designed to reduce their apparent mass by including site and building design improvements such as building wings, articulated facade, a reduced height by setting the ground floor partially below grade, or locating the building topographically so that proposed industrial buildings or additions are better screened by surrounding buildings, where appropriate.
 - 3. The massing of buildings on the periphery of the development to screen the larger buildings.
 - 4. Except for along lot lines internal to an existing office or industrial park or adjacent to existing industrial uses the bufferyards, street trees, berming, and on-lot landscaping must be upgraded, where appropriate, to mask the development.
 - 5. The site plan must be designed so that the actual view of the larger building located down the street is such that the scale of the larger building is not apparent.

- B. Where large industrial structures are proposed to be adjacent to an existing residential use or residential zoning district, lighting must be designed so that there is zero (0) footcandle at the property line of the residential area.
- C. The site must be designed to minimize noise impact on neighboring properties. A noise study must be submitted to evaluate this impact and to verify consistency with Chapter 22 of the New Castle County Code.
- D. The site must be designed so that parking, loading, and circulation minimize the glare from vehicular lights visible to neighboring residential properties.
- E. The plan must include elements of building design, site design and amenities identified in the applicable Character Area set forth in Appendix 7. The Department may require specific improvements to the development where they are most needed, are appropriate, and can be physically accommodated.
- F. Upon a finding by the Department that the exploratory plan is in general compliance with this Chapter, and receipt of a narrative identifying how the proposal addresses the conditions of this section, the plan shall be scheduled for a Planning Board public hearing on the next available hearing date. The Planning Board will review the proposal and consider the effects of the proposed structure on adjoining properties. Planning Board review of the exploratory sketch plan is required prior to submission of a record plan to the Department.

(Ord. No. 97-172, § 3(ch. 13, § 26.260), 12-31-1997; Ord. No. [23-104](#), § 7, 1-9-2024)

Division 40.26.300. Subdivision standards.

Sec. 40.26.310. No road frontage.

In Pocket Neighborhoods, the Department may allow dwelling units to have no street frontage. All such units shall front an open space that meets the standards in Table 40.26.310. The maximum distance such a unit may be away from a street depends on whether the lot has direct access to both the open space and an alley that provides the lots with on-site parking and emergency access, or whether access is solely via the open space. The distance in Table 40.26.310 is doubled if a road or emergency access alley is available at both ends of the open space. Figure 40.26.310 illustrates the various conditions.

Table 40.26.310
STANDARDS FOR SPECIFIC RESIDENTIAL UNITS WITH NO ROAD FRONTAGE

Width of Open Space (ft.)	Maximum Distance from Street (ft.)	
	Open Space Access	Alley and Open Space Access
8	60	100
12	75	150
20	100	180
30	120	200

Figure 40.26.310
RESIDENTIAL UNITS WITH NO ROAD FRONTAGE



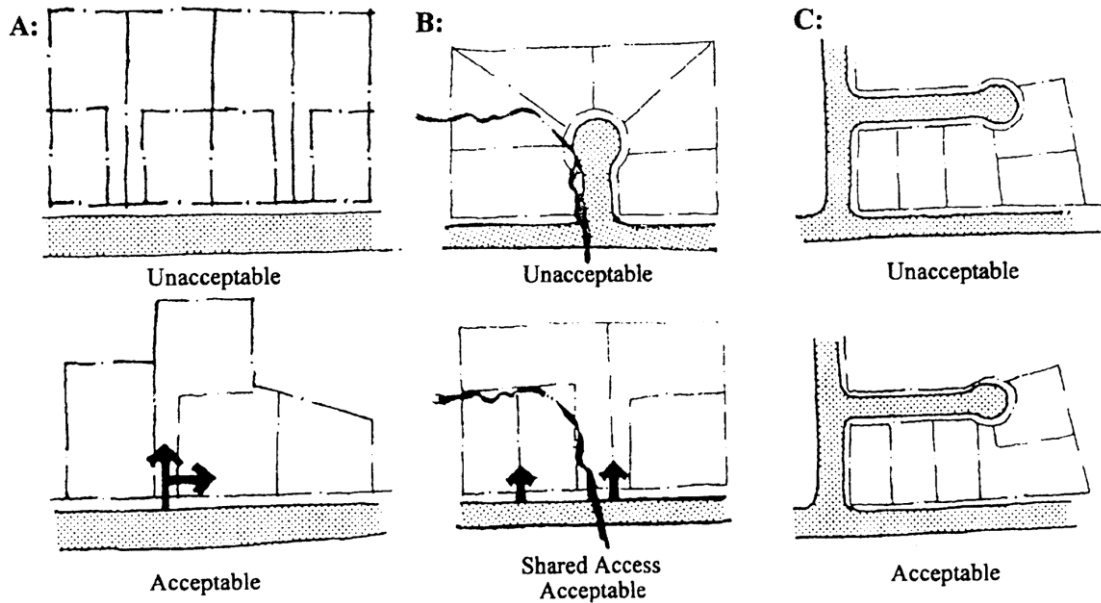
(Ord. No. 97-172, § 3(ch. 13, § 26.310), 12-31-1997, Ord. No. 24-137, 12-10-2024)

Sec. 40.26.320. Flag lots.

Flag lots are generally prohibited because they have often been used to avoid building a street to serve a subdivision, and their use increases the number of curb cuts on arterial or collector roads. However, conditions exist where flag lots are reasonable and can even enhance the community's character. These conditions are set forth below and illustrated in Figure 40.26.320.

- A. If the property to be subdivided has very irregular boundaries and a narrow street and cul-de-sac are not feasible, a flag lot may be used to serve a single lot where lots are one (1) acre or larger.
- B. In a resource protection area a flag lot may be used to reduce resource destruction which would have occurred by extending the cul-de-sac further into the sensitive area where lots are one (1) acre or larger.
- C. A flag lot shall be used to avoid lots taking access to arterial or collector streets as long as the flag lot does not take access from the arterial or collector.
- D. A combined curb cut for the flag lot and one (1) or more lots may be required where the Department believes such design will improve safety.

Figure 40.26.320
FLAG LOT CONDITIONS



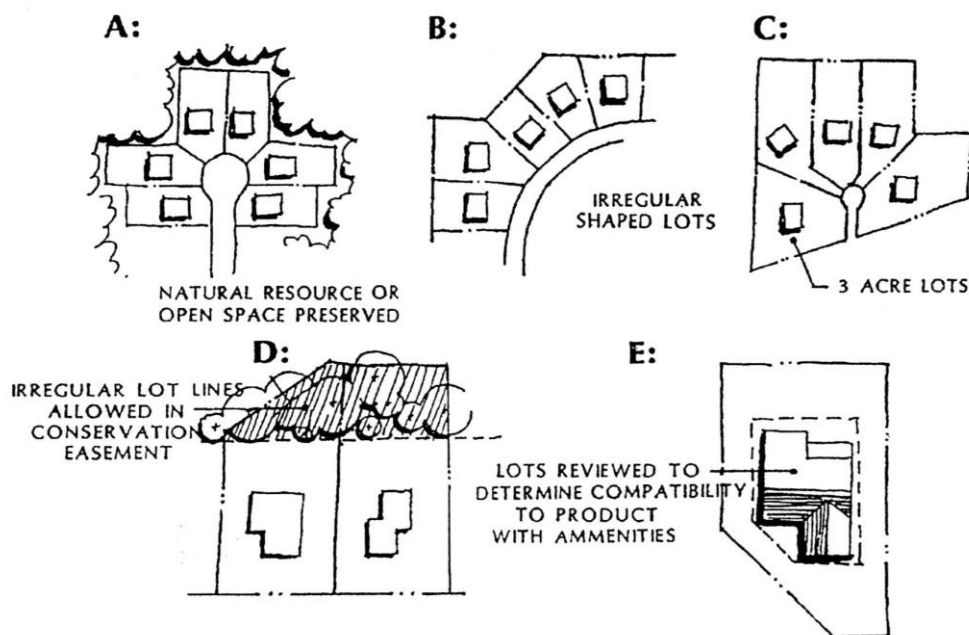
(Ord. No. 97-172, § 3(ch. 13, § 26.320), 12-31-1997)

Sec. 40.26.321. Lot shapes.

Normally, lot shapes are rectangular or pie-shaped. This pattern works well in some cases; rectangular lots are important when lots are rather small since they provide a maximum buildable area. Pie-shaped lots can be very inefficient. The most important element is that the lot contains a building construction envelope adequate for conventional house design. Lot shapes may be irregular under the following circumstances (see Figure 40.26.321):

- A. Where lots are surrounded by open space, lots of approximately trapezoidal shape may be used to maximize the benefits of the open space and reduce road length.
- B. Where the property has a shape that makes it difficult to lot efficiently, the developer should be able to use irregular lot shapes rather than waste land.
- C. Where lots exceeding three (3) acres are provided, the lot shape that provides efficient use of the land and minimum lot size may be used.
- D. Portions of lots in a conservation easement may have irregular shapes since they cannot be used for construction.
- E. All lot sizes and shapes shall be reviewed to determine if houses similar to those normally built in the district can be constructed with normal patios or decks within the building envelope.

Figure 40.26.321
IRREGULAR SHAPED LOTS



(Ord. No. 97-172, § 3(ch. 13, § 26.321), 12-31-1997)

Sec. 40.26.330. Cul-de-sac or block length.

Cul-de-sac length is generally set to avoid unduly long roads where only one (1) means of access exists. Maximum block lengths provide for good circulation. However, a longer block length or cul-de-sac length may be permitted.

- A. A cul-de-sac's maximum length may be extended to serve twenty-four (24) lots provided:
 - 1. No stub street is possible; and
 - 2. The average number of lots served by culs-de-sac in the development is sixteen (16) or less; and
 - 3. The cul-de-sac layout and design minimizes natural resource disturbance; and
 - 4. The cul-de-sac layout and design are in accordance with the standards of the DelDOT Development Coordination Manual.
- B. A block's longest dimension may be extended by twenty-five (25) percent (with proportionate expansion to the maximum block perimeter) where:
 - 1. Unique topography, shape, or physical features make it difficult to connect to another street without building structures that are well above normal improvement costs; or
 - 2. The connection would result in undesirable intrusions into natural resources; and
 - 3. Adjoining developments provided no connections, which if linked to the subject property would reduce the need for the modulation; or no stubs are possible to adjoining vacant land.

(Ord. No. 97-172, § 3(ch. 13, § 26.330), 12-31-1997; Ord. No. 21-009 , § 10, 12-14-2021)

Sec. 40.26.331. Intersections.

Intersections may be permitted closer than the three hundred (300) foot centerline distances where:

- A. The depth of a block is less than these distances. An exception shall be granted unless a reasonable alternative street configuration exists which will provide the needed separation; or
- B. Topographic, natural resource, or ownership problems make providing the separation impractical or undesirable; or
- C. A narrower distance may be permitted where the Department determines the shorter distance results in safer conditions based on site distances.

(Ord. No. 97-172, § 3(ch. 13, § 26.331), 12-31-1997)

Division 40.26.400. Modifications for development in designated Hometown (HT) Overlay Districts.

Sec. 40.26.410. Purpose.

The purpose of the Hometown Overlay District is to perpetuate and enhance the character of communities built before the creation of zoning and land development codes. The creation of the overlay districts is intended to foster investment and redevelopment in these communities by preventing the need for variances in order to maintain existing patterns and characteristics, and to prevent the lack of harmony that results from strict adherence to existing zoning standards. Nearly three (3) centuries of development were already in place when the first zoning code was established in 1954. The zoning code, and amendments, created standards for new development, but failed to recognize the unique qualities of existing communities and how they would evolve. The diversity of our older communities include settlements that grew around mill seats, ports, railroad stations, crossroads, agricultural trading centers, trolley lines, and adjoining cities. Many are designed with street systems, lot sizes, dimensional relationships, and patterns of use that do not conform to existing zoning districts, yet are viable, attractive communities that offer an alternative to modern development. The urban style density, setbacks, and mixed uses in some older communities are not permitted in the standard zoning districts. A community redevelopment plan for each overlay district will define unique characteristics that infill projects, redevelopment, and zoning patterns will perpetuate.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004)

Sec. 40.26.420. Designation.

- A. County Council may establish Hometown (HT) Overlay Zoning Districts, pursuant to process and standards for a zoning map amendment set forth in Article 31 of this Chapter.
- B. The Hometown (HT) Overlay Zoning District encompasses the boundaries of communities and neighborhoods that will be subject to a modification of dimensional standards as set forth herein and by an approved Community Redevelopment Plan.
- C. When the establishment of a Hometown Overlay District requires an amendment to the Comprehensive Development Plan, the County must amend the Comprehensive Plan consistent with State Code.
- D. The description and identification of these communities shall be through civic initiative and public input to determine the unique qualities, landscapes, land use, development patterns, amenities, road network and transit facilities, community uses, public spaces and other assets that define and characterize that community. The delineation of a community shall not be comprised of only one (1) land use type. Communities are composed of a variety of uses that include residential, commercial, employment, recreational and institutional uses. While not all communities have each of these categories, all communities do exhibit a variety of land uses that together contribute to the identity and function of the community.

- E. All proposed land use applications reviewed by the Department shall comply with a Community Redevelopment Plan and/or Design Guidelines adopted for a community.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 06-031, § 1, 7-11-2006; Ord. No. 10-113, § 1(Exh. A), 1-18-2011, Ord. No. 24-112, 1-16-2025)

Sec. 40.26.430. Community redevelopment plan.

- A. With adoption of the Hometown Overlay Zoning District Ordinance, County Council shall at the same time, by ordinance, approve a Community Redevelopment Plan with design guidelines.
1. At a minimum, the Plan shall include a purpose, goals, and description of the land uses, community character, architectural or design themes, streetscape and landscape concepts, transportation objectives, considerations for building envelope, mixed use opportunities, parking/loading and accessory uses.
 2. The Community Redevelopment Plan must describe how development is intended to be compatible with the community character or in harmony with the existing community fabric. It should encourage maintaining the rhythm of the existing developed community by recognizing streetscape contexts involving building, scale, mass, door and window openings and spacing, building height, setbacks, materials, texture and relief of facades. However, the Plan should not merely act to replicate architectural styles that would result in an unintended monotony and blandness or a contrived, artificial appearance.
 3. The Community Redevelopment Plan shall identify those properties that warrant a different zoning designation and County Council shall consider these rezonings concurrently with the adoption of the overlay zone.
 4. An illustrative plan and narrative report shall address proposed dimensional, character, design and other standards to supplant or supplement other provisions in County Code. These standards and criteria may be incorporated in the Community Redevelopment Plan or within a separate "Design Guidelines" manual.
- B. The Community Redevelopment Plan with guidelines shall result from no less than two public meetings scheduled by the Department to determine community goals and objectives, sometimes referred to as a visioning process. It is imperative that these public meetings, held pursuant to the public notification process of Section 40.31.340, comprise broad-based support with representation by diverse community interests and bona fide community groups.
- Subsequent to the public meetings, an application supporting the proposed Plan with design guidelines shall be submitted to the Department and scheduled to be heard by the Planning Board and, if historic resources are potentially involved, the Historic Review Board. Following the hearing(s), the Planning Board and the Department shall issue a joint recommendation regarding the application. Where applicable, the Historic Review Board shall issue a separate recommendation.
- C. Amendment or revision to the Community Redevelopment Plan and/or the guidelines, may be initiated by the community, the Design Review Advisory Committee (DRAC), the District Council Member, or by the Department, and approved through an ordinance pursuant to the standards and process for a text amendment set forth in Article 31 of this Chapter with the addition of a review and recommendation by the Design Review Advisory Committee (DRAC) if one exists.
- D. An applicant seeking a variance from the dimensional standards and/or design guidelines identified in the Community Redevelopment Plan or Design Guidelines manual shall apply to the Board of Adjustment. A recommendation from the DRAC and the Department (or the Department alone, if no DRAC exists) shall be submitted to the Board of Adjustment prior to consideration of the application by the Board.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011, Ord. No. 24-112, 1-16-2025)

Sec. 40.26.440. Design Review Advisory Committee (DRAC).

A Design Review Advisory Committee shall be established pursuant to Section 40.30.450 for each Hometown Zoning Overlay District created.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004)

Sec. 40.26.450. Variation from UDC standards.

- A. All standards in this Chapter shall remain in effect within the designated community including zoning districts as depicted on the Zoning Map. The standards established by the Community Redevelopment Plan/Design Guidelines manual that may conflict or contradict those of this Chapter shall supersede those of this Chapter as identified and determined by the Department during plan review.
- B. The requirements of this Chapter may be modified to adjust density, landscaping, buffers or open space areas, parking, building and paving setbacks, building heights, and sign standards to insure that the proposed development will conform to the goals and objectives of the Community Redevelopment Plan and/or Design Guidelines manual.
- C. Exceptions:
 - 1. All protected resources as identified in Article 10 shall be preserved.
 - 2. The Community Redevelopment Plan/Design Guidelines manual shall not replace historic preservation measures found in Article 15.
- D. The Department may initiate proactive rezoning of land within the overlay zone to facilitate proposed development that conforms to the Community Redevelopment Plan and/or Design Guidelines Manual.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.26.460. Land development reviews.

- A. Any proposed land development application within a Hometown Overlay zone shall follow the procedures of Article 31 with the addition of a review by the Design Review Advisory Committee (DRAC). If no DRAC exists, the Planning Board will consider the application for consistency with the Community Redevelopment Plan at the public hearing for Major Land Development Plans by this Chapter.
- B. The Department shall review all other land use applications located within any Hometown Overlay for consistency with the Community Redevelopment Plan and Design Guidelines. The Department may refer an application to the local DRAC for their recommendation if the Department determines that the proposed activity is not consistent with the Community Redevelopment Plan and/or Design Guidelines Manual.
- C. Upon submission of an application, the Department shall notify the appropriate DRAC of the application and schedule a public meeting for the next regularly scheduled monthly meeting in compliance with legal notice requirements. Both the applicant and the Department shall be responsible for public notification in accordance with Section 40.31.340.
- D. The Department shall prepare a preliminary report for the DRAC prior to the public meeting. The Department's preliminary report shall include a discussion of the appropriateness of the application in relation to the Community Redevelopment Plan and/or Design Guidelines manual and this Chapter.
- E. A public meeting for review of the application shall be held by the DRAC and the Department. The applicant shall be present to provide a brief description of the project and answer questions by the Committee and those in attendance. Based upon its public review, the DRAC shall provide a written recommendation to the Department within ten (10) days of the public meeting. If the DRAC fails to submit a recommendation within those ten (10) days, the Department shall proceed with its review of the application.
- F. The DRAC's written recommendation shall advise the Department of the project's conformance with the goals, objectives and standards of the Community Redevelopment Plan and/or Design Guidelines manual. The

Committee may make suggestions or recommendations for desired revisions to further enhance the project or to correct deficiencies.

- G. Upon receipt of the DRAC recommendation, the Department shall issue a final report to the applicant. In doing so, the Department shall give due consideration to the public meeting comments and DRAC recommendation in determining conformance with the Community Redevelopment Plan and/or Design Guidelines manual. A revised exploratory plan or land development application may be required to incorporate the proposed changes identified in the final report. Architectural details, elevations and other design-related elements shall be shown on a landscape plan or on a separate plan. The Department will subsequently respond to the applicant as part of its review in accordance with this Code. Dimensional standards varied by this process and other Community Redevelopment Plan and/or Design Guideline manual elements shall be noted and depicted on all subsequent plan and/or application submissions.
- H. The Department may refuse acceptance of plans that are in substantial noncompliance with this Chapter or Community Redevelopment Plan and/or Design Guidelines manual and may require subsequent reviews by the DRAC upon submission of revised plans.
- I. In the event that an applicant submits supplemental materials to the Department to contradict a recommendation from the DRAC, an additional DRAC meeting, following the notification process outlined in Section 40.26.460 B., shall be required to provide an opportunity for the DRAC to revisit its prior recommendation in light of any new materials including, but not limited to, all supplemental materials received by the Department from the applicant and the Department's official position. The DRAC shall then have ten (10) days from the date of the public meeting to provide a supplemental recommendation to the Department. If the DRAC fails to submit a supplemental recommendation within those ten (10) days, the Department shall proceed with its review of the application.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 06-031, § 2, 7-11-2006; Ord. No. 08-032, § 1, 7-8-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011, Ord. No. 24-112, 1-16-2025)

ARTICLE 27. MAINTENANCE ORGANIZATIONS, OPEN SPACE, AND COMMON FACILITIES¹

Division 40.27.000. Purpose.

The provisions of this Article require that all open space set aside as part of a subdivision or land development plan be transferred to and maintained by a governmental body or a maintenance organization by:

- A. Requiring the developer to create or identify a maintenance organization as a condition of recordation of the record plan.
- B. Delineating the maintenance responsibilities for all areas designated on the record plan as open space or common facilities including, but not limited to, private streets or rights-of-way, parking areas, drainage facilities, stormwater management facilities, and active or passive recreation areas and providing that such areas shall be maintained pursuant to the terms of a maintenance declaration, landscape plan, open space management plan or natural resource management plan approved by the Department prior to plan recordation.
- C. Requiring the transfer of ownership of the open space and common facilities to a maintenance organization or governmental body, and defining the process by which transfer shall occur.
- D. Defining the process by which the transfer of control of the maintenance corporation from the developer to the homeowners shall occur.
- E. Requiring all subdivisions and land developments constructed prior to the enactment of this Article to comply with all applicable Code provisions pertaining to maintenance organizations, open space, and common facilities.

(Ord. No. 97-172, § 3(ch. 13, div. 27.000), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.27.100. Requirement for maintenance organizations.

Sec. 40.27.110. Maintenance organizations.

In subdivisions and land developments where lots or units will be sold to individual purchasers, the developer of the property shall establish or identify an appropriate organization that shall be responsible for owning, maintaining and/or managing the open space and common facilities.

(Ord. No. 97-172, § 3(ch. 13, § 27.110), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003)

Sec. 40.27.120. Exceptions.

A maintenance organization shall not be required under the following circumstances:

- A. The record plan contains only public open space that will be owned and maintained by a governmental body.
- B. The record plan contains no private open space but depicts common facilities and:

¹Editor's note(s)—Ord. No. 07-012, § 2, adopted May 8, 2007, amended the title of Art. 27 to read as herein set out. Formerly, said Article was entitled maintenance corporations, open space, and common facilities.

1. The Office of Law and the Department agree in writing, prior to plan recordation, that a maintenance organization is not necessary;
2. An appropriate agreement, such as an access or easement agreement, binds the lot owners and establishes obligations regarding use and maintenance of the common facilities; and
3. Such agreement is approved by the Office of Law and the Department, noted on the record plan, and recorded in the Office of the Recorder of Deeds.

(Ord. No. 97-172, § 3(ch. 13, § 27.120), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 20-090 , § 1, 4-13-2021)

Sec. 40.27.130. Required organizational form.

Prior to plan recordation, the developer shall identify an appropriate maintenance organization or governmental body responsible for maintaining the open space and common facilities. The maintenance organization shall consist of one (1) of the following entities.

- A. *Condominium.* A condominium organization is permissible only if the property complies with the requirements of 25 *Del. C.* Ch. 22 (Unit Property Act) or Ch. 81 (Delaware Uniform Common Interest Ownership Act or "DUCIOA") depending upon which Act applies to the condominium organization. In such a case, "common elements" as used in the Unit Property Act or DUCIOA as applicable shall, in addition to its given definition, mean and refer to "open space" and "common facilities" as used in this Article. The Declaration required by the Unit Property Act or DUCIOA shall, by reference to this Article, subject the unit owners to the provisions of this Article.
 1. The form and content of the Declaration shall be approved by the Office of Law prior to plan recordation.
 2. The plan shall reference the recorded Declaration by instrument number and state that maintenance of the open space and common facilities are subject to this Article and said Declaration.
- B. *Third party conservancy.* The County may approve a third party entity ("conservancy") to operate as a maintenance organization upon a showing that the conservancy has the ability to maintain and manage the open space. The conservancy may be a conservation group, land trust, land management group, public/private partnership or any other type of entity as long as the conservancy's primary purpose is preservation or conservation. The conservancy must be approved by the Department prior to plan approval. The conservancy must meet the following requirements to the Department's satisfaction to be considered for approval as a maintenance organization.
 1. The ability to fund the costs of implementing and completing a natural resource area management plan, landscape plan, and other approved plans that concern the open space;
 2. The ability to fund the costs of perpetual maintenance and management of the open space.
 3. The knowledge and expertise to complete, manage, and maintain the approved natural resources area management plan, landscape plan, and other approved plans that concern the open space.
 4. Proof of adequate oversight mechanisms to carry out the responsibilities of open space management and maintenance.
 5. Documentation of long term financial and organizational stability and of perpetual existence.
 6. Assurance that at such time the organization can no longer perform its management and maintenance responsibilities, all open space shall be transferred to a party responsible for management and maintenance of the open space. The owner shall include such reverter or retransfer provisions in the deed transferring the land to the maintenance organization. Such provisions must be approved by the Office of Law before the open space is transferred.

7. Execution of documents including maintenance agreements and conservation easements acceptable to the Department and Office of Law that ensures the preservation of the open space in the condition contemplated by the record plan, natural resource area open space management plan, landscape plan, and any other applicable plan.
 8. Language on the record plan and in the deed transferring the land to the maintenance organization creating restrictive covenants to ensure the availability of the open space for those whose use of the open space is intended and restrictions on transferability and use.
- C. *Maintenance corporation.* Unless Subsections A. or B. applies, the developer shall form a non-stock corporation pursuant to the provisions of 8 Del. C.Ch. 1 (General Corporation Law).
1. Prior to plan recordation, the developer shall submit to the Department and the Office of Law, for their review and approval, the maintenance declaration, certificate of incorporation, and bylaws as required by this Article. These forms shall conform to the model forms contained in the Appendix to this Chapter.
 2. The maintenance declaration shall be executed by the legal owner of the property and shall create covenants that run with the land. The declaration shall be recorded by the Recorder of Deeds in and for New Castle County prior to record plan approval.
 3. The record plan shall reference the maintenance declaration, landscape plan, open space management plan, or natural resource management plan and state that maintenance of the common areas and facilities including stormwater management facilities is subject to the provisions of this Article, the maintenance declaration, and applicable plans.
 4. At such time assessments are collected by the maintenance corporation for the maintenance of the open space, the developer shall be responsible for paying an assessment for each parcel owned.

(Ord. No. 97-172, § 3(ch. 13, § 27.130), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090 , § 1, 4-13-2021)

Sec. 40.27.140. Conditions of recordation.

Prior to recordation of the plan, the owner and/or developer of the property shall demonstrate:

- A. The maintenance organization has a perpetual obligation to maintain the open space and common facilities.
- B. The legal owner has created adequate restrictions on the record plan and in the maintenance declaration and any other document that is required by the Department concerning the transferability and use of the open space.
- C. That all lot or unit owners have a right to enjoy the private open space and common facilities, subject only to reasonable rules and regulations, and the payment of appropriate maintenance organization fees.
- D. That the maintenance organization has or will have the resources to discharge its maintenance obligations.
- E. That all other provisions of this Article have been observed and that a satisfactory plan is presented demonstrating that all remaining obligations will be fully discharged.
- F. The developer has provided the Department with the name, address, email, and telephone number of the developer's representative who will be responsible for maintenance of open space and common facilities during development of the subdivision.
- G. The developer has certified by affidavit, signed by the affiant under penalty of perjury, and notarized, that all subdivisions or land developments that the developer is or has been financially associated with are in compliance with this Article and any other applicable provisions of this Code pertaining to maintenance organizations, open space or common facilities. The developer shall disclose all prior and current land use projects in the County in which any financial interest were or is presently held. This

includes all projects conducted under the affiant's current business name as well as any prior construction or development business under which affiant has operated as a principal.

- H. The developer has provided a natural resource area open space management plan, open space management plan, landscape plan or an active recreation plan or a combination thereof.
 - 1. The specific content of the plan(s) will be established by the Department according to the requirements of this Chapter for the particular subdivision in question.
 - 2. The plan(s) must include open space and common facility construction and the open space and common facility completion sequence. The completion sequence should be phased where practical so that the construction and completion of open space and common facilities coincide with the completion of the dwelling units that border said open space or common facilities. The plan must specify the planting season for all landscaping to be installed.
- I. Prior to construction plan approval, the developer shall provide open space classified as active recreation with a slope that permits activities within the space to occur safely. Slopes must not exceed 5:1 unless the developer can demonstrate that the use would require a steeper slope.
- J. The developer has provided maintenance specifications on a plan for all existing undisturbed land or structures to remain within the subdivision and further demonstrate that the land or structure does not present a danger to public health, safety, or welfare.
- K. Approval in accordance with DNREC Remediation Section (or as amended) for all sites containing contaminated soils. No development shall be permitted that places any burden or liability associated with contaminated soils on residential maintenance organizations.
- L. All privately maintained storm sewer and stormwater management outfall pipe and structures with materials rated by the manufacture to have a life span at a minimum of fifty (50) years. Metal pipe is not permitted.
- M. Plans require restoration areas to be established prior to turnover. Monitoring requirements for the areas to achieve establishment must also be noted on the plans.

(Ord. No. 97-172, § 3(ch. 13, § 27.140), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090, § 1, 4-13-2021)

Sec. 40.27.150. Duty to inform home buyer.

In residential home sales, the seller of a lot, or his or her authorized agent, has an affirmative duty to inform the purchaser about maintenance corporation membership and educate the purchaser about members' responsibilities. This duty requires the seller to provide the buyer with a copy of the maintenance declaration and bylaws. A written acknowledgment stating that the seller has fulfilled his or her duty under this section shall be signed by the purchaser.

- A. *New subdivisions.* The developer of a new subdivision shall maintain a record of the individual acknowledgments evidencing the fact that the purchaser of a lot within the subdivision has been provided a copy of the maintenance declaration and the bylaws.
 - 1. The seller shall obtain the purchaser's acknowledgment at or before the time an agreement of sale is executed. Each acknowledgment shall be presented to the Department as a condition precedent to the issuance of each certificate of occupancy.
 - 2. A complete copy of the record of all acknowledgments shall be delivered by the developer to the board of directors of the maintenance corporation and the Department prior to the time the homeowners assume control of the board of directors.
 - 3. The seller must provide documents outlining the open space maintenance to be performed by the maintenance corporation, as outlined on the approved subdivision plan, to each buyer subject to the maintenance declaration.

- B. *Existing homes.* In existing subdivisions that are encumbered with maintenance declarations, the purchaser, at or before settlement, shall sign an acknowledgment evidencing the fact that the seller has provided a copy of the maintenance declaration and the bylaws to purchaser.

(Ord. No. 97-172, § 3(ch. 13, § 27.150), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090 , § 1, 4-13-2021)

Division 40.27.200. Required guarantees and financial contributions.

Sec. 40.27.210. Performance guarantee for open space and common facilities.

- A. The performance guarantee shall become part of the Land Development Improvement Agreement pursuant to Article 31.
- B. The County may pursue the performance guarantee against any developer that has not completed the common facilities within a phase where a period of one (1) year has passed since a dwelling unit permit was obtained.

(Ord. No. 97-172, § 3(ch. 13, § 27.210), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090 , § 2, 4-13-2021)

Sec. 40.27.220. Maintenance escrow.

The developer shall place funds in an interest-bearing escrow account equivalent to the cost of maintaining the private open space and common facilities for a two-year period, as determined by the construction plans, natural resource area open space management plan, open space management plan, and landscape plan, but in no event shall the amount be less than the equivalent of three hundred dollars (\$300.00) per lot within the subdivision. The escrow will also include an amount equal to ten (10) percent of the cost of acquiring and installing the landscaping. All interest that accrues in this account shall be turned over to the maintenance organization.

- A. The funding of this account shall coincide with the real estate settlement for each lot and shall be verified no later than the issuance of twenty-five (25), fifty (50) and seventy-five (75) percent of dwelling unit permits within the subdivision. The Department shall withhold the building permits for the remainder of the subdivision until the Department is furnished with satisfactory proof that the account has been fully funded in accordance with the requirements of this Section.
- B. The developer must demonstrate that the funds have been placed with an independent escrow agent who is not under the power and control of the developer.
- C. The escrow agreement shall provide that the funds shall not be withdrawn by the developer or any person acting on behalf of the developer.
- D. At the time the homeowners assume control of the maintenance corporation and elect a board of directors, the escrow amount for one hundred (100) percent of the lots within the phase being turned over to the community plus any interest shall be transferred to the maintenance corporation. Such transfer shall not occur without the approval of the Office of Law.
- E. The maintenance escrow amount shall become part of the Land Development Improvement Agreement pursuant to Article 31 and the fee shall be noted on the record plan.
- F. The developer shall have a professional written estimate of the annual cost to maintain the proposed open space that is reviewed and approved by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 27.220), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090 , § 2, 4-13-2021)

Sec. 40.27.230. Residential stormwater management facility maintenance fund.

The developer shall pay funds to the County for the purpose of residential stormwater management facility maintenance and inspections.

- A. An amount shall be determined according to a standard formula derived from maintenance guidelines developed by the Department of Public Works and inspection costs incurred by the Department.
- B. The money shall be used for costs associated with annual inspections, long term sediment clean out, and structural repair and reconstruction of facilities located in residential subdivisions throughout the County.
- C. The amount shall be determined on a phase-by-phase basis and as noted on the record plan. The amount for a phase shall be paid prior to the title transfer of the open space within that phase. The total amount for the subdivision shall be paid no later than the issuance of seventy-five (75) percent of permits for dwelling units in the subdivision. The Department shall withhold the issuance of any additional building permits until the Department is furnished with satisfactory proof that the funds have been provided to the County in accordance with the requirements of this Section.
- D. Any obligation to contribute to the Long Term Stormwater Maintenance and Inspection Fund shall become part of the Land Development Improvement Agreement pursuant to Article 31 of this Chapter and the fee shall be noted on the record plan.
- E. The County shall provide the developer with a letter that acknowledges receipt of the funds upon request.
- F. The County will review and may increase the amount if construction of the phase has not commenced within five (5) years of recordation. The developer must pay any additional amount required prior to the time renewed construction plans are approved.

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031 , § 72, 4-24-2018; Ord. No. 20-090 , § 2, 4-13-2021)

Sec. 40.27.240. Non-residential stormwater management facility maintenance fund.

The developer shall pay funds to the County for the purpose of non-residential stormwater management facility annual inspections according to a standard formula developed by the Department of Public Works based on inspection costs incurred by the Department.

- A. Any obligation to contribute to the Long Term Stormwater Maintenance and Inspection Fund shall become part of the Land Development Improvement Agreement pursuant to Article 31 and the amount shall be noted on the record plan. The amount will be determined on a phase by phase basis.
 - 1. If the development does not require a building permit, the amount must be paid prior to scheduling the pre-construction meeting.
 - 2. If the development requires a building permit, the amount must be paid prior to the issuance of the first certificate of occupancy.
- B. The County shall provide the developer with a letter that acknowledges receipt of the funds upon request.
- C. The County will review and may increase the amount if construction of the phase has not commenced within five (5) years of recordation. The developer must pay any additional amount required prior to the time renewed construction plans are approved.

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031 , § 73, 4-24-2018; Ord. No. 20-090 , § 2, 4-13-2021)

Division 40.27.300. Construction, completion and inspection requirements.

Sec. 40.27.310. Construction of open space and common facilities.

- A. All areas designated on the record plan as open space and/or common facilities including, but not limited to, streets or rights-of-way, parking areas, stormwater management facilities, drainage facilities, and active or passive recreation areas, shall be constructed by the developer of the subdivision, and/or any other person or entity that constructs dwelling units within the subdivision or improves the development site. Such responsibility shall be joint and several, and allocation of responsibility shall be determined by the individual persons or entities constructing dwelling units in the subdivision and by the developer.
- B. All areas designated on the record plan as open space and/or common facilities including, but not limited to, streets or rights-of-way, parking areas, stormwater management facilities, drainage facilities, and active or passive recreation areas, shall be constructed, installed, or dedicated by developers, at no expense to the County. Construction, installation, and dedication of such open space or common facilities shall be subject to approval by the appropriate officials at the developer's expense.
 - 1. The Department may not issue more than fifty (50) percent of the total dwelling unit permits within the subdivision until all active recreation areas and structured facilities (clubhouses, pavilions, historical structures etc.) have been turned over to the community.
 - 2. The developer shall be responsible for the maintenance of such open space and facilities until all of the conditions set forth in Section 40.27.510 are satisfied.
 - 3. Open space and common facilities such as sidewalk/walking path/alleys, conveyance systems, landscaping, stormwater management facilities, reforestation, invasive treatments, and final grading must be outlined on the construction plan and must be completed prior to the release of any permit within the phase, other than a permit for a model home. The sequence of construction must outline how each of these is addressed during the construction of the phase. Any extension request must be submitted prior to the scheduling of a post bulk inspection. An extension may be approved by the Department when warranted for weather conditions and sound engineering practices.
 - 4. Construction of an additional phase will be prohibited if the subdivision or land development is not in compliance with any approved plan or the County Code.
 - 5. Perimeter monuments must be installed, and documentation from a State-registered professional land surveyor provided to the Department prior to the release of dwelling unit permits other than permits for model homes.
 - 6. The Department may not issue more than fifty (50) percent of the total dwelling unit permits within the subdivision until the community entrance signs have been installed.
 - 7. Open space shall not be utilized for construction access or disturbed once completed unless maintenance is needed within the open space
- C. When the developer passes the post bulk inspection, the developer must provide semiannual reports by the first of January and July outlining required maintenance and anticipated progress over the next six (6) months. All items requiring maintenance shall be noted with a time for completion. The January report must include a summary of all work that was performed over the prior year. If open space and common facilities are maintained in conformance with the plan for three (3) consecutive reports, the Department may reduce reporting to an annual basis. Reporting may be increased as deemed necessary by the Department if the open space is not maintained. The Department must withhold building permits until such time as the required reporting is provided to the Department.
- D. Where the open space or common facilities are to be developed, such development shall be completed at such time the open space area or common facilities are no longer directly and materially affected by construction activity but shall be completed no later than the issuance of ninety (90) percent of permits for dwelling units. The number of lots open for construction at any one time may be further limited by phases shown on the approved record plan, landscape plan, open space management plan or construction management plans.

- E. If the developer cannot complete the open space pursuant to the timeframes designated on the plan, status report or as provided in this Section, the Department may, for good cause shown, allow additional time for completion of the open space and/or common facilities subject to the following and may issue additional building permits.
1. The developer shall provide the Department with a written proposal for the extension request ("proposal") and a letter of credit or certified check in the amount of one hundred twenty-five (125) percent of the fair market value of completing the unfinished open space and common facilities along with a review and processing fee as outlined in Appendix 2. The proposal shall provide for the completion of the open space and common facilities as soon as practicable and provide for the default of the funds for failure to comply with the extended timeframes. The proposal and letter of credit shall be subject to review and approval by the Office of Law and the Department. A County licensed contractor shall provide the Department with a fair market estimate to complete the unfinished open space and common facilities. The Department may require additional estimates if it believes that the fair market estimate will not cover the cost to complete construction and turnover. For phased projects the County may accept an amount sufficient to complete work within particular phases.
 2. A proposal may be approved only if the Department determines that one (1) or more of the following conditions apply:
 - a. Weather conditions over the previous six (6) months prevented the timely completion of the open space or common facilities; if the area cannot be stabilized with vegetation during the normal growing season as outlined within the Delaware Erosion and Sediment Control Handbook for vegetation; or
 - b. Sound engineering and construction practices warrant the extension.
 3. If an extension is granted, the developer shall provide written notification to the current property owners and those with sales agreements describing the reasons for the delay and providing an expected schedule of completion. Prior to the release of additional permits, the Department must receive verification of distribution of the notification in the form of certified letters, affidavits of site postings or such other proof as the Department may find acceptable.
 4. An extension and any renewal shall not exceed six (6) months. The developer is responsible to pay the County as outlined within Appendix 2 when an extension expires without completion of the open space and when the developer has not made a complete submission for renewal.

(Ord. No. 97-172, § 3(ch. 13, § 27.310), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 18-020, § 18, 7-10-2018; Ord. No. 20-090, § 3, 4-13-2021)

Sec. 40.27.320. Condition of developed open space areas and common facilities.

At the time of inspection, developed open space and common facilities must be in good condition so that they may be used for their intended purpose and must be in conformity with the following requirements. These requirements are not all-inclusive but are intended to describe and establish minimum levels of quality for open space. The open space and common facilities must be, at a minimum:

- A. Clean and contain no surface or buried debris.
- B. Graded to drain and be free of standing water seventy-two (72) hours after a rain event, except within undisturbed natural areas.
- C. Free of standing dead trees, limbs and branches that pose a safety hazard to open space users. Notwithstanding the foregoing, nothing herein shall require removal of limbs and branches within forested areas, but shall only require removal of such hazards along the perimeter of the forested open space areas. Line defining plant material planted by a lot owner may be permitted as long as the root ball does not encroach into the open space.

- D. Free of conditions harmful to the preservation of trees thereon, such as fill or excavation around tree root zones.
- E. Free of unnatural conditions created by the developer that may be hazardous to users of the open space within disturbed areas. The requirements of this subsection shall be satisfied by, for example, but not by way of limitation, construction of new features or safety improvements such as fences or berms to protect open space users from newly created hazards; e.g., abrupt dropoffs from sidewalks to drainage ditches, steep embankments.
- F. Free of any remnants from construction material and soil stockpiles.
- G. Free of soil compaction by construction vehicles or construction material stockpiles. All areas subject to soil compaction shall be broken up or otherwise loosened to a depth of twelve (12) inches. The developer must provide photographic documentation of the appropriate equipment performing the work on areas noted on the construction plans or where haul roads have been utilized. Documentation must be provided prior to the release of dwelling units permits.
- H. Vegetated in accordance with the Additional Standard and Specifications of the Delaware Erosion and Sediment Control Handbook, and in accordance with the natural resource area open space management plan, open space management plan or landscape plan as certified by the professional(s) who designed and prepared the plan depicting the condition of the completed open space. The Department shall require the Developer to reseed and stabilize any and all areas where a satisfactory stand of vegetation as determined by the Department does not exist at the time of the ninety (90) percent inspection. A re-inspection shall be required when perennial vegetation is established prior to the release of the performance bond.
- I. Free of all unauthorized encroachments (e.g., sheds, gardens, fences, line-defining plant material).
- J. Improved according to the open space management plan, natural resource area open space management plan, landscape plan and/or related construction drawings. This requires that stormwater management facilities must be completed and maintained pursuant to Chapter 12. Stormwater management areas must be free of algae, invasive vegetation, and undesirable vegetation that is detrimental to the proper operation of the facility.
- K. Delineated with instructional signs.
- L. The Department may utilize a third-party professional to confirm the good condition of any open space area or common facility prior to acceptance of the open space.

(Ord. No. 97-172, § 3(ch. 13, § 27.320), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 05-081, § 1, 9-13-2005; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 20-090, § 3, 4-13-2021)

Sec. 40.27.330. Condition of natural open space areas.

As determined by the natural resource management plan, open space management plan or landscape plan, open space may be intended for use as an undisturbed or natural area. Should this be the intent, the note on the record plan shall prohibit disturbance of the area. The area shall be transferred in this "untouched" natural state with the governmental body or maintenance organization accepting the original condition. The only exception to the prohibition on disturbing the designated area shall be if:

- A. The open space is disturbed or artificially changed while under the ownership of the developer as provided for on the record plan; or
- B. Safety precautions are undertaken along the perimeter to protect open space users and adjacent property owners; e.g., tree trimming or removal, or the erection of safety barriers.

(Ord. No. 97-172, § 3(ch. 13, § 27.330), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007)

Sec. 40.27.340. Inspection and approval process.

These procedures shall be followed for inspections of open space and common facilities.

- A. The developer shall contact the Department, in writing, requesting an inspection of the open space. The developer's request shall include the items required by the Department such as certifications, as-built surveys, status reports, applicable plans, studies, reports, private storm sewer video, contact information for all board members, notification to the district councilperson or any other additional information and all required fees.
- B. Within twenty (20) days of the receipt of the request, the Department must coordinate an inspection of the open space for conformance with this Article and this land transfer procedure. Once the open space inspection has been scheduled, the Department will notify the board members and district councilperson. There shall be no fee for the first inspection. Notwithstanding the foregoing, if weather conditions prevent the Department from inspecting the open space within the 20-day period, as determined by the Department, the Department must have an additional ten (10) days in which to make the inspection. The Department will notify the developer, in writing, of any defects or non-compliant items found during the inspection and will specify a time period in which to correct them. Non-compliant items not corrected within the specified time period will be subject to Sediment Management and Erosion and Sediment Control re-inspection fees.
- C. When all specified defects and non-compliant items have been corrected, the developer shall notify the Department in writing with a response letter and photographic documentation of this fact. The Department will coordinate a reinspection. Record Plan Open Space reinspection fees are outlined within Appendix 2 of this chapter. At the time the Department finds that the condition of the open space conforms to all plan specifications and any requirements under this Chapter, the developer shall be notified within ten (10) days, in writing, that the open space and common facilities have been approved.
- D. Prior to requesting an inspection, the developer must submit a landscape plan, certified by a registered landscape architect and dated within fifteen (15) days of the request that affirms all vegetation is installed, alive, and in good condition.
- E. A third-party professional must certify that the private storm sewer and streets are constructed in compliance with DelDOT standards. The Department must find the report, as-built plan and pipe video acceptable prior to the inspection of the open space.
- F. The developer must provide written notification to each dwelling unit owner of the scheduled inspection at least five (5) working days prior to the inspection date and affirm to the Department that this has been completed.
- G. The design professional who prepared the grading and stormwater management plan must provide a certification verifying the stormwater management design for the site is functioning as designed. Upon written request, the Department may approve another professional to provide the certification.
- H. An open space inspection approval is valid for sixty (60) days.

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 12-068, § 2, 1-8-2013; Ord. No. 20-090, § 3, 4-13-2021)

Division 40.27.400. Transfer of ownership.

Sec. 40.27.410. Legal transfer of title to open space.

- A. Open space shall be conveyed no later than the issuance of building permits for ninety (90) percent of the dwelling units within the subdivision. For purposes of a phased development, the County may apply this requirement on a phase-by-phase basis.
- B. All costs associated with the transfer of open space and the recordation of the open space deed shall be borne by the developer.

- C. For purposes of a phased development, the title to open space may be transferred on a phase-by-phase basis.
- D. The developer must verify that it provided all documents required to maintain the open space to the maintenance organization in both electronic and paper format. Documents provided must include any open space management plans, and any stormwater maintenance and private storm sewer specifications.

(Ord. No. 97-172, § 3(ch. 13, § 27.410), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 12-068, § 3, 1-8-2013; Ord. No. 20-090 , § 4, 4-13-2021)

Sec. 40.27.420. Title transfer process.

- A. The developer, or its designee, shall contact the Office of Law to make arrangements for the transfer. All required documents shall be submitted to the Office of Law. In addition to documents specifically required herein, the Office of Law may require any other documentation necessary for proper review of the transfer.
 - 1. The developer or its designee shall prepare a legal description and deed for the land. The deed shall contain such provisions and restrictions required by the Office of Law necessary to protect the status of the open space and common facilities.
 - 2. The developer or its designee shall provide a lien search from a title abstractor acceptable to the Office of Law. A certification that no liens exist on the land shall be submitted by the owner of the property.
 - 3. Any additional forms required from the Office of the Recorder of Deeds or any other governmental office shall also be submitted.
- B. No lands shall be transferred unless title is free of all taxes, liens, judgments or encumbrances and the deed is legally adequate
- C. If a developer fails to properly transfer the open space, the remaining permits will not be issued and the developer shall be responsible for the maintenance of the open space until all land is properly and legally transferred and all other provisions of this Article are met.
- D. No transfer of dedicated public open space shall be effective until the Office of Law gives written notification to the grantor that the land has been formally accepted and the deed has been recorded. Land that is to be dedicated as public open space and transferred to New Castle County, shall also require the written approval and acceptance of the General Manager of the Department of Public Works.
- E. The transfer of ownership of public open space to a governmental body shall occur in accordance with the transfer procedures established by the applicable public agency.
- F. When the title documents are approved, the developer shall record the deed and forward stamped copies to the Office of Law and the maintenance organization.

(Ord. No. 97-172, § 3(ch. 13, § 27.420), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 18-031 , § 74, 4-24-2018; Ord. No. 20-090 , § 4, 4-13-2021)

Sec. 40.27.430. Property tax exemption.

Upon receipt of the recorded deed, the Office of Law shall have the open space parcel(s) declared exempt from taxation.

(Ord. No. 97-172, § 3(ch. 13, § 27.430), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 20-090 , § 4, 4-13-2021)

Sec. 40.27.440. Transfer prior to completion and approval of open space and common facilities.

Legal transfer of the land prior to final County approval shall not relieve the developer of maintenance responsibilities of the open space and common facilities or legal liability for such land. If the open space is

transferred prior to its condition being approved by the Department, the developer shall provide the Office of Law with such documents necessary to allow access to complete or restore the open space and common facilities and agreements necessary to indemnify and hold harmless the maintenance organization or governmental body from any and all occurrences on the property until such time the maintenance organization or governmental body is legally liable for the land.

(Ord. No. 97-172, § 3(ch. 13, § 27.440), 12-31-1997; Ord. No. 00-040, § 1, 7-25-2000; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 20-090 , § 4, 4-13-2021)

Sec. 40.27.450. Condominiums.

In residential subdivisions where units are transferred as condominiums within the meaning of the Unit Property Act or DUCIOA depending upon which Act applies, ownership of the open space shall not be transferred as provided herein but shall be held as provided by the condominium declaration. The developer shall be responsible for the costs of constructing and maintaining the open space until such time that it is inspected and approved by the Department. Developer must provide staging on the construction and landscape plans for conveyance of the open space to a condominium association while units are constructed. The plans must delineate the open space and common facilities to be completed prior to the issuance of a certificate of occupancy for each building.

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 20-090 , § 4, 4-13-2021)

Division 40.27.500. Maintenance of open space and common facilities.

Sec. 40.27.510. Maintenance by developer.

- A. The developer of a subdivision shall maintain the open space and common facilities and shall be responsible for the cost of such maintenance until the following conditions are satisfied:
 - 1. The open space and common facilities shown on the record plan and natural resource area open space management plan, open space management plan or landscape plan and/or related construction drawing(s) have been improved according to the approved plans and approved as required by this Article;
 - 2. The open space and common facilities have been transferred to a maintenance organization or governmental body according to the provisions of this Article; and
 - 3. If applicable, the developer has transferred control of the maintenance corporation to the homeowners.
- B. The developer controlled maintenance organization may collect an assessment for completed open space and common facilities, and such assessments shall be in accordance with DUCIOA to the extent DUCIOA is applicable.

(Ord. No. 97-172, § 3(ch. 13, div. 27.500), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 20-090 , § 5, 4-13-2021)

Sec. 40.27.520. Maintenance by maintenance organization.

- A. The maintenance organization shall not be responsible for maintaining open space and common facilities until:
 - 1. The open space and common facilities shown on the record plan and natural resource area open space management plan, open space management plan, or landscape plan have been improved and approved as required by this Article;
 - 2. The open space and common facilities have been transferred to the maintenance organization according to the provisions of this Article; and
 - 3. If applicable, the developer has transferred control of the maintenance organization to the homeowners.

- B. When the requirements of this Section have been satisfied, the open space and common facilities shall thereafter be maintained and kept in good order and repair by the maintenance organization.
- C. All registered maintenance organizations created for the purpose of maintaining common facilities located in residential subdivisions are required to perform minor maintenance and inspections on their stormwater management facilities as required by Chapter 12, Article 6 in order to qualify for financial assistance from the County for major maintenance and repairs of stormwater management facilities, subject to the availability of funds. Failure to perform required maintenance could result in corrective action by the County and imposition of a lien as set forth in Section 40.27.530, or its predecessor, or any recorded maintenance declaration, and ineligibility for County financial assistance, unless and until all required inspections and minor maintenance are up to date.

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.27.530. Failure to maintain open space or common facilities.

- A. Developer. Upon failure of the developer to maintain the open space and common facilities, pursuant to any applicable plan requirement or Code provisions, regardless of whether such open space or common facilities are improved or still under construction, the County may stop issuing building permits and enter upon the premises and complete such maintenance and repair. Upon notice of failure to maintain the common facilities, the County shall provide at least ten (10) days notice to the owner and developer of said condition. If the developer does not respond to the County's notice by correcting said condition, the Department shall not issue building permits until such condition is corrected. At the Department's discretion, if the condition is not corrected within thirty (30) days, or if immediate corrective action is necessary, the County may enter the property and correct the condition. If the condition cannot be corrected within thirty (30) days, the County may elect to extend the time limitation if corrective action is commenced and pursued with due diligence within thirty (30) days. If the County enters upon the land, the cost of the work performed by the County shall be charged to the owner and the developer. This cost shall be paid to the County by the owner or developer prior to the issuance of any additional building permits or in the Department's discretion, may be deducted from the performance surety.
- B. Maintenance corporation or condominium organization. Upon failure of the maintenance corporation or condominium organization to maintain and repair the open space and common facilities as required herein, the County may, in addition to any other remedy provided in this Chapter, enter upon the premises and perform such maintenance and repair, provided that at least ten (10) days notice is given to the board of directors of the maintenance corporation. In the case of a condominium organization, such notice shall be sufficient if given to the condominium council. Notice to individual residents shall not be required.
 - 1. The cost of the work performed by the County shall be charged to the maintenance corporation or condominium organization or, at the election of the County, may be charged to the owners of the lots or units within the subdivision. In the latter case, the assessment shall be apportioned against each lot or unit in accordance with the provisions of the instruments, if any, governing their rights of use or enjoyment, or in the absence of any such provisions, the apportionment shall be by pro rata share per lot or unit.
 - 2. When the assessment is made against the maintenance corporation or condominium organization, it shall become a lien against the owners of the lots or units within the subdivision from the date when such lien is filed in the Office of the Recorder of Deeds.
 - 3. When the assessment is made against the owners of the lots or units in the subdivision, it shall become a lien against each lot or unit from the date when such lien is filed in the Office of the Recorder of Deeds. After thirty (30) days notice to the owners, the assessment provided for herein may be collected by foreclosure of such lien, by action against the owners of such lots or units or by any other available legal means.
- C. Third party conservancy. Upon failure of the conservancy to maintain the open space in accordance with the record plan, natural resource area open space management plan, open space management plan, or landscape

plan, the County may enter upon the premises and complete such maintenance and repair. If immediate corrective action is necessary in the Department's judgment, the County may immediately enter upon the land and correct the deficiencies. In all other cases, the County shall provide at least ten (10) days notice to the conservancy of said condition. If the conservancy does not respond to the County's notice by correcting said condition, the County may enter upon the property and correct the condition. If the condition cannot be corrected within the ten (10) days, the County may elect to extend the time limitation if corrective action is commenced and pursued with due diligence within thirty (30) days. If the County enters upon the land to maintain the open space or perform other services, the cost of the work performed by the County shall be charged to the conservancy. The County may pursue any remedy at law or in equity to secure payment of any fees charged to the conservancy. Additionally, any monies not paid when due shall become a lien on the property and all other property in the County owned by the conservancy to the extent permitted by law.

(Ord. No. 07-012, § 2, 5-8-2007)

Sec. 40.27.540. Changes to open space or common facilities.

- A. *Developer.* If a plan proposes changes to private open spaces or common facilities delineated on an existing plan, a petition supporting the record plan shall be included with the submission. The petition shall be executed by the owners of at least two-thirds ($\frac{2}{3}$) of the lots of the existing plan having an interest in the private open space or common facilities. In DPUD's or phased developments, if the private open space or common facility is predominately designed for use by lot owners of a delineated section or phase, consent of two-thirds ($\frac{2}{3}$) of the lot owners in the section or phase containing the private open space or community facility shall be required. The Department may allow substitutions of plant material on the landscape plan without a petition if the plant substitutions conform to the plant list in Appendix 3.
- B. *Maintenance organization, condominium or third-party conservancies.* Once the developer satisfies the conditions for transferring maintenance responsibility, open space that has been turned over may be modified pursuant to a vote taken according to the organization's governing documents. Any change must be submitted to the Department on a record or landscape plan for review and is subject to Department approval. Any change to a stormwater management facility must also obtain approval from the Department of Public Works.

(Ord. No. 09-066, § 12, 10-13-2009; Ord. No. 20-090 , § 5, 4-13-2021)

Division 40.27.600. Transfer of control of maintenance corporation.

Sec. 40.27.610. Process.

The Department shall serve as a resource for the developer and the homeowners to ensure the transfer of control is completed correctly.

- A. Transfer of control of the maintenance corporation from the developer to the homeowners must be completed no later than the issuance of seventy-five (75) percent of the permits for the dwelling units within the subdivision.
- B. The developer shall provide at least thirty (30) days written notice to each homeowner of the developer's intent to transfer of control of the maintenance corporation to the homeowners.
 - 1. For the purposes of this Section, a form letter addressed to "Homeowners in the ____ (Name of Subdivision) _____ Subdivision" shall suffice as long as the envelopes are individually addressed to each homeowner.
 - 2. A copy of the notice and an affidavit from the author of the letter listing the names of the homeowners to whom the notice was sent and the address where the notice was sent must be provided to the Office of Law and the Department contemporaneously with the notice to the homeowners so that the Department can confirm that proper notice was effectuated.

- 3. The Department shall issue no further building permits after the issuance of seventy-five (75) percent of the building permits for the dwelling units within the subdivision until the appropriate Departments receive a copy of the notice and affidavit.
 - C. Each director serving on behalf of the developer shall hold his or her office until a successor is duly elected. Each director serving on behalf of the developer shall actively participate in the transfer process by calling the meeting and following the procedures for turnover delineated in the maintenance corporation's governing documents.
 - D. Proof of transfer of control of the maintenance corporation shall consist of a notarized affidavit signed by the developer and a list of the homeowners who have assumed control of the maintenance corporation. Said affidavit shall state that control of the maintenance corporation has been fully turned over to the homeowners.
 - E. The developer shall supply the Department with the names, addresses and phone numbers of the homeowners serving on the maintenance corporation's board of directors.
- (Ord. No. 97-172, § 3(ch. 13, § 27.610), 12-31-1997; Ord. No. 05-081, § 2, 9-13-2005; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 1, 9-25-2007; Ord. No. 20-090, § 6, 4-13-2021)

Sec. 40.27.620. Maintenance and management contracts.

Contracts entered into by the developer for the management of the maintenance corporation or the maintenance of the open space may be assigned to the maintenance corporation only upon approval of the maintenance corporation once the homeowners are in control of the maintenance corporation and subject to the assignment provisions of the contract.

(Ord. No. 97-172, § 3(ch. 13, § 27.620), 12-31-1997; Ord. No. 05-081, § 3, 9-13-2005; Ord. No. 06-058, § 1, 8-22-2006; Ord. No. 07-012, § 2, 5-8-2007)

Division 40.27.700. Annual registration requirement.

Sec. 40.27.710. Registration requirement.

A maintenance organization must register annually and file an annual stormwater management facility inspection and maintenance log with the Department of Public Works to qualify for financial assistance for major repairs, subject to the availability of funds, as set forth in Section 40.27.520 and Chapter 12, Article 6. The County may need to contact the maintenance organization to address common facility issues or to discuss other relevant information. Additionally, to address the concerns or questions of maintenance organization members, the County will maintain a file containing each organization's governing documents. To ensure this information is available, within thirty (30) days after the maintenance organization has legal responsibility to maintain the common facilities, and within thirty (30) days after each meeting in which directors or members of the governing body are elected, the maintenance organization shall register with the Department of Public Works. Registration shall include the names, addresses, email addresses, and telephone numbers of the board of directors and any officers of the maintenance corporation.

(Ord. No. 97-172, § 3(ch. 13, div. 27.700), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 18-031, § 75, 4-24-2018; Ord. No. 18-020, § 19, 7-10-2018)

Sec. 40.27.720. Failure to register and/or to perform minor maintenance.

Maintenance organizations that are not registered with the Department of Public Works or that fail to perform required maintenance and fail to file annual stormwater management facility inspection and maintenance logs as required by Chapter 12, Article 6 shall not be eligible for County financial assistance with stormwater management facility sediment clean out and replacement of structural components.

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ARTICLE 27. MAINTENANCE ORGANIZATIONS, OPEN SPACE, AND COMMON FACILITIES

(Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031 , § 76, 4-24-2018; Ord. No. 18-020 , § 20, 7-10-2018)

Division 40.27.800. Compliance.

The owner or developer of a subdivision, or any part thereof, at the time of recording the record plan, and any subsequent owners thereof, shall be subject to the provisions of this Article and may be compelled by any available action at law or in equity to comply therewith. Additionally, any individual, corporation, partnership, joint venture or other legal entities in which any principal of the owner or developer, or any of his or her successors or assigns, shall become associated with shall also be subject to the denial of building permits and certificates of occupancy until violations of this Article have been corrected. Any remedy available under this Chapter shall apply to this Article.

(Ord. No. 07-012, § 2, 5-8-2007)

ARTICLE 30. COUNTY COUNCIL AND ADMINISTRATIVE BODIES

Division 40.30.000. Purpose.

This Article sets forth the responsibilities and duties of County Council and all County administrative departments and boards.

(Ord. No. 97-172, § 3(ch. 13, div. 30.000), 12-31-1997)

Division 40.30.100. Administration.¹

Sec. 40.30.110. Responsibility.

The following codes are used in Table 40.30.110 to indicate what types of responsibilities and duties County Council and County administrative departments and boards possess under this Code:

R = The body makes recommendations to the decision-makers.

H = The body must hold a public hearing.

D = The body makes the decision.

A = The body hears an appeal to the decision.

C = The body must give its consent to the decision, or may remand the matter for further findings.

Table 40.30.110
PROCEDURAL RESPONSIBILITIES

		Administrative Boards			Administrative Agents		
Type of Action	County Council	Planning Board	Board of Adjustment	Historic Review Board	Department of Land Use	PLUS	RPA Technical Advisory Committee
General Reviews (see Division 40.31.400 for standards)							
Zoning text amendment	HD	HR			R, D*		
Zoning map amendment	HD	HR			R	R	
Historic overlay zoning district map amendment	HD	HR		R	R		
Special use			HD		R		
Environmental impact assessment report					D		R**
Demolition by neglect				HD	R		
Historic permit	A			HD	R		

¹Cross reference(s)—Administration, ch. 2.

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Zoning variance			HD		R		R**
Use variance	C		HD		R		R**
Subdivision variance	A	HD			R, D*		R**
Deed restriction change	HD	HR			R		
Design Reviews (see Division 40.31.700 for standards)							
Minor subdivision review		A			D		
Major subdivision review	C	H/A			D	R	
Administrative (see Division 40.31.200 for standards and Article 3 for limited uses)							
Limited use			A		D		
Zoning permit			A		D		
Other Reviews and Appeals (see Divisions 40.31.400 and 40.31.600 for standards and Article 11 for LOS waiver standards)							
Interpretation: Subdivision		A			D		
Interpretation Zoning			A		D		
Beneficial use			HD		R		R**
Level of service waiver	HD				R		
Zoning map correction***	C				R		
Appeal: zoning			HD		R		
Appeal: subdivision		HD			R		
* Pursuant to 9 Del. C. § 1313 (f) (Jurisdiction of the Board of Adjustment), the Department may administratively grant a dimensional variance for existing conditions that do not exceed one (1) foot of the required dimension restrictions without the application being considered by the Board of Adjustment.							
** Only required if relief is sought from any regulation pertaining to an Article 10 protected resource issue.							
*** See Section 40.02.110 (for zoning map corrections) for standards and time limitation.							

(Ord. No. 97-172, § 3(ch. 13, § 30.110), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 30.110), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 00-103, § 2, 12-12-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-066, § 13, 10-13-2009; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 12-084, § 3, 5-10-2016)

Division 40.30.200. County Council.

Sec. 40.30.210. County Council.

A. County Council shall have the following powers and duties under this Code:

1. Any power or duty provided by Table 40.30.110 of this Article.

2. To confirm, by a majority vote, members of the Planning Board appointed by the County Executive.
3. To confirm, by a majority vote, members of the Board of Adjustment appointed by the County Executive.
4. To confirm, by a majority vote, members of the Historic Review Board appointed by the County Executive.
5. To confirm, by majority vote, members of Design Review Advisory Committees appointed by the County Executive.
6. Any other power or duty provided for by State law.

(Ord. No. 97-172, § 3(ch. 13, § 30.210), 12-31-1997; Ord. No. 08-032, § 2, 7-8-2008)

Division 40.30.300. Administrative boards.²

Sec. 40.30.310. Planning Board.

The Planning Board shall consist of nine (9) members having the following powers and duties.

- A. To review, hear, consider and make recommendations to approve or disapprove applications for zoning map and Code text amendments, as indicated in Table 40.30.110.
- B. To initiate, prepare or cause to be prepared a zoning or land development code or amendments thereto, and make recommendations to County Council and the County Executive as the Board deems appropriate.
- C. To prepare or cause to be prepared the Comprehensive Development Plan, or any element or portion thereof, and make recommendations to County Council and the County Executive as the Board deems appropriate.
- D. To initiate, review, hear, consider and make recommendations to County Council and the County Executive to approve or disapprove amendments to the Comprehensive Development Plan.
- E. To adopt additional or amended rules of procedure consistent with this Section to govern the Planning Board's proceedings.
- F. To conduct studies of the County's resources and needs and to report its findings and recommendations, with reference thereto, from time to time, to County Council and the County Executive.
- G. Any other power or duty provided for under State law or indicated in Table 40.30.110.

(Ord. No. 97-172, § 3(ch. 13, § 30.310), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Cross reference(s)—Boards, committees and commissions, ch. 2, art. 4.

Sec. 40.30.320. Board of Adjustment.

The Board of Adjustment, consisting of seven (7) members, shall be empowered to hear and decide all of the following:

- A. Appeals in zoning matters where error is alleged in any order, requirement, decision or determination made by an administrative officer or agency in the enforcement of any zoning ordinance, code, regulation or map.

²Cross reference(s)—Administration, ch. 2.

- B. Applications for special use permits or other special questions in accordance with the provisions of any zoning ordinance, code, regulation or map upon which the Board of Adjustment is empowered to pass.
- C. In specific cases, such variance from the provisions of any zoning ordinance, code or regulation as provided in Article 31.
- D. Any other power or duty provided for under State law or indicated in Table 40.30.110.

(Ord. No. 97-172, § 3(ch. 13, § 30.320), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Cross reference(s)—Boards, committees and commissions, ch. 2, art. 4.

Sec. 40.30.330. Historic Review Board.

The Historic Review Board shall consist of nine (9) members who shall be residents of the County and who shall be appointed by the County Executive with the advice and consent of a majority of County Council. The terms of office shall be four (4) years, provided that the terms of the members other than the Chairman shall be established in a manner that two (2) shall expire each year. The County Executive shall appoint one (1) member as Chairman who shall serve at the pleasure of the County Executive. One (1) member of the Historic Review Board shall be an architect and one (1) member shall be from the field of historic preservation. Seven (7) members shall be individuals who have demonstrated a concern in the field of historic preservation, have some knowledge of the County's history, or have reasonable knowledge of historic architecture or construction techniques. The Historic Review Board shall have the following powers and duties:

- A. Delineate the boundaries of and recommend to County Council for confirmation those districts which the Historic Review Board determines merit a historic designation pursuant to the criteria set forth in Section 40.15.110. Historic district boundaries shall include all properties closely related to and bearing upon the character of the district, and the buildings, structures, sites and objects located therein.
- B. Conduct and maintain an ongoing survey of the County for the purpose of developing a comprehensive inventory of buildings, structures, sites, objects, districts, landscapes and/or scenic landmarks of historical, architectural, cultural, archaeological or educational benefit. This inventory will be available to all County departments and for public review in the office of the Department during regular business hours.
- C. Cooperate with and enlist the assistance of the State Division of Historical and Cultural Affairs and other interested agencies, organizations and individuals, both public and private, in developing and maintaining the survey set forth in Subsection B.
- D. Review and act upon all applications for the granting of permits required under Section 40.31.280 in a timely manner.
- E. Make recommendations to the County Executive and County Council, and to the Department and the Planning Board, concerning the use of grants, gifts and budgeting appropriations to promote the preservation of buildings, structures, sites, etc., of historic importance to the citizens of the County. The Historic Review Board shall make recommendations to the County Executive and County Council that the County purchase buildings, structures, sites or objects of historical significance when deemed appropriate. The Historic Review Board shall also make recommendations, as appropriate, that the County acquire facade easements, conservation easements, development rights or any other property interest that would promote preservation.
- F. Advise the public on preservation when technical assistance is requested in order to increase public awareness of the value of preserving historic properties.
- G. Adopt rules of procedure and regulations, and establish such committees as the Historic Review Board deems necessary for the conduct of its business. The Historic Review Board shall also keep minutes and records of all proceedings which shall be available for public review in the office of the Department during regular business hours.

- H. Assume whatever responsibilities and duties that may be assigned to it by the County Executive and the State under certified local government sections of the National Historic Preservation Act of 1966, as amended. Copies of these regulations may be reviewed in the office of the Department during regular business hours.
- I. Advise any County department or agency concerning the effect of its action, programs, capital improvements or activities on property that meets the criteria set forth in Section 40.15.110.
- J. The Historic Review Board shall be responsible for identification and/or confirmation of demolition by neglect, in conjunction with the code official, as defined in Chapter 7 and as based on each inspection report and/or recommendation of the code official on properties in historic overlay zoning districts as required in Chapter 7 or an illegal demolition of a building, structure or object located within a historic district or meeting the criteria to be included in a historic district pursuant to Article 31 and the procedures set forth in this Chapter and the Board's rules. Review of inspection reports and recommendations on potential demolition by neglect shall be added to each agenda when received.
- K. The Historic Review Board will work collaboratively with the code official to effectuate the goals of Chapter 7 and the New Castle County Comprehensive Development Plan regarding properties located in a historic overlay zoning district.

(Ord. No. 97-172, § 3(ch. 13, § 30.330), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 30.330), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 12-084, § 4, 5-10-2016; Ord. No. 22-024, § 3, 7-26-2022)

Cross reference(s)—Boards, committees and commissions, ch. 2, art. 4.

Sec. 40.30.340. Meetings.

The administrative board's regular meetings shall be held in accordance with a schedule published annually and available at the Department offices. Additionally, meetings may be called by the Department, the Chairman or at the request of a majority of the administrative board's members. The location of all meetings shall be contained in the publication and be in a place accessible to the public. The following shall apply to the conduct of all meetings:

- A. *Rules of procedure.* Each administrative board shall, by a majority vote of the entire membership and with the consent of the County Executive, adopt rules of procedure for the transaction of business and shall keep a record of meetings, resolutions, findings, and determinations. The administrative boards shall provide for transcription of such hearings and proceedings, or portions of hearings and proceedings, as may be deemed necessary.
- B. *Open to public.* All meetings and public hearings shall be open to the public.
- C. *Recommendations or decisions.* All recommendations shall be by roll-call vote of all members present. A tie vote or failure to take action shall constitute a denial or recommendation for a denial. All recommendations and decisions shall be accompanied by a written summary of the action and recommendations.

(Ord. No. 97-172, § 3(ch. 13, § 30.340), 12-31-1997)

Sec. 40.30.341. Membership rules for administrative boards.

The following rules apply to all the administrative boards in Division 40.30.300:

- A. *Officers.*
 - 1. *Chairman and Vice-chairman.* The Chairman of each administrative board shall be appointed by and serve at the pleasure of the County Executive. The Vice-chairman is appointed by the Chairman. The Chairman shall administer oaths, be in charge of all proceedings, and take such action as necessary to preserve order and integrity of all proceedings. In the absence of the Chairman, the Vice-chairman shall act as Chairman.

2. *Secretary.* The Department shall provide a Department person to serve as Secretary of all administrative boards. The Secretary shall keep minutes of all proceedings. The minutes shall be a summary of all proceedings, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority vote of the members. In addition, the Secretary shall maintain all records of meetings, hearings, proceedings and correspondence.
 3. *Department.* The Department shall be the professional department for all administrative boards.
 4. *Quorum, voting.* A majority of the board's members shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum.
- B. *Removal from office.* In the event that any member is no longer a resident of the County; is convicted of a felony or an offense involving moral turpitude while in office; violates rules of the board, fails to attend any three (3) consecutive, regularly scheduled meetings except where such absence is deemed by the chairman to be due to illness, incapacity, or a family crises; or, has three (3) unexcused absences in one (1) year that member shall forfeit his/her membership on such board. "Regularly scheduled meeting" shall mean a meeting at which a board member is expected to be present. The chairman of each County board shall forward a letter to the County Executive and the County Council President stating that a vacancy exists on the board and the name of the member who held the forfeited position. The County Executive shall terminate the appointment of such person with the consent of the County Council.
- C. *Vacancy.* Whenever a vacancy occurs on an administrative board, the County Executive shall appoint a new member within thirty (30) days of the vacancy subject to the provisions of this Section.
- D. *Compensation.* Administrative board members shall serve with compensation and be reimbursed for travel, mileage and/or per diem expenses as authorized by the administrative board's approved budget.

(Ord. No. 97-172, § 3(ch. 13, § 30.341), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Division 40.30.400. Administrative agents.³

Sec. 40.30.410. Department of Land Use.

The General Manager of the Department and such other employees as he or she designates shall constitute the Department. The Department shall present its recommendations to County Council, the Planning Board, the Board of Adjustment or the Historic Review Board. The Department shall have the following jurisdiction, authority and duties under this Code:

- A. To hear, consider and decide upon applications for limited uses.
- B. To review, consider and render recommendations for the disposition of applications for special use, zoning and administrative variance permits or approvals as indicated in Table 40.30.110.
- C. To make written interpretations of this Code and to certify zoning or other elements pertaining to this Code.
- D. To review and approve minor subdivision plans, and to make recommendations for variations from the standards of Articles 20, 21, and 22 involving subdivision design or improvement standards.
- E. To maintain the records of the actions of the Department and the administrative boards.
- F. The Department is hereby designated as the Floodplain Administrator under this Code. Its duties shall include, but are not be limited to:

³Cross reference(s)—Administration, ch. 2.

Chapter 40 - UNIFIED DEVELOPMENT CODE
ARTICLE 30. COUNTY COUNCIL AND ADMINISTRATIVE BODIES

1. Review of all applications for floodplain development permits to ensure that the sites are reasonably safe from flooding and that the floodplain development permit requirements of this Code have been satisfied;
 2. Review of all applications for floodplain development permits for proposed development to ensure that all necessary permits have been obtained from federal, State or local governmental agencies from which prior approval is required;
 3. Review all subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding;
 4. Issue floodplain development permits for all approved applications;
 5. Notify adjacent communities and the State prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
 6. Ensure that maintenance is provided within the altered or relocated portion of any watercourse so that its flood-carrying capacity is not diminished;
 7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
 8. Verify and maintain a record of the actual elevation (in relation to mean sea level) to which the new or substantially improved nonresidential structures have been floodproofed; and
 9. When floodproofing techniques are utilized for a particular nonresidential structure, the General Manager of the Department or his designee shall require certification from a registered professional engineer or architect.
- G. To ensure that adequate public notice is provided for development applications pursuant to this Code.
- H. To initiate requests to the County Attorney to institute proceedings against violators of this Code.
- I. To assist the Planning Board in its current and long-range comprehensive development planning responsibilities.
- J. To review as necessary, but, at a minimum, once every five (5) years, the Comprehensive Development Plan and this Code, and recommend amendments to the Planning Board and County Council. The comprehensive development planning process for the County has been and shall continue to be an ongoing and evolving process conducted by the Department with the participation of County Council, the County Executive, the Planning Board and citizen committees. The components of such process include the following:
1. Annual profiles.
 2. Comprehensive Development Plan background reports.
 3. Issue papers.
 4. Working drafts.
 5. Testing or infrastructure capacities.
 6. Analysis of appropriate implementation regulations and performance standards.
 7. Enactment of implementing ordinances.
- K. To undertake the day-to-day administration of this Code, including drafting and amending application forms and landscape plant lists.
- L. To inspect buildings, uses, developments, or other activities for compliance with this Code.
- M. An appendix to this Chapter shall be maintained by the Department and shall be amended as deemed necessary by the Department. The Department shall cause notice of the amendments to be published in
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the Sunday edition of the News Journal and posted on a web page established for legal notices on the County's website and the public shall have twenty (20) days from the date of posting to submit written comments to the Department. The Department of Law shall be required to approve all legal forms and documents which appear in the appendix and shall review and approve all changes.

N. All other responsibilities and duties pursuant to 9 *Del. C.* § 1301 (Department of Land Use Functions). (Ord. No. 97-172, § 3(ch. 13, § 30.410), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-066, § 14, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 22-053, § 4, 10-25-2022)

Sec. 40.30.420. State of Delaware Preliminary Land Use Service (PLUS).

The PLUS shall be responsible for the following:

- A. Review and make recommendations for major subdivision and land development plans.
- B. Review and make recommendations on zoning applications.

(Ord. No. 97-172, § 3(ch. 13, § 30.420), 12-31-1997; Ord. No. 09-066, § 15, 10-13-2009)

Editor's note(s)—Ord. No. 09-066, § 15, adopted October 13, 2009, changed the title of Section 40.30.420 from "Technical Advisory Committee" to "State of Delaware Preliminary Land Use Service (PLUS)." The historical notation has been preserved for reference purposes.

Cross reference(s)—Boards, committees and commissions, ch. 2, art. 4.

Sec. 40.30.430. Resource Protection Area, Technical Advisory Committee.

The purposes and duties of the RPATAC are to:

- A. Provide technical support and recommendations to the Department concerning the technical definition and criteria of any resource protection area or level as depicted in Table 40.10.010.
- B. Advise the Department when it is determined that environmental standards contained in this Article should be amended.
- C. Provide technical support and recommendations to the Department, Board of Adjustment and Planning Board concerning any application concerning an Article 10 standard.
- D. Advise the Department when the RPATAC determines that Article 10, or any regulations, interpretations or policies promulgated pursuant to Article 10, should be amended.
- E. Assist the Department as requested.
- F. Provide technical support, review and recommendations on all floodplain variance applications and variance applications concerning the reduction of the required OSR for major residential land developments depicted in Table 40.04.110.
- G. Upon the request of the Department, RPATAC shall provide recommendations regarding application of the standards to rezoning, subdivision, and land development submissions relative to any issue involving a protected resource.
- H. Provide technical support and recommendations to the Department concerning the transfer of development rights from one WRPA to another.

(Ord. No. 97-172, § 3(ch. 13, § 30.430), 12-31-1997; Ord. No. 14-126, § 9, 1-13-2015; Ord. No. 18-020, § 21, 7-10-2018)

Cross reference(s)—Boards, committees and commissions, ch. 2, art. 4.

Sec. 40.30.440. Floodplain Administrator.

- A. The General Manager of the Department of Land Use, or his or her designee, is hereby designated as the Floodplain Administrator under this Code.
- B. Duties and responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:
 - 1. Coordinate with the Building Official to support administration, interpretation, and enforcement of the flood load and flood-resistant construction provisions of the building code.
 - 2. Review applications for permits to determine whether proposed activities will be located in special flood hazard areas.
 - 3. Interpret floodplain boundaries and provide flood elevation and flood hazard information.
 - 4. Advise applicants for new construction or substantial improvement of structures that are located on any coastal barrier within the Coastal Barrier Resources System established by the Coastal Barrier Resources Act that federal flood insurance is not available on such structures; areas subject to this limitation are shown on flood insurance rate maps as identified undeveloped coastal barriers or Otherwise Protected Areas.
 - 5. Review applications to determine whether proposed activities will be reasonably safe from flooding.
 - 6. Review applications to determine whether all necessary permits have been obtained from those Federal, state or local agencies from which prior or concurrent approval is required.
 - 7. Verify that applicants proposing to alter or relocate a watercourse have notified adjacent communities and the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship), and have submitted copies of such notifications to the Federal Emergency Management Agency.
 - 8. Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or disapprove the same in the event of noncompliance.
 - 9. Inspect special flood hazard areas to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
 - 10. Review submitted elevation certificates for completeness.
 - 11. Submit to FEMA data and information necessary to maintain flood hazard maps, including hydrologic and hydraulic engineering analyses prepared by or for New Castle County, corrections to labeling or planimetric details, etc.
 - 12. Maintain and permanently keep all records for public inspection that are necessary for the administration of these regulations including flood insurance rate maps, letters of map amendment and revision, records of issuance and denial of permits, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing permits, elevation certificates, other required certifications, variances, and records of enforcement actions taken for violations of these regulations.
 - 13. Enforce the provisions of these regulations.
 - 14. Assist with and coordinate flood hazard map maintenance activities.
 - 15. Conduct with the Building Official, determinations as to whether existing buildings and structures damaged by any cause and located in special flood hazard areas, have been substantially damaged.
 - 16. Make reasonable efforts to notify owners of substantially damaged buildings and structures of the need to obtain a permit prior to repair, rehabilitation, or reconstruction, and to prohibit the non-compliant repair of substantially-damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a structure to prevent additional damage.

17. Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assisting owners with National Flood Insurance Program claims for Increased Cost of Compliance payments.
18. Notify the Federal Emergency Management Agency when the boundaries of the County have been modified.

(Ord. No. 97-172, § 3(ch. 13, § 30.440), 12-31-1997; Ord. No. 14-126 , § 10, 1-13-2015)

Cross reference(s)—Administration, ch. 2; officers and employees, ch. 2, art. 3.

Sec. 40.30.450. Design Review Advisory Committee (DRAC).

A DRAC shall be established for each Hometown Overlay District. The Department shall be the professional staff for each Committee.

- A. Purposes and duties of each Committee shall be:
 1. The Committee shall review plans for land development applications for compliance with the Community Redevelopment Plan and/or Design Guidelines manual and make recommendations to the Department.
 2. The Committee shall review the community standards and make recommendations for revisions and updates to the Community Redevelopment Plan and/or Design Guidelines manual.
 3. Any other purpose provided in Division 40.26.400.
- B. The Committee shall adopt bylaws and rules in accordance with Article 30. Each Committee shall comply with the following:
 1. All public meetings shall be open to the public.
 2. A majority of the Committees' members shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum.
 3. In the event that any member is no longer a resident of the County; is convicted of a felony or an offense involving moral turpitude; violates rules of the board; fails to attend any three (3) consecutive, regularly scheduled meetings except where such absence is deemed by the chairman to be due to illness, incapacity, or a family crises; or, has three (3) unexcused absences in one (1) year, that member shall forfeit his/her membership on such committee. "Regularly scheduled meeting" shall mean a meeting at which a committee member is expected to be present. The chairman of each committee shall forward a letter to the County Executive stating that a vacancy exists on the board and the name of the member who held the forfeited position. The County Executive shall terminate the appointment of such person with the consent of the County Council.
- C. Members. The District Council person(s), in whose councilmanic district a Hometown Overlay is found, shall make recommendations to the County Executive who shall appoint members subject to County Council consent. The County Executive shall appoint members subject to the following guidelines:
 1. The minimum number of members shall be five (5) and the maximum number shall be nine (9). The chairperson shall be appointed and serve at the pleasure of the County Executive. The Vice-chairperson is appointed by the Chairperson. The Chairperson shall be in charge of all proceedings, and take such action as necessary to preserve order and integrity of all proceedings.
 2. Each committee shall, with the exception of the chairperson, be comprised equally of business and homeowner/residential interests.

3. The committee shall be comprised of residents or property owners of the area affected by the overlay district and the surrounding area identified in the Community Redevelopment Plan, except that one (1) registered landscape architect and one (1) registered architect who resides outside of the community may be appointed to the committee.
4. Each committee member shall be appointed for a term of three (3) years. Initial appointments shall be staggered as one (1), two (2) and three (3) year appointments, with each subsequent appointment to be three (3) years. An individual may serve until replaced and may be reappointed any number of times.

(Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 08-032, § 3, 7-8-2008; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.30.500. Recorder of Deeds.

Sec. 40.30.510. Recording of unapproved plans.

- A. The Recorder of Deeds shall not receive for filing or recordation any plan of land or any plan showing an arrangement of lots or parcels of land, streets, easements or rights-of-way, unless and until, in accordance with the regulations contained in this Chapter, such plan shall have been submitted to and approved by the Department and by County Council and each such approval shall have been endorsed in writing on the plan by the General Manager of the Department and by the President of County Council.
- B. Any plan received by the Recorder of Deeds for filing or recording without the approval of the Department and County Council endorsed thereon shall be null and void and without legal effect and shall, upon application of the Department or County Council to the Superior Court, be expunged from the records of the Recorder of Deeds.
- C. Whoever causes any plan to be filed or recorded contrary to this Article shall be fined not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). The Superior Court shall have exclusive original jurisdiction over offenses committed in violation of this Section.

(Ord. No. 97-172, § 3(ch. 13, § 30.510), 12-31-1997)

Sec. 40.30.520. Constructing improvements, selling land prior to approval.

- A. No street, sanitary sewer, storm sewer, water main or other improvement shall be constructed, opened or dedicated for public use or for the common use of occupants of buildings abutting thereon, and no part of any land which has been subdivided or condominium units created through the conversion of rental units, regardless of the time of filing a declaration under 25 *Del. C.* Ch. 22 (Unit Property Act), after the adoption of the regulations contained in this Chapter under 9 *Del. C.* Ch. 30 (Subdivision and Land Development), shall be sold, transferred or conveyed, except pursuant to an approval received for the land subdivision in accordance with such regulations.
- B. No person shall:
 1. Record a deed in the Office of the Recorder of Deeds unless the deed recites the tax parcel number for the parcel that is the subject of the conveyance, and the reference number or other recording data from the Recorder of Deeds for the recorded subdivision or land development plan that established the title lines for the parcel that is the subject of the deed, if the parcel was established by a subdivision or land development plan.
 2. Record a deed in the Office of the Recorder of Deeds for a conveyance that is exempt from the subdivision regulations pursuant to the agricultural exemption set forth in this Chapter and 9 *Del. C.* § 3001(10)(a) (Definition of Subdivision) unless accompanied by an affidavit reciting the exemption and the transferee's intent that he or she intends to devote the transferred property to agricultural use. The affidavit shall be an exhibit to the deed and be recorded with the deed. The affidavit shall be in the following form:

I/We, (NAME), swear or affirm, as the purchaser(s) of the land that is the subject of this deed, that I/We presently intend to devote the land to agricultural purposes and do not presently intend to construct any new streets or easements of access on the land.

Purchaser's Signature

SWORN TO AND SUBSCRIBED before me, a Notary Public, this _____ day of _____, ____.

Notary Public

My Commission Expires:

- C. Any person who violates Subsection A or B shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one thousand dollars (\$1,000.00). Each lot or parcel so transferred or sold and each improvement so constructed, opened or dedicated shall be deemed a separate violation, and each and every day during which such violation continues shall be deemed a separate violation. The Justice of the Peace Court shall have exclusive original jurisdiction over offenses listed in this Section.
- D. The County or any owner of real estate affected by such violation may, in addition to other remedies provided by law or equity institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or otherwise correct such violation.
- E. Any deed, lease or other document which leases, conveys or transfers a parcel(s) of land of ten (10) or more acres and which was duly executed by the proper parties and recorded prior to September 24, 1991 shall operate as and be a legal, valid and effective division of land under this Code.

(Ord. No. 97-172, § 3(ch. 13, § 30.520), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.30.530. Effect of recorded mortgages and foreclosure sales.

- A. The placement of a mortgage after the adoption of the ordinance from which this Section derives on a parcel which is a portion of a tract of land that is the subject of a record plan, such mortgaged parcel not conforming to the lot lines on the record plan, shall not be considered a subdivision, provided that the mortgage and any easements or other interests in the remaining lands in the subdivision tract are approved by the Department or are not disapproved by the Department within ten (10) days after they are submitted. The placement of such a mortgage shall in no way change the effect of the record plan on the land.
- B. If such a portion of a tract of land which is the subject of a record plan is sold by virtue of the foreclosure of any such mortgage encumbering that portion, neither the foreclosing mortgagee nor any purchaser at the mortgage foreclosure sale shall be required to obtain a separate subdivision approval. In addition, the sale shall not be considered a subdivision nor shall such a sale in any way change the effect of the record plan on the land. No changes need be made in the record plan because of the existence of the new lot line created by the foreclosure sale, nor will this new lot line be deemed to create any violations of this Code.
- C. For the placement of a mortgage or the occurrence of a foreclosure sale such as described in Subsection A or B, no certificate of occupancy shall be issued for any building or facility constructed on such lands unless the record plan, the drainage plan, and any other requirements of this Code have been complied with in the same manner as would be required if there had been no mortgage or foreclosure sale, including the development of any lands or facilities required in any other part of the subdivision tract.

(Ord. No. 97-172, § 3(ch. 13, § 30.530), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

ARTICLE 31. PROCEDURES AND ADMINISTRATION¹

Division 40.31.000. Purpose.

This Article establishes the procedures for all approvals, administrative reviews, and administrative relief required by this Chapter. The flow charts are for illustrative purposes only.

(Ord. No. 97-172, § 3(ch. 13, div. 31.000), 12-31-1997)

Division 40.31.100. Application review procedures.

Sec. 40.31.110. Rezoning/major and minor plan review.

	Stage/steps	Rezoning	Major Plan	Minor Plan
Pre-application Sketch Plan Review				
	Submission	Y	Optional, Y for major residential plans	Optional
	Conference	Y	Optional, Y for major residential plans	Optional
	Community Meeting	Optional	Optional	Optional
Exploratory Plan Review Stage				
	Submission	Y	Y	Y
	PLUS Review and Report	Y	Y	N
	Rezoning Ordinance Introduction	Y	N	N
	Exploratory Plan Initial Report	Y	Y	Y
	Dept./Planning Board Hearing	Y	Y	N
	PB Business Meeting and rezoning Recommendation	Y	N	N
	Exploratory Plan Final Report	Y	Y	N
	County Council Rezoning Hearing and Decision	Y	N	N
	Construction Plan Submission	Y	Y	Y
Record Plan Review Stage				
	Submission	Y	Y	Y
	Department Review and Approval	Y	Y	Y
	Major Plan Rezoning or Major Plan County Council Consent	Y	Y	N
	Plan Recordation	Y	Y	Y

¹Cross reference(s)—Administration, ch. 2.

	Zoning Map Revised	Y	N	N
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(Ord. No. 97-172, § 3(ch. 13, § 31.110), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 31.110), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 09-066, § 16, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 22, 7-10-2018)

Sec. 40.31.111. Actions on rezoning applications.

All rezoning amendment applications shall be processed in accordance with the provisions of this Article and the applicable provisions of this Code.

(Ord. No. 97-172, § 3(ch. 13, § 31.111), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 09-066, § 17, 10-13-2009)

Sec. 40.31.112. Pre-application sketch plan review/conference.

- A. *Applicability.* A pre-application sketch plan review conference is required for all rezoning requests and major land development applications. An applicant may request a pre-application sketch plan review conference for all other major or minor plans at any time. The pre-application sketch plan review conference may be waived by the Department when it is determined, after a review of the submission, that no departmental concerns exist.
- B. *Submission requirements.* See Appendix 1 of this Chapter.
- C. *Pre-application sketch plan review conference.* The purpose of the pre-application sketch plan review conference is to familiarize the applicant with principles of conservation design, departmental concerns and with the applicable provisions of this Chapter, as well as to permit the Department to assess the proposal and to identify any service problems or concerns in conjunction with the applicant's objectives. If additional studies and/or information are required for the proposed project, those studies and/or information must be provided to the Department prior to exploratory plan approval.

The Department shall use the pre-application sketch plan review conference to also identify conservation, open space and development areas. Site design and management practices shall also be examined to determine how minimal disturbance can be achieved while maintaining a high standard of community design. Discussion points will include:

- 1. Greenway linkages on- and off-site (trails, biodiversity corridors, habitat areas, CNA's, etc.);
 - 2. Interconnectivity issues (pedestrian, vehicular, mass transit, etc.) and access issues;
 - 3. Open space linkages (parks, public and private open space and conservation areas);
 - 4. Article 10 resource protection areas;
 - 5. On-site, of regional scope (extending off-site), fully protected vs. partially protected resources;
 - 6. Soil associations;
 - 7. Farmland concentrations (agricultural districts, preservation easement purchases);
 - 8. Existence and location of historic and cultural resources;
 - 9. Scenic viewsheds or vistas into or out of the site (visual accents and vista points pursuant to County Scenic River and Highway Studies);
 - 10. Natural drainage patterns (pre-development), boundaries and discharged points based on characteristics such as soils, topography, vegetation and other local watershed issues; and
 - 11. Development options given zoning district and resource protection objectives.
- D. *Community outreach.*
-

1. Community Outreach consists of a community meeting that occurs after the pre-application sketch plan review conference and prior to exploratory plan submission for plans that propose a rezoning, major or minor land development plan. This outreach is optional.
 2. The purpose of the community meeting is to:
 - a. Encourage the applicant to pursue early and effective communications with members of the community that may be impacted by the application and the resident council person, providing the applicant an opportunity to understand and attempt to mitigate adverse impacts of a proposed project on the community, and to educate and inform the public.
 - b. Provide property owners of impacted areas with an opportunity to learn about an application and an opportunity to work with an applicant to resolve concerns at an early stage of the process.
 3. The applicant shall notify the Department of Land Use and the resident council person of the date and location of the community meeting at least ten (10) business days prior to the event.
- E. *Subsequent submission.* For all rezonings and major residential subdivisions, the applicant shall have six (6) months from the date of the pre-application sketch plan review conference to submit an exploratory plan. The Department may require a new pre-application sketch plan review conference if an exploratory plan submission is not made within six (6) months.

(Ord. No. 09-066, § 17, 10-13-2009; Ord. No. 18-020 , § 23, 7-10-2018; Ord. No. 21-009 , § 11, 12-14-2021)

Editor's note(s)—Ord. No. 09-066, § 17, adopted October 13, 2009, amended Sections 40.31.112 and 40.31.113 in their entirety to read as herein set out. Formerly, Sections 40.31.112 and 40.31.113 pertained to exploratory sketch plan review/conference, and rezoning/preliminary plan application, respectively, and derived from Ord. No. 97-172, § 3(ch. 13, §§ 31.112, 31.113), adopted December 31, 1997; Ord. No. 98-062, § 1(ch. 13, § 31.113), adopted September 22, 1998; Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002; Ord. No. 03-045, § 1(Exh. A), adopted July 8, 2003; Ord. No. 04-154, § 3, adopted January 25, 2005; Ord. No. 05-087, § 6, adopted October 25, 2005; Ord. No. 06-060, § 1(Exh. A), adopted September 26, 2006; Ord. No. 09-037, § 1, 10-13-2009.

Sec. 40.31.113. Exploratory plan review stage.

- A. *Applicability.* An exploratory plan review is required for all land development plans, including those proposals for which a rezoning is sought. For all major plans and rezonings, the Department initial report and PLUS report is required prior to Planning Board public hearing.
- B. *Exemptions.* The Department shall have the authority to waive plan review requirements for County-initiated rezonings, administrative adjustments or rezonings not requiring a minor or major plan.
- C. *Submission requirements.*
 1. The applicant shall make a complete exploratory plan submission in accordance with Appendix 1 of this Chapter, including the applicable fee, the engineering checklist, a narrative addressing the comments from the pre-application meeting, and all other information required by this Chapter. Upon notification to the applicant of a complete submission, the applicant shall submit the major plan or rezoning to the Office of State Planning for Preliminary Land Use Service (PLUS) review.
 2. Traffic impact study (TIS). For all major plans and plans with rezonings where the Department has not waived traffic analysis requirements, the applicant shall submit traffic information pursuant to Article 11. If a traffic impact study is required, a scoping meeting shall be scheduled pursuant to Article 11 to identify concurrency issues. For all major plans and plans with rezonings, exploratory plans shall not be noticed for Planning Board public hearing until the Department is in receipt of DelDOT's comments and recommendations on the final TIS. For all major plans and plans with rezonings, no record plan submission shall occur until such time that the TIS is approved and the plan meets the concurrency requirements of Article 11.

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3. It is the applicant's responsibility to inform the County of any known restrictions or legal impediments which would interfere with or prevent the implementation of the proposed development.
 4. The Department of Public Works shall review sanitary sewer system plans in accordance with the engineering checklist. The Department of Public Works shall determine sewer feasibility based on the submitted plan.
 5. The Department will return to the applicant any incomplete submission or those submissions that do not substantially comply with all provisions of this Code.
 6. *Viewshed plan.* For all development subject to Section 40.04.240, the applicant shall submit a viewshed plan prepared in accordance with Appendix 1 of this Chapter.
- D. *Exploratory plan initial report.* The Department will issue a written report that identifies any concerns relating to Chapter compliance or other factors the applicant must consider.

For minor plans, the exploratory plan report shall inform the applicant whether the plan is found to be acceptable, acceptable with conditions, or unacceptable. Minor plans that are found acceptable or acceptable with conditions may submit site construction plans in accordance with Appendix 1 of this Chapter.

For major plans and rezonings where the Department finds the exploratory plan to be in general compliance with the standards of this Chapter and after the PLUS report is issued, those plans may advance to the Planning Board public hearing.

1. The exploratory plan initial report shall list any other actions, environmental reports or other special studies required prior to subsequent plan submissions.
 2. If applicable, the Department shall respond to the appropriateness of a rezoning request.
 3. For any plan subject to Article 15 review; or for which a decision or recommendation is required by the Board of Adjustment, Planning Board, Historic Review Board, or Resource Protection Advisory Technical Advisory Committee or which is subject to any other special studies (i.e. floodplain, environmental impact assessment, Cockeysville, etc.); those decisions, recommendations, or studies must be issued and/or completed prior to record plan submission.
- E. *Public hearing requirements.* Upon a finding by the Department that the major plan or rezoning is in general compliance with this Chapter and, upon receipt of the written PLUS report, the exploratory plan shall be scheduled for a Planning Board public hearing on the next available hearing date. In the Traditional Neighborhood (TN) District, the design guideline for the entire development for architecture, signs, landscaping, streets, and public spaces shall be submitted.
1. *Exploratory plans without rezoning.* Consideration of plans shall include public comment, discussions of the technical aspects of the plan, PLUS report and compliance with this Chapter. It is not the purpose of this hearing to examine the appropriateness of the proposed use or its intensity and scale.
 2. *Rezonings.* Following the introduction of a rezoning ordinance, an application shall be scheduled for public hearing. Applicants shall address the standards for zoning map amendment in Section 40.31.410 as part of the public hearing presentation. The public record shall remain open for thirty (30) calendar days following the public hearing.
- F. *Department exploratory plan final report and rezoning recommendation.*
1. *Exploratory plans without rezoning.* The Department will issue a final report and may either find the exploratory plan acceptable, acceptable with conditions, or unacceptable, in which case a revised exploratory plan must be submitted. If an exploratory plan is found acceptable or acceptable with conditions, the applicant may submit site construction plans in accordance with Appendix 1 of this Chapter.
 2. *Rezonings.* At a Planning Board business meeting, the Department and Planning Board shall issue independent recommendations to either approve or conditionally approve the rezoning and the exploratory plan, or deny the rezoning. The written recommendations shall contain specific findings of

fact resulting from the PLUS report, the public hearing, and Department analysis. The Department shall also issue an exploratory plan final report. Regardless of the recommendation and prior to the rezoning application being transmitted to County Council, the exploratory plan must be found acceptable. The recommendation report, including an acceptable exploratory plan shall be transmitted to County Council for consideration. The applicant may submit site construction plans in accordance with Appendix 1 of this Chapter following County Council approval of the rezoning.

- G. *County Council rezoning hearing and decision.* Upon receipt of a rezoning recommendation report from the Department and Planning Board, County Council shall hold a public hearing and render a decision. A simple majority or seven (7) votes shall be required to approve the rezoning ordinance when the Department recommends approval. A two-thirds ($\frac{2}{3}$) majority or nine (9) votes shall be required to approve the rezoning ordinance when the Department recommends disapproval. If County Council adopts the rezoning based upon the associated exploratory plan, the applicant may proceed to the record plan review stage. The effective date of the rezoning shall occur at plan recordation and the Official Zoning Map of New Castle County shall not be changed until that date. If there is no plan to be recorded associated with the rezoning, the effective date of the rezoning shall be the date the rezoning ordinance is signed by the County Executive. Any record plan submitted after County Council adopts a rezoning shall be in general conformance with the development depicted on the approved exploratory or preliminary plan that was relied upon by County Council when it granted the rezoning.
- H. *Subsequent submission.* An applicant shall have thirty-six (36) months from the date of the exploratory plan initial report to proceed to the record plan review stage, or the plan will expire. Pursuant to Table 40.31.390, the General Manager of the Department may grant an extension(s) for circumstances beyond the applicants control.

(Ord. No. 09-066, § 17, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 24, 7-10-2018; Ord. No. 22-072, § 12, 10-11-2022)

Editor's note(s)—See note at Section 40.31.112.

Sec. 40.31.114. Record plan review stage.

- A. *Record plan requirements.* Upon approval of the construction plans, the applicant may submit a record plan pursuant to the requirements in Appendix 1 of this Chapter, including the applicable fee. Any agreements, surety, maintenance declarations or any other legal documents required by this Code shall also be submitted. In the Traditional Neighborhood (TN) District and in hamlets and villages the final design guidelines for the entire development for architecture, signs, landscaping, streets, and public spaces shall be submitted. The record plan must be in general conformance with the approved exploratory plan.
- B. *Record plan review report.* The Department will issue a written report that identifies any concerns relating to compliance with this Chapter, record plan submission requirements or other factors the applicant shall consider.
- C. *Department review/approval.* If the record plan and all supporting documents comply with this Chapter and any other applicable regulations, the General Manager of the Department shall approve the record plan and the Department will issue an approval letter. The General Manager of the Department shall also have the ability to approve all minor land development plans on behalf of County Council. Supporting documents shall include, but are not limited to:
1. Letter of approval from DelDOT regarding transportation matters.
 2. Letter of approval from the State Fire Marshal.
 3. Approval from the Engineering Section of the Department regarding drainage and stormwater matters.
 4. Approval from the Department of Public Works regarding sanitary sewer design and easements.
- D. *Council consent.*

1. For major plans, the record plan shall be forwarded to County Council for its consent. Upon receipt of the plan, County Council shall schedule the matter for its next public hearing, and may take one (1) of the following actions:
 - a. Adopt a resolution approving the record major plan; or
 - b. Table and refer the plan back to the Department, no more than twice, with specific questions relating to technical compliance with this Chapter, State or federal constitutional requirements or any other statute or ordinance for which compliance is required. Upon receipt of a Department recommendation reaffirming approval of the plan, County Council shall adopt the resolution of approval, unless a second referral is made because of additional questions or concerns. Upon receipt of the Department's recommendation reaffirming approval of the plan after review of any additional concerns raised by County Council, Council shall adopt the resolution of approval.
 2. County Council may use any one (1) or more of the above options subject to the limitations contained in each subparagraph.
- E. *Action upon receipt of County Council referral.* Upon receipt of specific questions from County Council, the Department shall respond with its findings and a recommendation. The recommendation shall be one (1) of the following:
1. That the plan be approved, in which case County Council shall adopt the resolution of plan approval at its next scheduled meeting which provides Council with at least 7 days' notice of the Department's findings and recommendation, unless a second referral is made, in which case Council shall adopt the resolution of plan approval at its next scheduled meeting following the second approval which provides Council with at least 7 days' notice of the Department's findings and recommendation.
 2. That the Department has rescinded its previous approval of the plan for noncompliance, in which case County Council shall withdraw the resolution of plan approval.

(Ord. No. 09-066, § 18, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 25, 7-10-2018; Ord. No. 24-031, 8-27-2024)

Sec. 40.31.115. Plan recordation and commencement of construction.

- A. *Recordation.* Upon final approval or consent pursuant to Division 40.31.100, the plan shall be recorded at the Recorder of Deeds.
- B. *Commencement of construction.* Commencement of construction must begin within sixty (60) months of the date of recordation or the plan will sunset in accordance with the sunset provisions outlined in Article 1 of this Chapter.

(Ord. No. 09-066, § 19, 10-13-2009)

Sec. 40.31.120. Text amendments.

Text amendment proposals shall be heard and reviewed by County Council after Department and Planning Board review and recommendation. Text amendments may be proposed by the Department, the County Executive, County Council and County boards.

- A. *Pre-introduction review.* Upon request, the Departments of Land Use and Law shall assist the proponent of any land use-related legislation in the drafting of such legislation. In addition, when a member of County Council proposes the legislation, the County Council member may direct Counsel to Council to draft the text amendment. At the discretion of the County Council member, a copy of the legislation may be provided to the Department of Land Use for comment. Under no circumstances shall a County Council member be prohibited from introducing any legislation because of any comments from the Departments of Land Use or Law. If a County Council member elects to submit the legislation to the Department of Land Use prior to introduction thereof, the Departments of Land Use and Law shall have ten (10) working days to provide comment to the County Council member, unless the County Council

member grants the Departments additional time. This Section shall not apply to any emergency ordinance introduced pursuant to 9 *Del. C.* § 1157.

- B. *Department review and report.* At the Department's option, the proposed text amendment may be submitted to PLUS for review and comment. A preliminary report will be prepared by the Department summarizing the relevant issues and comments by PLUS.
- C. *Department/Planning Board public hearing.* Following introduction of an ordinance by County Council, a proposed text amendment will be scheduled for public hearing before the Planning Board. The purpose of the public hearing is to solicit public comments on the appropriateness of the proposed amendment.
- D. *Department report.* A written recommendation report by the Department and the Planning Board shall contain specific findings of fact resulting from the PLUS report if applicable, the public hearing and Department analysis. The recommendation may also include proposed substitute language. The Department report and proposed text amendment shall then be forwarded to County Council for consideration.
- E. *County Council hearing and action.* Upon receipt of a recommendation report from the Department, County Council shall hold a public hearing and render a decision.

(Ord. No. 97-172, § 3(ch. 13, § 31.120), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 31.120), 9-22-1998; Ord. No. 99-080, § 2-2-2000; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 19-120, § 1, 7-14-2020)

Sec. 40.31.130. Deed restriction changes.

Any amendment to a declaration of restrictions to which the County is either a party to or beneficiary of the covenants therein shall follow the procedure set forth below:

- A. *Applicability.* This Section applies only when the consent of the County is sought in order to amend a declaration of restrictions to which the County is either a party to or a beneficiary of the covenants created therein. As a prerequisite to action under this Section, the consent of all parties, other than the County, as required by the terms of the declaration of restrictions and applicable law, must be secured.
- B. *Submission requirements.* The applicant shall submit all deed restriction change materials to the Department pursuant to the provisions in Appendix 1 to this Chapter. Such materials shall include:
 - 1. The application, consisting of a copy of the existing recorded declaration of restrictions, the proposed declarations, and the reasons for the change. Upon receipt of the application, the Department of Land Use shall forward the application to the Clerk of County Council and the district Council member. With the exception of the County, the proposed declarations shall be signed by all parties subject to the restrictions.
 - 2. A draft resolution for County Council's consideration which is to also be provided in electronic form. After review and correction if necessary, the Department of Land Use will forward same to the Clerk of County Council and the district Council member.
 - 3. The applicable Departmental filing fee in accordance with Appendix 2 to this Chapter.
 - 4. Reserved.
 - 5. All current school taxes, county taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 6. All other information and items as required by Section 40.31.130.
- C. *PLUS review.* At the Department's option, the proposed deed restriction change will be submitted to PLUS for their review and comment. A report will be prepared by the Department summarizing the relevant issues and agency comments.

- D. *Department/Planning Board public hearing.* The public hearing will be used to solicit information on the proposed change and to determine if a change is in the best interests of the parties to the restrictions and is consistent with the planning goals of the County.
- E. *Department report.*
 - 1. After consideration of the deed restriction change application, the Department and the Planning Board shall forward their recommendations in one (1) report to the Clerk of County Council and the district council member. The written recommendations by the Department and the Planning Board shall contain specific findings of fact resulting from the PLUS report, the public hearing and Department analysis.
 - 2. If the Department recommends conditional approval of the application, declarations and resolution, or if the Department finds that the original declarations or resolution must otherwise be revised to meet the current recommendation, the applicant may submit revised documents in conformance with the Department's recommendation. All revised documents shall be submitted to the Department within sixty (60) days of the issuance of the written recommendation report and shall include:
 - a. Revised declarations approved by the Department as meeting such conditions or necessary revisions and signed by all parties subject to the restrictions with the exception of the County; and
 - b. A substitute draft resolution in both written and electronic form.
- F. Upon the Department's review of the application, declarations and resolution, as may be revised, the Department shall forward the documents and the recommendation report to the Clerk of Council and the district Council member to be placed on the agenda for County Council's consideration.
- G. *County Council hearing and action.* Upon receipt of the documents and the recommendation report from the Department, County Council shall act on the resolution, or any substitute resolution, at one of its next three (3) regularly scheduled public meetings. A simple majority or seven (7) votes shall be required to approve the resolution when the Department recommends approval. A two-thirds ($\frac{2}{3}$) majority or nine (9) votes shall be required to approve the resolution when the Department recommends disapproval. If County Council approves the deed restriction change, the President of County Council shall sign such deed restrictions on behalf of County Council. The Clerk of County Council shall then record the deed restrictions with the New Castle County Recorder of Deeds. Copies of the recorded document shall be provided to the Department and the applicant.
- H. The applicant shall be responsible for all Recorder of Deeds filing fees.
- I. *Exceptions.* An amendment of a declaration of restrictions established solely to provide for the maintenance of open spaces and other common facilities for subdivisions as prescribed by this Chapter shall be exempt from the public hearing process. County Council may adopt a resolution approving such amendment upon receipt of a favorable recommendation from the Department and the Office of Law. The submission requirements in Subsection B. shall be followed for this Subsection; additionally, the resolution in the explanatory whereas clauses and the resolved clause shall cite this Subsection, the reason for the exception, and note approval from the Department and Office of Law.

(Ord. No. 97-172, § 3(ch. 13, § 31.130), 12-31-1997; Ord. No. 00-130, § 2, 6-12-2001; Ord. No. 04-154, § 3, 1-25-2005; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-099, § 1, 9-25-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 15-024, § 1, 10-27-2015; Ord. No. 18-020, § 26, 7-10-2018)

Sec. 40.31.140. Board of Adjustment applications.

The Board of Adjustment is responsible to hear and render decisions on special use permits, dimensional (area) variances, use variances, beneficial use permits and any other applications as provided in Article 30. The process for review and action for each application shall be as follows:

- A. *Preapplication conference.* Applicants are encouraged to confer with the Department to determine the type of application to be sought.
- B. *Submission requirements.* All submissions shall comply with the requirements of Appendix 1 to this Chapter and any Board of Adjustment rules. Any Board of Adjustment application which would require the filing of a land development plan for implementation shall be accompanied by a simultaneous exploratory sketch plan submission. The Department shall review the exploratory sketch plan for conformity with the Board of Adjustment application; however, the burden of developing the Board of Adjustment application shall rest with the applicant.
- C. *Department review/report.* At the Department's option, the proposed Board of Adjustment application may be submitted to PLUS for their review and comment. A report shall be prepared by the Department summarizing PLUS comments and any other relevant issues. The report shall be submitted to the Board of Adjustment prior to the public hearing.
- D. *Public hearing/decision.* The Board of Adjustment shall render a decision based upon the public hearing and the Department's report.

(Ord. No. 97-172, § 3(ch. 13, § 31.140), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.140), 9-22-1998; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.150. Environmental impact assessment report applications.

- A. *Preapplication conference.* Applicants are encouraged to confer with the Department prior to submitting the environmental impact assessment report.
- B. *Department review and analysis.* The environmental impact assessment report shall be submitted to appropriate RPTAC agencies for their review and comment. The Department shall review the RPTAC agency comments and shall issue a report containing RPTAC comments and the Departments determination.
- C. *Reserved.*

(Ord. No. 97-172, § 3(ch. 13, § 31.150), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999)

Division 40.31.200. Miscellaneous application and other reviews.

The Department's review shall be based on the standards of this Chapter. The following sections also guide the award of such permits or approvals.

(Ord. No. 97-172, § 3(ch. 13, div. 31.200), 12-31-1997; Ord. No. 12-084 , § 5, 5-10-2016)

Sec. 40.31.210. Limited or special use.

A limited or special use shall require the submission of a site plan unless a land development plan or parking plan is otherwise required. The Department may at its discretion waive any site plan requirement where in the opinion of the Department the proposed use will have a limited impact on the surrounding property and roads. The Department shall consider the traffic, parking, lighting, noise, litter, event duration, event hours, and other similar criteria when considering this waiver.

(Ord. No. 97-172, § 3(ch. 13, § 31.210), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 17-044 , § 8, 10-10-2017; Ord. No. 18-020 , § 27, 7-10-2018)

Sec. 40.31.220. Parking plan.

Where required, a parking plan shall be submitted unless a land development plan is otherwise required.

(Ord. No. 97-172, § 3(ch. 13, § 31.220), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.31.230. Property line adjustments.

A property line adjustment is limited to the relocation of a common property line between two (2) residentially-zoned parcels that are proposed for residential use, provided the resulting lots are in conformance with this Chapter or with a variance granted by the Department or Board of Adjustment.

- A. *Applicability.* A property line adjustment shall not be processed if:
 - 1. The subject parcels were created on an open space subdivision plan, planned unit development or alternative development option.
 - 2. The adjustment would result in the transfer of a dwelling from one parcel to the other.
 - 3. Buildings, structures or uses on either of the subject parcels do not conform with this Chapter and do not have confirmed nonconforming status under Article 8.
- B. *Submission requirements.* The submission shall include an SLD-1 application and other materials as set forth in Appendix 1 to this Chapter to include a property line adjustment survey.
- C. *Department review.* If the property line adjustment survey complies with the requirements of this section, the General Manager of the Department or his or her designee shall sign the survey.
- D. *Deed recordation.* Upon approval of the application and survey, new deeds with revised legal descriptions of the two (2) subject parcels must be recorded with the New Castle County Recorder of Deeds. The deeds shall include the approved survey as an exhibit. Department approval of the property line adjustment shall expire in one (1) year from the date the General Manager signs the survey unless both deeds are revised consistent with the approved survey and recorded.

(Ord. No. 18-020 , § 28, 7-10-2018)

Editor's note(s)—Prior to the reenactment of Section 40.31.230 by Ord. No. 18-020 , § 28, adopted July 10, 2018, Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed § 40.31.230 in its entirety. Formerly, said section pertained to sign permit as adopted by Ord. No. 97-172, § 3(ch. 13, § 31.230), adopted Dec. 31, 1997. See the Unified Development Comparative Table.

Sec. 40.31.240. Zoning permit.

A zoning permit shall be required prior to receiving a building permit for any use or structure permitted by this Chapter. The zoning permit shall only be approved upon a determination by the Department that the application complies with all of the provisions of this Chapter. A site plan or other relevant plans may be required.

(Ord. No. 97-172, § 3(ch. 13, § 31.240), 12-31-1997)

Sec. 40.31.250. Zoning verification.

The Department shall issue a written zoning verification responding to written inquiries relating to the provisions of this Chapter. The purpose of the verification shall be to address nonconforming situations (Section 40.08.310), permitted uses, zoning districts and standards.

(Ord. No. 97-172, § 3(ch. 13, § 31.250), 12-31-1997)

Sec. 40.31.260. Certificate of occupancy.

No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a certificate of occupancy has been issued by the County certifying that such building or use complies with all County regulations. This may be determined by an inspection by the County or an independent inspector authorized by the County.

(Ord. No. 97-172, § 3(ch. 13, § 31.260), 12-31-1997)

Sec. 40.31.270. Floodplain permit.

A floodplain permit shall be required for all proposed construction or other development in any special flood hazard area as defined in Division 40.10.300. Appendix 1 to this Chapter contains application requirements.

(Ord. No. 97-172, § 3(ch. 13, § 31.270), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 11, 1-13-2015)

Editor's note(s)—Ord. No. 14-126, § 11, adopted January 13, 2015, changed the title of Section 40.31.270 from "Floodplain development permit" to "Floodplain permit."

Sec. 40.31.271. Revision of delineation.

- A. The delineation of the floodplain district may be revised, amended, and/or modified by County Council in compliance with the National Flood Insurance Program when:
 - 1. There are changes in flood elevations through natural or other causes; or
 - 2. Changes are indicated by future hydrologic and hydraulic studies.
- B. No revision to the floodplain district shall be made without prior consultation with the Department and the approval of the Federal Insurance Administration.

(Ord. No. 97-172, § 3(ch. 13, § 31.271), 12-31-1997)

Sec. 40.31.280. Historic permits.

An Historic permit shall be required for all proposed construction or other development in any Historic overlay zoning district pursuant to Section 40.15.160 of the County Code. Appendix 1 to this Chapter contains application requirements.

(Ord. No. 97-172, § 3(ch. 13, § 31.280), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 12-084, § 5, 5-10-2016; Ord. No. 20-071, § 12, 10-27-2020)

Editor's note(s)—Ord. No. 20-071, § 12, adopted October 27, 2020, changed the title of Section 40.31.280 from "Historic permits and demolition by neglect" to "Historic permits." The historical notation has been preserved for reference purposes.

Sec. 40.31.290. Extractive use license.

All extractive use operations involving the excavation of earth products, including those permitted as nonconforming uses pursuant to Article 8 shall be required to have a license. A performance bond shall be provided to the Department in an amount determined by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 31.290), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.291. License transferability.

- A. Each license issued under this Article shall be for the sole use and benefit of the licensee to whom it is issued and shall not be transferred without the approval of the Department. No transfer will be permitted unless the transferee is in full compliance with this Article.
- B. Whomever intentionally uses, permits the use, or attempts to use or permit the use of a license issued under this Chapter by or on behalf of a person other than the licensee or his or her employee shall be fined under Division 40.31.900.

(Ord. No. 97-172, § 3(ch. 13, § 31.291), 12-31-1997)

Sec. 40.31.292. License application procedure.

- A. All license applications and renewals thereof required under this Article shall be made to the Department.
- B. Original applications for extractive use operations in a Planned Extractive Use District (PEUD) not legally in existence on or before December 13, 1983, shall include an approved copy of the record major plan following recordation by the Recorder of Deeds. Such applications shall be reviewed by the Department. If the application or plan does not conform to the requirements of all applicable laws and ordinances, the Department shall disapprove such application in writing, stating the reasons therefor. If the application and plan conform to all applicable laws and ordinances, the Department shall issue a license in a timely manner, subject to any condition specified in this Article.

(Ord. No. 97-172, § 3(ch. 13, § 31.292), 12-31-1997)

Sec. 40.31.293. Exception from license.

An exception from any of the license requirements applicable to extractive use operations legally in existence prior to and engaged in substantial operation within the year before December 13, 1983, may be granted by resolution of County Council upon the recommendation of the Department, if the Department finds, based upon criteria, including, but not limited to, input from the TAC, the history of the operation, its size, the amount of material extracted and remaining to be extracted, the land uses surrounding the site, the location of wells on adjoining properties, and the other environmental and land use considerations, that the continuation of the existing extractive use may be allowed without substantial detriment to the public good and without substantially impairing the intent and purpose of this Article to prevent environmental impairment and land use incompatibilities.

(Ord. No. 97-172, § 3(ch. 13, § 31.293), 12-31-1997)

Sec. 40.31.294. Semi-annual reports.

- A. Under this Article, the owner or licensee shall submit semi-annual reports, including certification from professional engineers that the operation of the extractive use is in conformance with all approved plans and reports. Such semi-annual reports shall begin upon commencement of extractive operations and continue for the time period specified in the approved restoration plan. They shall include the following:
 - 1. Volume of materials removed.
 - 2. Areas and depths of excavation.
 - 3. Current locations of fences.
 - 4. Results of groundwater monitoring.
 - 5. Status of restoration activity.
 - 6. Any contemplated changes in operating practice.
- B. The written reports shall be maintained by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 31.294), 12-31-1997)

Sec. 40.31.295. Renewal.

- A. Not less than sixty (60) days prior to the expiration date of an extractive use operator's license, the holder of such license must file a completed application of renewal with the Department.
- B. The Department shall evaluate the information contained in the application and shall consult with the TAC. The Department's evaluation and recommendation may include appropriate modifications in the excavation plan, an operating report, restoration, drainage, erosion or sedimentation plans, as well as any additional special conditions deemed advisable by it to prevent environmental impairment or other detriment to the

public good. Based upon compliance with this recommendation, the Department shall act upon the renewal application.

- C. If the renewal application is not acted upon before the expiration of the current license, that license shall remain in effect until the renewal application is either granted or denied.

(Ord. No. 97-172, § 3(ch. 13, § 31.295), 12-31-1997)

Sec. 40.31.296. Compliance.

- A. The authorized representatives of the Department shall have access to the site during normal working hours for the purpose of inspection. These representatives shall, while on the site, conduct themselves in a manner which minimizes interference with the operation of the extractive use.
- B. The owner and/or operator of an extractive use found to be operating without a license shall be subject to a fine of one hundred dollars (\$100.00) per offense. Each day of operation and each truckload of material removed from the premises of an extractive use operating without a license shall constitute a separate offense.
- C. The owner, operator or its designee shall inspect the premises daily. Upon discovery of any illegally dumped material, the owner, operator or its designee shall notify the Department immediately.
- D. If, as a result of on-site inspection or other verifiable information, the Department finds that the operation is not in compliance with the conditions under which the license or the renewal thereof was granted, the Department may suspend the license immediately by notifying the owner or operator, and by posting the property. Within seventy-two (72) hours, the owner or operator of the extractive use shall have the right to meet with the Department to show cause why the license should not be suspended or revoked. If, as a result of this meeting, the Department determines that the extractive use operation is not in compliance, it may grant up to sixty (60) days to the owner or operator to achieve compliance. During this time period, if deemed appropriate by the Department, the suspension of the license may be lifted. However, if the extractive use operation is not in compliance at the end of the sixty (60) day period, the license shall be revoked.
- E. If, as a result of on-site inspection or other verifiable information, the Department finds that the operation has caused a depletion or degradation of water supply wells and/or aquifers on the subject property or on abutting or nearby properties, the Department shall suspend the license immediately by notifying the owner or operator, and by posting the property. Within seventy-two (72) hours, the owner or operator of the extractive use shall have the right to meet the Department to show cause why the license should not be suspended or revoked. Such suspension shall not be lifted unless and until the depletion or degradation has been remedied by the owner and/or operator. Where deemed appropriate by the Department, such remedy may include a temporary or permanent replacement water supply.
- F. Any person aggrieved by the suspension or revocation of a license under this Section may appeal to the Board of Licenses and Inspections as provided by this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 31.296), 12-31-1997)

Sec. 40.31.297. Forfeiture of bond.

- A. *Grounds.* The performance bond required under this Article shall be forfeited upon the failure of the holder of a license granted under this Article to perform in the manner set forth in the conditions on which the license was granted. Revocation of a license granted under this Article shall also cause forfeiture of the performance bond.
- B. *Notice.* The Department shall notify the owner and/or operator by registered mail of its intention to initiate forfeiture proceedings. If the owner or operator cannot be located or will not accept the registered letter, notice shall be given by publication in a newspaper of general circulation at least once a week for three (3) consecutive weeks in the area where the operator and/or owner was last known to reside, and the property shall be posted.

- C. *Hearing.* The owner or operator shall have sixty (60) days to meet with the Department to show cause why the bond should not be forfeited. On a showing of cause by the owner or operator, the Department shall provide for a reasonable time, but not more than three (3) months, for the owner or operator to fully comply with the performance of the conditions on which the license was granted under this Article. Upon failure of the owner or operator to show cause, the bond shall be forfeited, and notice by the Department shall be given to the legal owner of the land. If a showing of intention to restore compliance with conditions of the license is not submitted to the Department within thirty (30) days from the date of forfeiture, the bond deposit shall be forfeited.
- D. *Operation after the forfeiture of bond.* No owner or operator may conduct extractive operations within the County if he or she has previously forfeited any bond posted pursuant to an extractive use operation, unless, on application by the applicant, he or she repays the County the cost of reclamation if the County has restored the land.

(Ord. No. 97-172, § 3(ch. 13, § 31.297), 12-31-1997)

Sec. 40.31.298. Modified, abandoned or halted operations.

- A. Modifications of the approved excavation plan, operating report, restoration plan, or drainage, erosion and sedimentation plans required shall be governed by the applicable sections of this Chapter and shall include consultation with the TAC. Modification of the approved excavation plan, operating report, restoration plan, drainage, erosion and sedimentation plans required shall be made by application to the Department, which shall consult with the TAC. The Department, if it deems it necessary, may convene a meeting of the TAC to discuss the technical aspects of the proposed modification. If requested, the applicant shall appear and answer questions concerning the application. The Department shall, pursuant to recommendation of the TAC, take appropriate action on the application. No modification of any plan or report required shall be allowed to take effect prior to the required approval described in this Section.
- B. An extractive use shall be considered abandoned if the amount of material which has been extracted for a period of one (1) year is less than ten (10) percent of the amount required by the approved excavation plan and operating report or the approved modifications thereof according to Subsection A, and if restoration of the site has not taken place in the manner prescribed by the approved restoration plan or the approved modifications thereof according to Subsection A. An abandoned extractive use operation shall be subject to all remedies available to the County.
- C. An extractive use may be considered halted when extraction of material has ceased temporarily due to market conditions or other reasonable cause as determined by the Department. The licensee claiming such temporary cessation shall submit the cause thereof in writing to the Department within six (6) months from the beginning of such cessation. The Department shall determine whether the extractive use should be declared halted. If not declared halted, such extractive use must resume operation within a year from the time extraction of materials ceased, or within thirty (30) days from such determination, whichever time period is longer. An extractive use which fails to resume operation within such time period shall be subject to Subsection B. An extractive use which has been declared halted must resume operation when the Department determines that the adverse conditions causing temporary cessation have passed. No operation may be halted for a period exceeding twenty-four (24) consecutive months, after which time extractive use operation shall be resumed or final restoration shall commence. The license renewal requirements under Section 40.31.295 shall not abate and the licensee shall comply fully with all pollution control and water supply depletion and degradation sections of this Article during any period in which the extractive use is halted. Failure to comply with this Article shall subject the extractive use operation to all remedies available to the County.

(Ord. No. 97-172, § 3(ch. 13, § 31.298), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.31.300. Provisions of general applicability.

Sec. 40.31.310. Preapplication conference.

The purpose of the preapplication conference is to familiarize the applicant with any County concerns and with the provisions of this Chapter, as well as to allow the Department to assess the proposal and identify any problems or concerns. Upon request the Department will schedule a preapplication conference.

(Ord. No. 97-172, § 3(ch. 13, § 31.310), 12-31-1997)

Sec. 40.31.320. Applications generally.

- A. *Forms.* All application forms must be signed by the legal owner or an authorized agent of the legal owner and any other person having a contractual interest in the application. The application form shall contain a statement granting the Department a right of reasonable access to view, enter and inspect the property, on-site uses or buildings for compliance with this Chapter.
- B. *Payment of County taxes.* All current County taxes, school taxes and sewer service fees must be paid or not delinquent at the time of application.
- C. *Application completeness.* The Department shall determine, within ten (10) days of submission, whether the application is complete. If it is not complete, it will be returned to the applicant with an explanation of its deficiencies.
- D. *Fees.* All applications shall be accompanied by a fee. Fees are set by the Department with approval of the administration and are listed in Appendix 2 to this Chapter.
- E. *Withdrawal of application.* An applicant has the right to withdraw an application any time prior to a final decision. Such withdrawal shall be in writing and submitted to the Department. All application fees shall be forfeited.
- F. *Public notice of land development plans.*
 - 1. *Online notice.* The Department shall post the receipt of all major and minor land development plans and Resubdivision Plans on a web page established for legal notices on the County's website within five (5) days of the receipt of a completed application.
 - 2. *Posted notice.* The applicant shall erect a posted notice sign for all major and minor land development plans and Resubdivision Plans within ten (10) days of submission of a completed initial exploratory sketch plan to the Department.
 - a. *Location.* The posted sign shall be placed in a conspicuous location (no greater than seven (7) feet from a residential or local road right-of-way, and no greater than ten (10) feet from a collector or arterial right-of-way); one (1) along each adjacent right-of-way and shall be perpendicular to the street so as to be clearly visible to the public. The Department shall have the discretion to require the applicant to move the posted sign to a more acceptable location if it is determined by the Department that the location is inappropriate for public viewing. The Department shall also have the discretion to permit only one (1) posted sign on corner lots of less than one (1) acre.
 - b. *Size.* The posted sign shall be double-faced and each side shall consist of a four (4) foot by four (4) foot laminated sign with a yellow background with two (2) inch black lettering in a sans serif typeface.
 - c. *Plan information.* The sign shall depict the lot configuration of residential applications or building footprint with square footage, paving, and landscaping in the case of nonresidential applications. The application number, the applicant's name and phone number, the name of the plan, and the tax parcel number(s) shall be prominently displayed on the sign. The applicant shall be responsible for cleaning and replacing any posted sign (no more than once) which has been defaced to the extent that the information to be conveyed is no longer legible.

- d. *Proof of posting.* The applicant shall provide the Department with photographic proof of posting and a signed affidavit. The Department will not commence review of the plan until such proof is provided. In addition, the application shall be considered withdrawn if the required affidavit is not received by the Department within twenty (20) days of the accepted initial exploratory sketch plan submission. Failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with these standards or be grounds to challenge the validity of any decision made on the application unless the notice was removed by the applicant or at his or her direction.
- e. *Removal of posted notice.* The applicant shall remove the posted notice sign no later than ten (10) days after recordation, expiration or withdrawal of the plan.

(Ord. No. 97-172, § 3(ch. 13, § 31.320), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 00-090, § 1, 11-28-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-052, § 1, 7-24-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 29, 7-10-2018; Ord. No. 22-053, § 5, 10-25-2022; Ord. No. 24-057, 9-24-2024)

Sec. 40.31.330. Department response times.

For the purpose of this Chapter, whenever a response or decision is required by the Department, it shall be issued in writing within twenty (20) days of receipt of a complete submission. This requirement may be waived by mutual consent of the Department and the applicant.

(Ord. No. 97-172, § 3(ch. 13, § 31.330), 12-31-1997)

Sec. 40.31.340. Notice of public hearings.

Except as required below, the Department shall be responsible for ensuring notice of a public hearing through newspapers when required by state law, online posting, posted notice in public buildings as determined by the Department, and mailed notice for meetings of the Board of Adjustment, Planning Board, Resource Protection Area Technical Advisory Committee, Historic Review Board and Design Review Advisory Committees.

- A. *Text amendments and rezonings.* Notice requirements for text amendments and rezonings shall comply with the applicable provisions of State law, including notice in a newspaper of general circulation, as may be amended from time to time.
- B. *Other applications.*
 - 1. *Online notice.* The Department shall post applicant rezonings and all other applications (e.g., deed restriction changes; subdivision, area, use and floodplain variance requests; beneficial use appeals; appeals of Departmental decisions; major land development plans; Historic Review Board applications; RPATAC applications (Resource Protection Area Technical Advisory Committee); Design Review Advisory Committee applications); and other Planning Board and Board of Adjustment applications on a web page established for legal notices on the County's website. Notice shall appear at least fourteen (14) calendar days prior to the public hearing date and shall contain the following information:
 - a. The type of application.
 - b. A short description of the proposed action.
 - c. A description of the parcel and the approximate street location or address.
 - d. The location, date, and time of the public hearing.
 - e. Information on where full details of the application may be obtained, including the hours of availability and phone number.
 - 2. *Notice to owner/applicant.* The Department shall notify by mail the owner and/or applicant of the time and place of the hearing.

3. *Mailed notice.* When a public hearing is required, the Department shall send a copy of the legal notice to the last known address of all property owners within a three hundred (300) foot radius of the property or twelve (12) different property owners, whichever is greater; no less than ten (10) calendar days prior to the public hearing. A copy of the legal notice for public hearings for all applications shall also be sent to the respective civic organizations registered with the Department of Land Use immediately surrounding the applicant's property and to the area umbrella civic association.
 4. *Posted notice.* The applicant shall erect a public hearing posted notice sign on all subject properties at least ten (10) days in advance of a public hearing, except for residential Board of Adjustment applications and DRAC applications (not including minor and major land development plans) referred by the Department for recommendation. The Department shall post BOA residential variance applications and DRAC applications that are not land development plans.
 - a. *Location.* The posted sign shall be placed in a conspicuous location (no greater than seven (7) feet from a residential or local road right-of-way, and no greater than ten (10) feet from a collector or arterial right-of-way); one (1) along each adjacent right-of-way and shall be perpendicular to the street so as to be clearly visible to the public. The Department shall have the discretion to require the applicant to move the posted sign to a more acceptable location if it is determined by the Department that the location is inappropriate for public viewing. The Department shall also have the discretion to permit only one (1) posted sign on corner lots of less than one (1) acre.
 - b. *Size.* The posted sign shall be double-faced and each side shall consist of a four (4) foot by four (4) foot laminated sign with a yellow background with two (2) inch black lettering in a sans serif typeface. If a posted sign already exists at the site, the notice for the public hearing may be affixed to the existing sign.
 - c. *Plan information.* The sign shall depict the lot configuration of residential applications or building footprint with square footage, paving, and landscaping in the case of nonresidential applications. The applicants name and phone number, the name of the plan, the application number, and the tax parcel number(s) shall be prominently displayed on the plan. In addition, the date, time, location and hearing board shall be clearly visible. The applicant shall be responsible to clean or replace any posted sign (no more than once) which has been defaced to the extent that the information to be conveyed is no longer legible.
 - d. *Proof of posting.* The applicant shall provide the Department with photographic proof of posting and a signed affidavit prior to the public hearing. Failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with these standards or be grounds to challenge the validity of any decision made on the application unless the notice was removed by the applicant or at his or her direction.
 - e. *Removal of posted notice.* In addition, the applicant shall remove the posted notice sign no later than ten (10) days after the public hearing being advertised has been completed. If the posted notice sign is serving more than one (1) purpose, that is, other public hearings are pending or the land development plan is yet to be recorded, the posted notice sign shall remain until after recordation, expiration or withdrawal of the plan.
- C. *County Council public hearings.*
1. *Text amendments and County initiated comprehensive rezonings.* Notice requirements for text amendments and County initiated comprehensive rezonings need only comply with the applicable provisions of State law, as may be amended from time to time.
 2. *Other land use applications.* All public hearings held by County Council shall be advertised pursuant to County Council's rules of procedure except as provided in Subsection C.1.

(Ord. No. 97-172, § 3(ch. 13, § 31.340), 12-31-1997; Ord. No. 00-090, § 2, 11-28-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 03-107, § 1(Exh. A), 3-23-2004; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 05-087, § 7, 10-25-2005; Ord. No. 06-031, § 3, 7-11-2006; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-052, § 2, 7-24-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 22-053, § 5, 10-25-2022)

Sec. 40.31.350. Public hearing continuance.

If an applicant seeks a continuance of a scheduled public hearing of the Planning Board, Board of Adjustment, Historic Review Board, or other administrative body, such request, accompanied by the appropriate fee, shall be made by the applicant in writing to the Department prior to the scheduled time and date of the hearing, or the applicant may request the continuance at the scheduled public hearing. An applicant shall be allowed to seek a continuance no more than twice for the same application.

(Ord. No. 97-172, § 3(ch. 13, § 31.350), 12-31-1997)

Sec. 40.31.360. Conduct of public hearing.

- A. *Order of proceedings.* All proceedings before the Planning Board, Board of Adjustment, Historic Review Board or other administrative bodies shall be conducted in accordance with the rules of procedure adopted by each board or administrative body.
- B. *Testimony.* In the event any testimony or evidence is excluded by the body, the person offering such testimony or evidence may request an opportunity to make a proffer in regard to such testimony or evidence for the record. Such proffer shall be made at the public hearing.
- C. *Close of public hearing.* Upon the completion of all testimony, the hearing shall be closed. No further testimony or evidence shall be taken during public comment periods. However, the applicant may be asked questions or allowed to comment on any proposed conditions to the granting of the application.
- D. *Record.*
 - 1. The body conducting the public hearing shall record the public hearing. The taped record and all evidence submitted during the hearing shall constitute the record, along with the written decision of the body.
 - 2. All records shall be public records, open for inspection, upon reasonable notice, at the offices of the Department during normal business hours.
 - 3. Upon application to the Department, a copy of the public hearing record may be obtained by any person by paying the duplication cost of the record.

(Ord. No. 97-172, § 3(ch. 13, § 31.360), 12-31-1997)

Sec. 40.31.370. Actions by boards or administrative bodies.

After the close of the public hearing before the Planning Board, Board of Adjustment, Historic Review Board or other administrative body, the body conducting the hearing shall consider the merits of the application, all relevant evidence and testimony, and the Department's report. The body conducting the hearing shall thereafter render a decision or recommendations, as appropriate, either to approve, approve with conditions, or disapprove the application based upon the criteria set forth in this Chapter.

- A. All boards or administrative bodies shall issue a written decision or recommendation within twenty (20) days of the date of the hearing, except as noted elsewhere in this Chapter. Provided, however, that the board or body may announce an oral decision following the hearing to be supplemented by a written decision.
- B. All decisions or recommendations shall be set forth in writing and include the following:
 - 1. A statement of specific findings of fact including the basis upon which such facts were determined.
 - 2. A brief statement of the applicable provisions of this Chapter or any other relevant standards or regulations.
 - 3. An analysis based upon the applicable provisions of this Chapter and the findings of fact.
 - 4. A statement of approval, approval with conditions, or disapproval.
 - 5. Any other information deemed necessary by the board or administrative body.
- C. *Council votes.* Whenever County Council is required to vote on an action, a simple majority or seven (7) votes shall be required to approve any land use application when the Department recommends approval. A two-thirds ($\frac{2}{3}$) majority nine (9) votes shall be required to approve the land use application when the Department recommends disapproval.

(Ord. No. 97-172, § 3(ch. 13, § 31.370), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 04-154, § 3, 1-25-2005; Ord. No. 09-066, § 20, 10-13-2009)

Sec. 40.31.380. General considerations when rendering decisions.

This Chapter is intended to protect the interests of both present and future residents, landowners, neighbors, and the general public. In rendering a decision, the Planning Board, Board of Adjustment, Historic Review Board or administrative body shall be bound to follow the provisions of this Chapter. The following rules shall govern decisions:

- A. All decisions shall be based solely upon the provisions of this Chapter.
- B. When interpretation of this Chapter is required in rendering a decision, the legislative intent of County Council shall be used to guide all decisions.

(Ord. No. 97-172, § 3(ch. 13, § 31.380), 12-31-1997)

Sec. 40.31.390. Time limits and expiration.

- A. Land use application decisions are effective as of the date the written decision is issued. The decision may be either one of approval, conditional approval, or disapproval. The expiration time limits of a land use application decision contained in Table 40.31.390 shall commence on the date of the first written decision within each stage of the application review process. Where indicated in Table 40.31.390, the General Manager of the Department may grant three (3) month extensions of time for circumstances beyond the applicant's control and shall state in writing the reasons therefor.

Chapter 40 - UNIFIED DEVELOPMENT CODE
ARTICLE 31. PROCEDURES AND ADMINISTRATION

Table 40.31.390
TIME LIMITS

Application Type or Action	Time Limitation (months)	Extensions	Action Required to Avoid Expiration
Special use	24	0	The building, structure or parcel(s) has been used for the purposes set forth in the approval unless specified otherwise in the approval; the special use may also require periodic review at which time the approval could terminate; or the special use is utilized on a plan pursuing department approval or recordation; the special use shall expire if the plan expires or sunsets
Variance	24	0	Construction has commenced implementing the variance and is diligently pursued to completion; or the variance is utilized on a plan pursuing department approval or recordation; the variance shall expire if the plan expires or sunsets
Limited use	12	0	The building, structure or parcel(s) has been used for the purposes set forth in the approval
Zoning permit	12	0	Construction has commenced implementing the approved use and is diligently pursued to completion or the building, structure or parcel(s) has been used for the purposes set forth in the approval
Exploratory plan initial report issued	36	2	Submission of Record Plan
Record Plan Submission	6	1	Plan Recordation

- B. After a rezoning of a property by County Council, no ordinance to amend the zoning map regarding the zoning designation of the property shall be considered until the expiration of three (3) years from the date of the rezoning except for zoning corrections pursuant to Section 40.02.110 C, New Castle County initiated rezonings, and comprehensive rezonings. No zoning map amendment that would change the zoning designation of property depicted on a record plan shall be considered until the expiration of the time limit provided for a record plan in Table 40.31.390 above, except for zoning corrections pursuant to Section 40.02.110 C.

(Ord. No. 97-172, § 3(ch. 13, § 31.390), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 31.390), 9-22-1998; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 08-078, § 1, 9-30-2008; Ord. No. 09-066, § 20, 10-13-2009; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.31.400. Standard for general review.

Sec. 40.31.410. Standards for zoning map amendment.

In determining whether a zoning map amendment should be recommended or approved, all of the following factors shall be considered:

- A. Consistency with the Comprehensive Development Plan and the purposes of this Chapter. In areas of new development, consistency with the Comprehensive Development Plan shall be considered to meet the Subsections B and C, unless compelling evidence indicates the proposed amendment would threaten public health, safety, and general welfare.
- B. Consistency with the character of the neighborhood.
- C. Consistency with zoning and use of nearby properties.
- D. Suitability of the property for the uses for which it has been proposed or restricted.
- E. Effect on nearby properties.
- F. Recommendations by the Department.

(Ord. No. 97-172, § 3(ch. 13, § 31.410), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.420. Standards for text amendment.

In determining whether a text amendment shall be recommended or approved, all of the following factors shall be considered:

- A. Implementation of a new portion of the Comprehensive Development Plan.
- B. Implementation and achievement of the Comprehensive Development Plan's goals and objectives.
- C. Consistency with the provisions of this Chapter and standards for similar uses.
- D. Necessity to respond to State and/or federal legislation.
- E. Flexibility in meeting the objectives of this Chapter.
- F. Changes to conditions, interpretations, and/or clarifications to existing language for new uses.
- G. Consideration of specific problems found in this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 31.420), 12-31-1997; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.430. Standards for special use permit.

- A. Certain land uses and developments present unique conditions with respect to their relationship to the community. Such uses and developments are identified as special uses in each particular zoning district.
- B. Approval of a special use application shall be dependent upon findings that the use complies with this Chapter and the following standards:
 - 1. The use meets the requirements of Division 40.03.300.
 - 2. The use is consistent with the Comprehensive Development Plan.
 - 3. The use is compatible with the character of the land in the immediate vicinity.
 - 4. The design minimizes the adverse effects, including visual impact on adjacent lands.
 - 5. The use minimizes adverse impacts on the environment or government services.

6. The intensity of the use shall not exceed that permitted by Article 5. A lower intensity may be mandated based upon the record.

(Ord. No. 97-172, § 3(ch. 13, § 31.430), 12-31-1997)

Sec. 40.31.431. Conditions and restrictions.

- A. The Board of Adjustment may impose restrictions and conditions on the approval of a special use to:
 1. Ensure the special use is developed as presented in drawings, exhibits, and assertions made at the public hearing.
 2. Ensure the general purposes, goals, and objectives of the Comprehensive Development Plan and this Chapter are met.
 3. Prevent or minimize the adverse effects from the proposed use and development on other properties in the neighborhood, and on the public health, safety, and general welfare.

(Ord. No. 97-172, § 3(ch. 13, § 31.431), 12-31-1997)

Sec. 40.31.432. Revocation of special use permit.

The County may institute proceedings to revoke a special use permit for violation of the conditions of approval or because the permit has expired. The County shall provide notice to the landowner and the public in the same manner as was provided for the establishment of the special use.

(Ord. No. 97-172, § 3(ch. 13, § 31.432), 12-31-1997)

Sec. 40.31.440. Reserved.

Editor's note(s)—Ord. No. 14-126 , § 12, adopted January 13, 2015, repealed the former Section 40.31.440 in its entirety, which pertained to environmental impact assessment reports, and derived from Ord. No. 97-172, § 3(ch. 13, § 31.440), adopted December 31, 1997; Ord. No. 98-080, § 1(ch. 13, § 31.440), adopted September 22, 1998, and Ord. No. 10-113, § 1(Exh. A), adopted January 18, 2011.

Sec. 40.31.451. Standards for zoning variances.

- A. The Board of Adjustment shall hear and decide applications for a variance from the provisions of any zoning code or regulation if all of the following are satisfied:
 1. The variance sought will not be contrary to the public interest.
 2. Owing to special conditions or exceptional situation, a literal interpretation of the provisions of any zoning code or regulation at issue will result in unnecessary hardship or exceptional practical difficulties to the owner of the property.
 3. If the variance were granted, the spirit of the zoning code or regulation provision at issue shall be fully observed and substantial justice done.
 4. Such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning code, regulation or map.
- B. Floodplain variance applications. When considering floodplain variance applications, the Board of Adjustment shall also consider the following factors:
 1. The danger that materials may be swept onto other lands to the injury of others.
 2. The danger to life and property due to flooding or erosion damage.
 3. The susceptibility of the proposed development and its contents (if applicable) to flood damage and the effect of such damage on the individual owner.

4. The importance of the services provided by the proposed development to the community.
 5. The availability of alternative locations for the proposed use which are not subject to, or are subject to less, flooding or erosion damage.
 6. The necessity to the facility of a waterfront location, where applicable, or if the facility is a functionally dependent use.
 7. The compatibility of the proposed use with existing and anticipated development.
 8. The relationship of the proposed use to the comprehensive plan for that area.
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- C. Limitations for floodplain variances. An affirmative decision on a variance request shall only be issued upon:
1. A showing of good and sufficient cause. A "good and sufficient" cause is one that deals solely with the physical characteristics of the property and cannot be based on the character of the planned construction or substantial improvement, the personal characteristics of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards.
 2. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
 3. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 4. A determination that the granting of a variance for development within any designated floodway, or special flood hazard area with base flood elevations but no floodway, will not result in increased flood heights beyond that which is allowed in these regulations.
 5. A determination that the granting of a variance will not result in additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 6. A determination that the structure or other development is protected by methods to minimize flood damages.
 7. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. The Board of Adjustment shall notify, in writing, any applicant to whom a variance is granted for a building or structure with a lowest floor elevation below the base flood elevation that the variance is to the floodplain management requirements only, and that the cost of federal flood insurance will be commensurate with the increased risk.
- E. All case law that has developed, and continues to develop, interpreting 9 *Del. C.* § 1313 shall be adhered to by the Board of Adjustment (Jurisdiction of the Board of Adjustment).
- (Ord. No. 97-172, § 3(ch. 13, § 31.451), 12-31-1997; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-126, § 12, 1-13-2015)

Sec. 40.31.452. Standards for subdivision variances.

To approve a variance from subdivision standards, the Planning Board shall find that all of the following standards have been met based upon the testimony and evidence presented:

- A. 1. There is a practical hardship for the development of a site if the development must adhere to the standard;
- 2. The standard, as applied in this instance, creates conflicts in other sections and makes compliance difficult or unreasonable;
- 3. The site conditions, topography, size, shape, or other natural features make strict adherence difficult or impossible; or
- 4. The Department recommends that the subdivision would be better designed if the variance were granted.
- B. Granting the variance will not create a safety or health hazard.
- C. The variance will not make the subdivision a less desirable place to establish the proposed uses.
- D. The variance makes the achievement of the policies of this Chapter easier to attain and permits a better overall plan.
- E. The variance is not simply a means of reducing development costs, but is required to address a difficulty or hardship.

(Ord. No. 97-172, § 3(ch. 13, § 31.452), 12-31-1997)

Sec. 40.31.453. Conditions and restrictions on variances.

In approving an application for a variance, the body may impose additional restrictions and conditions on such approval. Restrictions and conditions may limit the use of the property, the standards for locating the use, standards for mitigating the impact on adjoining property owners, or standards to protect the health, safety, and general welfare of the community. The Board of Adjustment written decision shall list all such conditions, restrictions, and/or limitations associated with their approval.

(Ord. No. 97-172, § 3(ch. 13, § 31.453), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 31.453), 9-22-1998; Ord. No. 04-059, § 1(Exh. A), 7-13-2004)

Sec. 40.31.454. Subsequent development approvals.

The development approved by the variance shall not be carried out until the applicant has secured all other development approvals required by this Chapter. Approval of a variance shall apply only to that section of the regulations for which it is approved and does not ensure that the development shall receive subsequent approval unless the relevant and applicable portions of federal, State and County law are met.

(Ord. No. 97-172, § 3(ch. 13, § 31.454), 12-31-1997)

Sec. 40.31.455. Amendment to a variance.

A variance may be amended, extended, varied, or altered only pursuant to the standards and procedures for the original approval of a variance.

(Ord. No. 97-172, § 3(ch. 13, § 31.455), 12-31-1997)

Sec. 40.31.456. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 31.456), 12-31-1997; Ord. No. 06-060, § 1(Exh. A), 9-26-2006)

Division 40.31.500. Appeals and interpretations.

This Division contains rules and standards for an appeal of a decision made by a County administrative board or body.

(Ord. No. 97-172, § 3(ch. 13, div. 31.500), 12-31-1997)

Sec. 40.31.510. Appeals.

An applicant pursuing approval of a land use application who is aggrieved by a finding, decision, or interpretation of a decision maker made in response to review of such application may appeal such action to the jurisdictionally approved agency pursuant to Table 40.30.110. Appeals may only be taken based upon a final decision, not the recommendation of an agency. All appeals from the final decision of an administrative body or the Department shall be filed with the Department within twenty (20) days of the date the written decision is issued by the body or Department. All appeals to County Council shall be filed within twenty (20) days with the Clerk of Council. Unless otherwise provided by law, any appeal to a court of law or equity shall be made within twenty (20) days of the issuance of a written final decision. Unless otherwise provided by law, no appeal to a court of law or equity may be taken until all remedies made available by this Chapter have been exhausted.

(Ord. No. 97-172, § 3(ch. 13, § 31.510), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

Sec. 40.31.511. Administrative appeals.

Administrative appeals shall be heard based solely upon the materials (e.g., plans, documents, reports, studies, drawings, and testimony) available to the official or body rendering the initial decision. Appeals shall not be used to consider new or altered plans. Information submitted but not discussed in rendering a decision, shall be considered part of the original record and may be considered on appeal. Testimony may be given based upon the material submitted to the decision-maker. If, however, a hearing was held and testimony given prior to the initial decision being made, the appeal shall be based solely upon the record and any evidence submitted during the hearing. The applicant shall be required to pay all transcript fees and shall attach a copy of the transcript to the application for appeal.

(Ord. No. 97-172, § 3(ch. 13, § 31.511), 12-31-1997)

Cross reference(s)—Administration, ch. 2.

Sec. 40.31.512. Appeal standards and County Council consent.

- A. The body hearing an appeal may reverse a decision only upon a finding that:
 - 1. The decision-maker made an error in its interpretation of the applicable sections of this Chapter; or
 - 2. The decision-maker's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of this Chapter.
- B. For an appeal to County Council from a denial of a subdivision variance by the Planning Board, County Council may grant relief to the applicant where it finds that the strict application of the subdivision provisions of this Chapter would cause an unjust result.
- C. When County Council's consent is required for a use variance granted by the Board of Adjustment (see Table 30.110), the Department shall forward the Board's decision granting the use variance along with a draft resolution for County Council's consideration to the Clerk of County Council, the sponsor, the sponsor's legislative aide, and the applicant. The draft resolution shall be provided in electronic form to the sponsor's legislative aide. County Council shall grant the resolution consenting to the use variance granted by the Board so long as:
 - 1. The Board did not make an error in its interpretation of the applicable sections of this Chapter; and

2. The Board's findings and conclusions were the result of an orderly and logical review of the evidence and the applicable provisions of this Chapter.

If County Council finds that an error was made by the Board or its conclusions were not supported by the evidence as set forth in the Board's written decision, County Council shall disapprove or remand the matter back to the Board for further review and consideration. If necessary, County Council may remand with instructions or request that a new hearing be held by the Board.

(Ord. No. 97-172, § 3(ch. 13, § 31.512), 12-31-1997; Ord. No. 00-130, § 3, 6-12-2001; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.520. Interpretations.

When a provision of this Chapter is unclear or when a proposed use is not listed in Table 40.03.110, the Department shall provide a written interpretation.

(Ord. No. 97-172, § 3(ch. 13, § 31.520), 12-31-1997)

Sec. 40.31.521. Unlisted uses.

Uses not listed in Article 3 shall be placed into the most similar category. For a nonresidential use, the NAICS code shall be the first guide. Where the same NAICS code is found in several use categories, the Department shall consider the characteristics of the use, including the intensity of the use and its likely adverse impacts. Where a choice remains after reviewing for adverse impacts, the use should be classified with the similar use that has the most adverse impacts.

(Ord. No. 97-172, § 3(ch. 13, § 31.521), 12-31-1997)

Sec. 40.31.522. Procedure.

The Department shall evaluate a request for an interpretation in light of the Comprehensive Development Plan, this Chapter, and/or the zoning map, whichever is appropriate. All interpretations shall be approved by the Department of Law prior to being issued.

(Ord. No. 97-172, § 3(ch. 13, § 31.522), 12-31-1997)

Sec. 40.31.523. Official record.

The Department shall maintain a record of all interpretations rendered. This record shall be available, upon reasonable request, for public inspection at the Department during normal business hours.

(Ord. No. 97-172, § 3(ch. 13, § 31.523), 12-31-1997)

Division 40.31.600. Beneficial use appeal and determination.

A beneficial use appeal is a process by which the County evaluates an allegation that no beneficial use remains in a property and determines that some level of relief from this Chapter is warranted. A landowner who has been denied all or substantially all economically viable use of property through the application of this Chapter may apply for relief after exhausting all other available avenues of appeal to a County body.

(Ord. No. 97-172, § 3(ch. 13, div. 31.600), 12-31-1997)

Sec. 40.31.610. Application data.

The following data shall accompany all applications for a beneficial use appeal:

- A. Documentation of the purchase date and price of the property.

- B. A description of the physical features of the property, total acreage, and present use, the use of the property at the time of the adoption of this Chapter, and any known prior uses.
- C. A description of the specific portions of this Chapter which allegedly eliminate all or substantially all economically viable use of the property, together with all appraisals, studies, any other supporting evidence, and any actions taken by the County related to the property.
- D. A description of the use which the landowner believes represents the minimum beneficial use of the property and all documentation, studies, and other evidence supporting that position.
- E. If the property has been listed for sale since the adoption of this Chapter, originals or copies of all bids, offers to purchase, and other correspondence regarding the sale of such property.

(Ord. No. 97-172, § 3(ch. 13, § 31.610), 12-31-1997)

Sec. 40.31.620. Deprivation standards.

In determining if a landowner has been deprived of the beneficial use of property, the Board of Adjustment shall take into account the following factors:

- A. *Diminution in value.* The property value, prior to the adoption of this Chapter, shall be compared to the property value with the regulations as applied. A mere decrease in value does not deprive the landowner of all or substantially all beneficial use of property. The diminution in value must be such that it effectively deprives the landowner of all or substantially all viable use or enjoyment of the property.
- B. *Common land uses.* A use common to the County and/or the area of the subject site, although it may not involve further development of the land, may be considered a beneficial use. Attention shall also be given to land uses considered to be the lowest intensity in the County or adjoining areas, but which uses still provide for occupation and living by the landowner.
- C. *Subsidy.* A minimum beneficial use of the land may be a use where a governmental subsidy is provided. If such a subsidy exists, its value should be reflected in the considered minimum beneficial use on a valuation basis. The cumulative public costs of a subsidy should be considered payment to the landowner for the restriction on the property if the annual subsidy enhances the economic return of the existing use to the landowner. The value of the proposed use shall be adjusted to reflect the degree to which a subsidy enhances the property value by determining the value of the use without the subsidy.
- D. *Adverse impacts.* The extent to which this Chapter protects users, future users, or neighbors from threats to health, safety or general welfare shall be considered. A use that seriously threatens the health, safety or general welfare of current or future residents or neighbors shall not be considered a use the property owner is entitled to enjoy and shall not, when restricted by the County, constitute a denial of all or substantially all economic viable use of the property.
- E. *Expectations.* Expectations shall, in general, not be considered. Only expectations backed by reasonable investments made prior to the adoption date of the regulations in question may be considered.
- F. *Nuisances.* In no case shall a use that is a nuisance per se, or a use that in that particular location constitutes a nuisance, constitute grounds for relief.
- G. The Board of Adjustment may also take into account any factors that have been considered by a federal court or a Delaware court in determining whether all, or substantially all, economic use of a property has been denied a landowner who has made a takings claim pursuant to the federal or State Constitution.
- H. If requested by the landowner, the Board of Adjustment shall make a determination as to whether the code provision at issue substantially advances a legitimate governmental interest. In making this determination, the Board of Adjustment may rely upon any relevant federal or State case law.

(Ord. No. 97-172, § 3(ch. 13, § 31.620), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.620), 9-22-1998)

Sec. 40.31.630. Granting relief.

If the finding is that a landowner has been denied all or substantially all economic viable use of the property, the Board of Adjustment shall grant relief. In the alternative, the Board of Adjustment may also find that some beneficial use of the property remains. The Board of Adjustment shall grant only that level of relief necessary to provide for a beneficial use of the property.

- A. *Minimum increase.* In granting relief, the landowner shall be given the minimum increase in use intensity or other possible concessions from this Chapter to permit a beneficial use of the land. The following guidelines shall be used to determine the minimum beneficial use of the property:
 - 1. The standards set forth in Section 40.31.620 shall be used to help determine the need for additional density or uses.
 - 2. The reality of limited development potential, given the natural condition of the property, shall not be attributed to the regulations applied to the property.
 - 3. The potential for damages to either future residents or property shall be assessed in determining a beneficial use. Conditions shall be placed on sites where damage from hazardous conditions is likely. The conditions may include location restrictions, size limitations, and increased building standards.

(Ord. No. 97-172, § 3(ch. 13, § 31.630), 12-31-1997)

Division 40.31.700. Reviews and types of plans.

Sec. 40.31.710. Types of plans.

For any plans not previously discussed, the following shall pertain.

(Ord. No. 97-172, § 3(ch. 13, § 31.710), 12-31-1997)

Sec. 40.31.711. Resubdivision plan.

Proposed revisions to previously recorded plans and previously platted parcels that will not result in any new lots or additional gross floor area shall be considered resubdivisions and shall be reviewed as minor plans for any of the following purposes:

- A. Lot line changes.
- B. Elimination or relocation of any easements depicted on a record plan or the establishment of an easement that qualifies as a subdivision, except that revisions to establish, eliminate or relocate a private storm drainage easement or publicly-maintained and funded storm drainage or sewer easement shall not be required to be depicted on a record plan unless otherwise required by this Chapter or Chapter 12.
- C. Changes to parking, loading and access configurations which do not result in any nonconforming situation being made more nonconforming. Any new improvements not depicted on the plan to be superseded must comply with the current regulations of this Chapter.
- D. Changes in the design or shape of a building which do not materially affect the original design concept and do not result in any nonconforming situation being made more nonconforming. Any new improvements not depicted on the plan to be superseded must comply with the current regulations of this Chapter.
- E. Minor changes to stormwater management areas or open space configurations which do not materially affect the original design concept.
- F. Amendments to notes or other data shown on a plan.
- G. Multifamily conversions proposed under Section 40.03.340.B.

(Ord. No. 97-172, § 3(ch. 13, § 31.711), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 18-020, § 30, 7-10-2018; Ord. No. 24-057, 9-24-2024)

Sec. 40.31.712. Modifications to Diversified Planned Unit Developments (DPUD).

Revisions to Diversified Planned Unit Developments (DPUD) shall be reviewed in accordance with the standards set forth in this Chapter. A new rezoning ordinance shall be submitted for reintroduction and hearing if the revisions constitute one of the following:

- A. An increase in overall density.
- B. An increase in the number of units of any dwelling unit type by fifteen (15) percent or more.
- C. A decrease in open space.
- D. Major changes in the location of use types on the site which amend the concepts or original intent of the design represented by the exploratory sketch plan.

(Ord. No. 18-020, § 31, 7-10-2018)

Editor's note(s)—Prior to the reenactment of Section 40.31.712 by Ord. No. 18-020, § 31, adopted July 10, 2018, Ord. No. 17-044, § 9, adopted October 10, 2017, repealed the former Section 40.31.712 in its entirety, which pertained to utility plans, and derived from Ord. No. 97-172, § 3(ch. 13, § 31.712), adopted December 31, 1997.

Sec. 40.31.713. Title subdivision plan.

All title subdivision plans shall be reviewed as minor subdivisions, but may be incorporated into a major land development plan. The purpose of a title subdivision is to facilitate the subdivision of multi-family residential, office, commercial, or industrial development, appropriately zoned for the particular use, from single ownership into separate lots for the purpose of conveying individual title of the separate units established by the title subdivision plan. The Department shall review the title plan using the following standards:

- A. A title subdivision may be approved for all or a portion of a land area covered by a major land development plan. No such approval shall alter, modify or release the development from the design standards and requirements of the major land development plan.
- B. When a portion of a major land development plan is submitted for a title subdivision, such portions shall comply with the applicable design standards and requirements. Additional units, buildings or groups of buildings may be added to the original portion so long as the portion and the additions comply with the applicable design standards and regulations.
- C. Prior to the sale of any lot in a title subdivision, the subdivider shall establish a maintenance organization with the obligation to maintain all areas and facilities within the subdivision which are designated for common use. The subdivision plan shall contain a clear designation of such common areas and facilities. Such common areas and facilities shall be subject to all the requirements of Article 27 and any and all other applicable laws, rules and regulations, with the purpose of ensuring that the common facilities shall be maintained in a good and proper condition, fit for their intended purpose. A cross access easement may also be required by the Department to ensure continued compliance with existing and future parking requirements, or other transportation or access requirements.
- D. The individual lots and buildings created by a title subdivision shall not internally be required to conform to lot area, lot width, height limits, building setback, rear yard or side yard requirements of this Chapter. The development as a whole and all height, setback and other bulk regulations that limit the placement of a building, however, shall be enforced. Other restrictions shown on the major land development plan shall continue to apply as if the title subdivision had not occurred.

(Ord. No. 97-172, § 3(ch. 13, § 31.713), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.713), 9-22-1998; Ord. No. 10-004, § 1, 3-23-2010; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.714. Record conversion plan.

A record conversion plan is a minor plan in which each dwelling unit in a building having single ownership may be converted into condominium or cooperative dwelling units comprised of such dwelling unit with attendant common elements as shall be set forth in the record conversion plan. The purpose of a record conversion plan is to facilitate individual condominium ownership of dwelling units which have been constructed as multi-family dwellings, including, high-rise, mid-rise and garden apartments or as single-family attached dwellings such as townhouses.

(Ord. No. 97-172, § 3(ch. 13, § 31.714), 12-31-1997)

Sec. 40.31.715. Renaming subdivision and land development plans or streets.

Each application to rename a subdivision/land development plan or street shall follow the procedure set forth below.

- A. The applicant shall submit a petition to the resident County Council person as follows:
 - 1. When the owners of property within an existing subdivision or land development propose to rename the subdivision or land development, a petition signed by two-thirds ($\frac{2}{3}$) of the property owners shall be submitted to County Council requesting adoption of a resolution.
 - 2. When the owners of property within an existing subdivision or land development propose to rename streets therein, a petition signed by two-thirds ($\frac{2}{3}$) of the property owners, whose address range numbering references the subject street(s), shall be submitted to County Council requesting adoption of a resolution.
- B. The resident County Council person shall forward the renaming petition to the Department for processing. Upon receipt of the renaming petition and the filing fee in accordance with Appendix 2 of this Chapter, the Department shall review the request with the United States Post Office and the New Castle County Emergency Service Communication Center and make a recommendation to County Council. The recommendation shall include a draft name change resolution for County Council consideration and will be provided in both written and electronic form.
- C. County Council, upon receipt of the appropriate Recorder of Deeds filing fee, shall place the renaming resolution on their agenda. If adopted, the resolution shall be recorded in the Recorder of Deeds and indexed by the Recorder of Deeds by the old and new names of the street or subdivision/land development.
- D. The resolution shall be forwarded to the Department, DelDOT, New Castle County Emergency Service Communications, and United States Post Office.

(Ord. No. 97-172, § 3(ch. 13, § 31.715), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.715), 9-22-1998; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-099, § 2, 9-25-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.716. Record plan modification.

The General Manager of the Department shall have the authority to approve record plan modifications to correct errors and to allow minor revisions to previously-recorded plans.

- A. A record plan modification shall be permitted for any of the following purposes.
 - 1. To correct typographical errors or missing or incorrect bearings and distances or building restriction lines.
 - 2. To adjust lot lines to correct surveying errors or omissions.
 - 3. To adjust plan phasing for plans that are of a single use category, with the exception of mixed use projects.

4. To correct site data and plan notes that were made in error.
 5. To eliminate or relocate any private easements depicted on a record plan
 6. Making changes to open space or common facilities by maintenance organizations, condominium or third-party conservancies (Section 40.27.540.B).
 7. Relocating nonresidential accessory structures, waste storage, and HVAC equipment (Section 40.03.430 and Section 40.03.431).
 8. Converting temporary outdoor restaurant seating established in Section 40.03.329 to permanent outdoor seating.
- B. Record plan modifications shall be reviewed as minor plans.
1. The record plan modification shall retain the original plan application number.
 2. Only modifications for permitted revisions and the required supersedes note may be depicted on the plan.
 3. The Department shall forward the record plan modification to outside agencies for review and approval as it deems necessary.
 4. Upon Department approval, the plan shall be recorded in the Office of the Recorder of Deeds.

(Ord. No. 18-020 , § 32, 7-10-2018; Ord. No. 24-057, 9-24-2024)

Sec. 40.31.720. Subdivision plan review.

The types of subdivision include minor, major, special subdivisions (rural and staged), title subdivisions, utility plans, conversion plans and subdividing the residual land from a special subdivision. Each type may require a preapplication conference, exploratory plan, preliminary plan, or record plan review as indicated in Table 40.31.720. No land may be sold, transferred, or offered for sale until a record plan has been recorded.

Table 40.31.720
REQUIRED PLAN SUBMISSIONS

Subdivision	Exploratory	Preliminary	Record
Minor (resubdivisions, title, record conversion)	Y		Y
Major	Y	Y	Y
Rural	Y		Y
Staged	Y	Y	Y
NOTES: Y = required			

(Ord. No. 97-172, § 3(ch. 13, § 31.720), 12-31-1997; Ord. No. [23-104](#), § 8, 1-9-2024)

Division 40.31.800. Performance guarantee.

The developer shall provide all performance guarantees or surety requirements contained in this Chapter prior to minor or major plan approval by the Department.

(Ord. No. 97-172, § 3(ch. 13, div. 31.800), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 31.800), 9-22-1998)

Sec. 40.31.810. Conditions and restrictions.

The Department shall have the authority to impose conditions on a record plan which shall appear as notations on the record plan.

- A. The sections of this Article pursuant to which a record plan has been approved, and all notations appearing on a record plan, shall have the effect of restrictive covenants and shall run with the land

covered by the record plan against the owners who have executed the record plan, their heirs, successors and assigns, in favor of the County, provided that the right to enforce such covenants shall lie exclusively with the County. The fact that several parcels belonging to different owners are similarly restricted or that a restricted parcel is divided among several different owners shall not imply the creation of any private property or contract rights, on account of reliance or otherwise, among or between such several owners. All agreements, restrictions or covenants of any kind required by the Department of Land Use or Law shall be recorded prior to the final approval of a plan from the Department and the documents title and recorded book and page number shall appear on the plan as a note. The document to be recorded may contain a clause which indicates that the provisions of the document will not become effective unless the plan is approved and recorded.

- B. The execution and filing of a record plan shall constitute a representation by the persons executing the record plan that all known persons owning or having an interest in the land covered by the record plan have authorized the filing and have executed the record plan and that there are no known restrictions or legal impediments which would interfere with or prevent the unqualified applicability of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, § 31.810), 12-31-1997)

Sec. 40.31.820. Land Development Improvement Agreement (LDIA).

Except for minor residential subdivisions or plans for which a governmental entity is the applicant or property owner, all improvements contemplated in minor or major land development plans as required by this Chapter for sewer, drainage and detention, as well as for other improvements such as stormwater management facilities, parking, curbing, paving, sidewalks, open space improvements and common facilities, property monuments, earthwork, lighting, landscaping and bufferyards (except for replacement of on-lot residential landscaping), and any other improvements required by this Chapter ("the Improvements") shall be subject to a performance guarantee.

- A. The developer's engineer shall submit an itemized cost estimate for the Improvements. The designers of the Improvements shall submit cost estimates.
- B. In the alternative, a formula as established by the Department may be used in lieu of cost estimates.
- C. The developer must establish a performance guarantee acceptable to the County to guarantee and warrant the costs of constructing or reconstructing all improvements shown on the record plan. The performance guarantee shall be provided in one ways:
 - 1. The developer may submit the performance guarantee prior to plan recordation. In accordance with the construction phasing plan, the performance guarantee may be tied to the cost of the Improvements for phases of the minor or major land development plans, as shown on such plans, in which case a surety in the amount of one hundred twenty (120) percent for a particular phase must be available upon recordation of the record plan and subsequent phase sureties posted at the time of pre-construction request or building permit; or
 - 2. In lieu of Subsection C.1, the developer must, prior to plan recordation, submit a performance guarantee in the sum of five thousand dollars (\$5,000.00). The developer shall then submit the full performance guarantee under Subsection C.1., prior to the preconstruction meeting or building permit application. An annual administrative fee is required in an amount set forth in Appendix 2 until the full performance guarantee is provided.
- D. The performance guarantee must remain posted with the Department until such time that all open space and common facilities have been inspected and receive final approval and in accordance with the construction phasing plan. The amount of the surety shall be required by the Department in the amount of one hundred twenty (120) percent of the dollar amount calculated under Subsection A or B above.
 - 1. After all open space and common facilities have been constructed and approved by the Departments of Public Works and Land Use, the surety may be reduced or released.
 - 2. A maintenance guarantee is required in an amount equal to twenty (20) percent of the performance guarantee provided under Subsection A or B above. All Improvements except for landscaping

must be free from defects for a minimum period of time after the date of the Department of Public Works' inspection and acceptance of the final improvement to be constructed. For non-residential projects, the minimum period is three (3) years; for residential projects, five (5) years. The Department of Public Works may extend the maintenance guarantee period as deemed necessary by the General Manager as defects are discovered. The purpose of this surety is to ensure that the facilities are constructed as designed and function as intended.

3. All reductions in the amount or releases of the letter of credit or other surety must be approved by the General Manager of the Department of Public Works.
- E. Each performance guarantee provided prior to plan recordation must be for a period of not less than three (3) years, unless a longer time is requested by the Department.
- F. The bond, letter of credit or other surety must be executed by the applicant and a corporate surety or financial institution licensed to do business in the State that is not associated with the developer.
- G. Prior to the approval of a minor or major land development plan, the LDIA must be reviewed and approved by the County and recorded in the Office of the Recorder of Deeds.

(Ord. No. 97-172, § 3(ch. 13, § 31.820), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 07-117, § 2, 9-25-2007; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-030, § 1, 6-8-2010; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-031, § 77, 4-24-2018; Ord. No. 18-020, § 33, 7-10-2018; Ord. No. 20-090, § 7, 4-13-2021; Ord. No. 24-057, 9-24-2024)

Sec. 40.31.830. Approvals, releases or reductions made in error.

Approvals, releases or reductions made in error, or based upon false or misleading information, shall not relieve the developer of any obligation created by any plan, Code provision, or Development Agreement. Reductions or releases shall not relieve the developer of any obligation to complete and maintain open space and common facilities.

(Ord. No. 97-172, § 3(ch. 13, § 31.830), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.830), 9-22-1998; Ord. No. 07-012, § 2, 5-8-2007)

Sec. 40.31.840. Release of surety.

- A. Upon completion of all or part of the improvement, the developer may request a reduction or closure of the surety or performance guarantee. The Department shall have the development inspected. Any deficiencies shall be identified and the developer notified in writing of the deficiencies. If all work is complete and a maintenance bond provided, the surety shall be closed. For work proceeding in stages, the developer may request partial release. Prior to release, a maintenance guarantee shall be required.
- B. When a resubdivision plan is recorded to eliminate all improvements shown on a previously recorded land development plan or revert subdivided property to its status prior to the most recent recorded land development plan, or when a plan sunsets in accordance with Section 40.01.130, the Department may release the required surety.

(Ord. No. 97-172, § 3(ch. 13, § 31.840), 12-31-1997; Ord. No. 18-020, § 34, 7-10-2018)

Sec. 40.31.850. Calling surety.

In the event construction has not been completed sixty (60) calendar days prior to the surety expiration, the Department shall inspect and send a report to the developer indicating items to be completed by thirty (30) calendar days prior to the expiration. Should the developer want additional time, a new surety covering a minimum of six (6) months shall be submitted to the Department. If all work is not completed or an extended surety has not been presented thirty (30) days prior to expiration, the Department shall notify the Department of Law to call the surety.

(Ord. No. 97-172, § 3(ch. 13, § 31.850), 12-31-1997)

Division 40.31.900. Prohibitions, enforcement, and penalties.

Sec. 40.31.901. Prohibitions.

- A. Any person who violates any provision(s) of this Chapter or fails to comply with any of the requirements hereof, or who maintains, erects, constructs, alters, or repairs a building, structure or premises in violation of an approved plan or directive of the Department, or of a permit or a certificate issued under this Chapter, shall be subject to any of the enforcement mechanisms and penalties outlined in this Division.
- B. This Division shall apply to any violation of the provisions of this Chapter. The enforcement mechanisms of this Division shall also apply to violations of any former County subdivision or zoning regulations to the extent that such provisions are legally applicable at the time of the violation.
- C. No street, sanitary sewer, storm sewer, water main, or other improvements shall be constructed, opened, or dedicated for public use or for the common use of occupants of buildings abutting thereon, and no part of any land which has been subdivided after the adoption of regulations under this Chapter, shall be sold, transferred or conveyed, except pursuant to an approval received for the land subdivision in accordance with the regulations adopted under this Chapter. Whoever violates this Section shall be subject to the penalties found in 9 Del. C. § 3006 (Penalties for selling before approval).
- D. Except as provided in Subsection E, no land use application shall be granted by any board, Department, or Council if any of the following parties, having an interest in the application or the property the application is filed for, are not in good standing with the County:
 - 1. Applicant;
 - 2. Property owner;
 - 3. Equitable owner;
 - 4. Permit holder; and
 - 5. Any individual with a controlling interest in the property (controlling interest means the acquisition of sufficient dominance to determine the operational and financial policies, including disposition of its assets, of any legal entity that is a party listed in Subsections 1 through 4, but excluding mortgage holders).

Not in good standing means that at the time of the request, any of the above enumerated parties are delinquent in the payment of monies owed to the County or have been found to be in violation of this Code after a rule to show cause hearing. If a Board, the Department or County Council denies a Land Use application based upon the fact that a party/parties is not in good standing, such decision must be sent to the party/parties in writing outlining the basis for the conclusion within ten (10) days.
- E. An administrative board may consider and decide a land use application, so long as any of the parties enumerated in Subsection D are not delinquent in their payment of monies owed to the County, where the application is submitted in an effort to resolve an existing Code violation. In such situations, the County will stay enforcement of the Code violation, so long as there is no imminent threat to the health, safety or welfare to the citizens of the County, until the administrative board has issued its written decision on the application.

(Ord. No. 99-151, § 2, 10-10-1999; Ord. No. 03-024, § 1, 6-24-2003; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.910. Notice to owner or to any responsible person of code violations.

- A. *Notice.* Whenever the Department or Code Enforcement Officer determines that there has been a Code violation or has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or person responsible for the property who shall be legally responsible for such violations. All notices shall:
 - 1. Be in writing;
 - 2. Contain the address of the property or a description of the property sufficient for identification;

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3. Include a clear statement of the reason or reasons why the notice is being issued; and
 4. Include a correction order allowing a reasonable time to achieve compliance with the Code which shall in no case be greater than thirty (30) days.
- B. *Method of service.* Notice required by this Section shall be satisfied where a copy of the notice required by this Section is:
1. Delivered to the owner or any responsible person personally; or
 2. Mailed by regular United States mail and addressed to the owner or responsible person at his or her last known address as reflected by the County's records; or
 3. Posted in a conspicuous place on the property affected by such notice.
- C. *Exceptions to this Section.*
1. In no case shall the Department or Code Enforcement Officer be required by this Section to provide a correction order to any owner or person previously provided notice pursuant to this Section or under any former Code provision where the same Code violation is alleged by the Department or Code Enforcement Officer to exist. This exception shall apply regardless of whether the new violation exists on the same property for which notice had previously been given or a different property.
 2. In the event that a Code violation exists or is reasonably believed to exist because work is being done in an unsafe or dangerous manner, jeopardizes the health, safety or welfare of the public, or is being done (or was done) in the absence of necessary approval(s), plan(s), or permit(s) or because of a Division 40.06.000D sign code violation, no correction order is required by this Section.

(Ord. No. 97-172, § 3(ch. 13, § 31.910), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.910), 9-22-1998; Ord. No. 99-151, § 3, 10-10-1999; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.31.920. Enforcement.

- A. *Administrative enforcement.*
1. Pre-deprivation show cause hearing: Except as provided in Subsections 2. and 3. below, if such violations are not remedied within the time specified in the notice, the General Manager of the Department or his or her designee, shall schedule a rule to show cause hearing and provide the person an opportunity to defend his, her, or its conduct at a show cause hearing prior to any penalty being imposed. After such rule to show cause hearing, the General Manager of the Department or his or her designee, shall render a decision within ten (10) days and send a written letter to the person informing him, or her of his or her decision and detail the reasons for any adverse action taken.
 2. The General Manager, or his or her designee, may issue a citation that imposes a civil penalty for violation of any code provision delineated herein. A pre-deprivation show cause hearing shall not be required prior to the issuance of the citation if the property owner or responsible party is provided an opportunity to contest the citation within ten (10) business days of its issuance.
 - a. Citations may be issued for a violation of:
 - i. Subsections 40.03.420.A.6, 40.03.420.A.8, and 40.03.420.A.9 (concerning home occupations).
 - ii. Section 40.03.440 (concerning sale of motor vehicles as an accessory use).
 - iii. Sections 40.06.030.B.6.c and 40.06.030.B.6.d.iii (concerning Electronic Variable Message Sign (EVMS)).
 - iv. Section 40.06.040.E (concerning prohibited signs).

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- b. The civil penalty may not exceed fifty dollars (\$50.00) for each violation that remains after the tenth (10th) calendar day of issuance of the notice of violation. However, any civil penalty not paid within thirty (30) calendar days from the date of the citation shall double.
 - c. After the property owner or responsible party has an opportunity to contest the citation through an administrative appeal process, the violation shall constitute a continuing violation if it is not remedied. A notice of violation shall not be required for a continuing violation and the General Manager, or his or her designee, may issue a citation and impose an additional fifty dollars (\$50.00) penalty each day the violation continues.
 - d. The owner of a property or the responsible party aggrieved by any citation issued pursuant to this section may, within ten (10) business days of the date of the citation, follow any one of the following administrative appeal processes to contest the citation:
 - i. Request a show cause hearing as described in Subsection A. Requests shall be made in writing to the General Manager, or his or her designee, unless a different method is delineated in the notice of violation or citation.
 - ii. Submit a detailed written explanation of the grounds for the appeal to the General Manager, or his or her designee.
 - e. Reserved.
 - f. Stay. An appeal of a violation under this Section shall act as an automatic stay of the action being appealed.
 - g. The General Manager, or his or her designee, shall issue a written decision affirming, modifying, reversing, revoking or vacating the citation. The decision may be appealed pursuant to Division 40.31.500.
3. In the event a violation of Subsection 40.06.040.E is reasonably believed to exist by the Department or a Code Enforcement Officer, the Department or Code Enforcement Officer may immediately confiscate the sign, display, or device. Any sign, display, or device shall become the property of the County if the property owner or responsible party does not claim it within ten (10) calendar days from the date of its confiscation. No hearing shall be provided to the property owner or responsible party unless additional penalties are pursued.
4. Post-deprivation show cause hearing: Whenever the General Manager of the Department or his or her designee, determines that work on any premises is being done in an unsafe or dangerous manner, jeopardizes the health, safety or welfare of the public, or is being done (or was done) in the absence of necessary approval(s), plan(s), or permit(s), such work shall be immediately stopped by the issuance of a stop work order. In addition to the notice requirements contained in Section 40.31.910, the notice shall require the person notified to appear within no more than ten (10) days at a specified time in the office of the General Manager of the Department or his or her designee, to show cause why the work should be allowed to continue. The General Manager of the Department or his or her designee, shall render a decision within ten (10) days and send a written letter to the person informing them of his or her decision and detail the reasons for any adverse action taken.
- a. When a stop work order has been issued on work being performed in an unsafe or dangerous manner, or that jeopardizes the health, safety or welfare of the public, the General Manager of the Department or his or her designee, may also place a stop work order on all other work being performed by such person in order to ascertain whether the person is in violation of this Code on other work sites.
 - b. Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person has been directed to perform to remove a violation of an unsafe condition, shall be considered to be in violation of this Chapter.

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- c. Removal of placard. Any person who defaces or removes a violation notice or stop work order notice or placard shall be considered to be in violation of this Chapter.
 - 5. Penalties that may be imposed after hearing.
 - a. *Refusal to issue any further building permits or certificates of occupancy.* The General Manager of the Department or his or her designee, may refuse to grant any further building permits or certificates of occupancy to the applicant, to any corporation, partnership, joint venture, or other legal entity with which the applicant has a controlling interest (controlling interest means the acquisition of sufficient dominance to determine the operational and financial policies of a corporation, partnership, committee, club or other organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit, including disposition of its assets or any interest representing more than five (5) percent of a corporation, partnership, committee, club or other organization, holding company, joint stock company, receivership, trust, or any legal entity organized for profit), or to any business entity formed by the applicant in an attempt to circumvent the effect of this penalty. The General Manager of the Department or his or her designee, is authorized to withhold additional permits only until the applicant remedies outstanding Code violations.
 - b. *Institution of remedial action.* The County may initiate action to remedy the violation. Upon completion of such remedial work, the violator shall be provided the opportunity to reimburse the County for the cost incurred. In addition to any expense incurred by the County for the removal or abatement of such violations, a minimum administrative fee of one hundred dollars (\$100.00) shall be assessed to the owner or possessor of land or improved premises. If the amount is not paid within thirty (30) days after notice requesting reimbursement is received, such amount, together with a penalty of ten (10) percent of such expense and interest of six (6) percent per annum shall be assessed against the land or improved premises. If the violator fails to reimburse the County within the thirty (30) days, the County may: (i) call or collect on any bond or insurance established for this purpose; (ii) place a lien on any property within the County held by the person as permitted by State law; and/or (iii) institute a civil action for the recovery of such expense, together and with any penalty and/or interest, against the person, and the County shall be awarded reasonable attorney fees. This Section shall not be construed to limit any other actions or remedies at law or equity.
 - c. *Administrative fines.* Notwithstanding any other section of this Chapter, the General Manager of the Department, or his or her designee, may assess a civil penalty to the property owner or person responsible for the property for violation of any code provision delineated in is Chapter, or violation of any permit, certificate, approved plan, or directive of the General Manager, or his or her designee. The civil penalty may be up to one to one hundred dollars (\$100.00) for each day the violation continues. The General Manager of the Department, or his or her designee, may also assess the property owner or person responsible for the property any expense incurred by the County for the removal, abatement or correction of such violation. If the amount is not paid within such time stated in a notice, decision, order or directive of the General Manager, or his or her designee, such amount, together with a penalty of ten (10) percent of expenses incurred and interest of six (6) percent per annum shall be assessed against the land or improved premises.
 - 6. Service of notices and citations issued pursuant to these administrative enforcement provisions shall be pursuant to Subsection 40.31.910.B.
 - B. *Civil enforcement.* Any person violating the provisions of this Chapter or former zoning or subdivision regulations shall be subject to a civil proceeding instituted by the County Attorney. The County may apply to the Court of Chancery for injunctive relief against the person, to prevent, abate, or enjoin any continuing violation of the provisions of this Division. The violator shall be responsible for any costs incurred in preventing, abating, or enjoining such violations.
 - C. *Criminal enforcement.* Any person violating the provisions of this Chapter or the provisions of any former subdivision or zoning code shall be subject to a criminal proceeding instituted by any Code Enforcement
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Officer and/or the County Attorney. It is unnecessary to prove the defendant's state of mind with regard to offenses which constitute violations as the legislative purpose is to impose strict liability for such offenses. If a penalty is not otherwise provided for, violators will be subject to a five hundred dollar (\$500.00) fine. Each day that a continuing violation of any ordinance is maintained or permitted shall constitute a separate offense. All notices given prior to criminal enforcement shall comply with constitutional due process requirements.

(Ord. No. 97-172, § 3(ch. 13, § 31.920), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.920), 9-22-1998; Ord. No. 99-151, § 4, 10-10-1999; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-012, § 2, 5-8-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 18-020, § 35, 7-10-2018)

Sec. 40.31.930. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 31.930), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 31.930), 9-22-1998; Ord. No. 99-151, § 4, 10-10-1999)

Sec. 40.31.940. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 31.940), 12-31-1997; Ord. No. 99-151, § 4, 10-10-1999)

ARTICLE 32. RESERVED¹

Divisions 40.32.000—40.32.200. Reserved.

¹Editor's note(s)—Ord. No. 01-112, § 1(Exh. A), adopted March 12, 2002, repealed Art. 32, Divs. 40.32.000—40.32.200, in their entirety. Formerly, said Article pertained to adoption and purposes of the Unified Development Code as adopted by Ord. No. 97-172, § 3(ch. 13, div. 32.000), adopted Dec. 31, 1997. The user is directed to Article 1 of this Unified Development Code for similar provisions.

ARTICLE 33. DEFINITIONS

Division 40.33.000. Purpose.

This Article defines words, terms and phrases found in this Chapter. Words not defined in this Article shall have the meaning given in other Code Chapters or Webster's Unabridged Dictionary.

(Ord. No. 97-172, § 3(ch. 13, div. 33.000), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Division 40.33.100. Word usage.

This Article's provisions and rules shall be observed and applied when interpreting this Chapter, except when the context clearly requires otherwise:

- A. Words used or defined in one (1) tense or form shall include other tenses or forms.
- B. Words in the singular number shall include the plural number. Words in the plural number shall include the singular number.
- C. The masculine gender shall include the feminine. The feminine gender shall include the masculine.
- D. Reserved.
- E. The word "may" is permissive.
- F. The word "person" includes individuals, partnerships, firms, corporations, associations, trusts or any employees, assistants, agents and any other similar entities or combination of individuals.
- G. The word "shall" is mandatory.

(Ord. No. 97-172, § 3(ch. 13, div. 33.100), 12-31-1997; Ord. No. 04-059, § 1(Exh. A), 7-13-2004)

Sec. 40.33.110. County terms.

- A. The word "Council" shall mean the New Castle County Council.
- B. The phrase "Board of Adjustment" shall mean the New Castle County Board of Adjustment.
- C. The words "this Chapter" shall mean the "New Castle County Unified Development Code" Chapter 40 of the New Castle County Code.
- D. "Code Enforcement Officer" means any sworn New Castle County Code Enforcement Constable, County Building Inspector or County Inspector.
- E. The word "County" shall mean New Castle County, Delaware.
- F. The words "County Engineer" shall mean an engineer employed by New Castle County.
- G. The words "Comprehensive Development Plan" shall mean the Comprehensive Plan of New Castle County. It means all maps, charts and exploratory materials adopted by Substitute No. 2 to Ordinance 22-024 on July 26, 2022, and any subsequent amendments thereto.
- H. The word "Department" shall mean the New Castle County Department of Land Use.
- I. The words "Department of Public Works" shall mean the New Castle County Department of Public Works.
- J. Reserved.
- K. The words "Planning Board" shall mean the New Castle County Planning Board.
- L. The words "Recorder of Deeds" shall mean the New Castle County Office of Recorder of Deeds.

- M. The words "Guiding Principles" shall mean the Guiding Principles for Development (Appendix 7) of the UDC.

(Ord. No. 97-172, § 3(ch. 13, § 33.110), 12-31-1997; Ord. No. 01-092, § 2, 3-25-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-140, § 2, 7-24-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 11-109, § 2, 4-24-2012; Ord. No. 18-031, § 78, 4-24-2018; Ord. No. 18-021, § 54, 7-10-2018; Ord. No. 22-024, § 4, 7-26-2022)

Sec. 40.33.120. State agencies and terms.

- A. The word "DelDOT" means the State of Delaware, Department of Transportation.
- B. The word "State" shall mean the State of Delaware.
- C. The term "State Fire Marshal" means the State Fire Marshal of the State of Delaware.
- D. The term "State Public Health Division" means the Division of Public Health of the State of Delaware Department of Health and Social Services.
- E. The term "Department of Natural Resources and Environmental Control (DNREC)" means the Department of Natural Resources and Environmental Control of the State of Delaware.
- F. The term "State Big Tree" indicates a tree which has been accepted into the Delaware State Big Trees Program, by virtue of its representation of indigenous species, or possessing outstanding size, height, or spread.
- G. The term "WILMAPCO" means the Wilmington Area Planning Council.

(Ord. No. 97-172, § 3(ch. 13, § 33.120), 12-31-1997; Ord. No. 01-112, § 1(Exh. A), 3-12-2002)

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Sec. 40.33.130. Abbreviations.

The following abbreviations are used in this Chapter:

AASHTO	American Association of State Highway and Transportation
ac.	acre
bt	build to line
CLOMA	Conditional Letter of Map Amendment
CLOMR	Conditional Letter of Map Revision
CO	Certificate of Occupancy
DBH	diameter at breast height for a tree
DelDOT	State of Delaware, Department of Transportation
DNL	day-night level
DNREC	Department of Natural Resources and Environmental Control
du or du's	dwelling unit(s)
FAR	floor area ratio
FEMA	Federal Emergency Management Agency
FIRM	Federal Insurance Rate Map
ft.	feet or foot
GD	gross density
GFA	gross floor area
GFAR	gross floor area ratio
LDIA	Land Development Improvement Agreement
LOMA	Letter of Map Amendment
LOMR	Letter of Map Revision
LOS	level of service
LSR	landscape surface ratio
max.	maximum
min.	minimum
na.	not applicable
NAICS	North American Industrial Classification System
NCga	Neighborhood Conservation (Garden Apartments and Townhouse Condominiums)
ND	net density
NFAR	net floor area ratio
NFIP	National Flood Insurance Program
OSR	open space ratio
RPATAC	Resource Protection Area Technical Advisory Committee
SES	Solar energy system
s.f. or sq. ft.	square feet
S.F.	single-family
SFHA	Special Flood Hazard Area
TAC	Technical Advisory Committee
TDM	Transportation Demand Management
TIS	Traffic Impact Study
TM Agreement	Traffic Mitigation Agreement

(Ord. No. 97-172, § 3(ch. 13, § 33.130), 12-31-1997; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 00-102, § 6, 11-28-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 04-058, § 2, 10-5-2004; Ord. No. 17-044, § 10, 10-10-2017)

Division 40.33.200. Use definitions.

The uses found in Table 40.03.110 are defined in this Division. Specific uses may be further defined in Division 40.33.300. If a use is not enumerated in either of these Divisions, see Section 40.31.520 for interpretations. Any use not specifically listed in Table 40.03.110 and defined in this Article is expressly prohibited, unless the interpretation is that the use is similar to a permitted use. The 2007 North American Industrial Classification System (NAICS), as published by the Federal government and as may be amended from time to time, shall be used as a guide to define uses.

(Ord. No. 97-172, § 3(ch. 13, div. 33.200), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, div. 33.200), 9-22-1998; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 09-068, § 1(Exh. A), 11-10-2009)

Sec. 40.33.210. Agricultural uses.

- A. *Agriculture*. These uses include crop production and animal production (NAICS 111 and 112). These uses also include any other agricultural use recognized by Delaware law.
- B. *Clearing*. This use includes:
 - 1. Forestry (NAICS 113) involving the management, harvesting and use of a forest or woodland, or the clearing of an area so that eighty (80) percent of the land shall at all times be in forest or woodland cover. It requires a management plan for the regrowth of the harvested areas; or
 - 2. The clearing, destruction and cutting in excess of twenty (20) percent of forested areas for agricultural or purposes other than forestry. Clear cutting, burning or other methods of eliminating the vegetative cover are included; or
 - 3. Any other types of clearing recognized by Delaware law as an agricultural use.
- C. *Farmstead*. This is a residential-agricultural unit in which the land is used for agriculture and residential purposes by the owner/operator of the agricultural operation.
- D. *Commercial stables*. The stabling, training, and feeding of horses, or the provision of riding facilities for other than the use of the resident of the property; this also includes riding academies. This is any structure or place where horses, mules, donkeys, or ponies are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.
- E. *Farm market*. This is a temporary or permanent use, structure or vehicle for the sale of agricultural products at least fifty (50) percent of which are grown on the subject farm. More than one (1) farm may sell at a single stand.

(Ord. No. 97-172, § 3(ch. 13, § 33.210), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.210), 9-22-1998)

Sec. 40.33.220. Residential uses.

- A. *Single-family detached*. These are detached dwelling units intended for only one (1) family. This term shall include any dwelling unit which complies with Chapter 6.
- B. *Open space subdivision*. These are single-family detached residential uses in a subdivision that include, as part of the subdivision design, significant common open space that meets the standards in Section 40.04.110.
- C. *Single-family attached*. These are attached dwelling units including semi-detached, twin, atrium, weak-link and townhouse types and quadraplex. The unit type permitted and open space standards are specified in Section 40.04.110.

- D. *Open space planned.* This describes a development that consists of one (1) or more of the following housing types: single-family, single-family lot line, village houses, twin, duplexes, patio houses, atrium houses, townhouses of several types, quadraplex and apartments. Such developments shall be planned as a unit and shall meet all the open space standards in Section 40.04.110.
- E. *Multi-family.* This use permits apartments only.
- F. *Apartment conversion.* This use involves the conversion of a large, single-family structure into multiple dwelling units.
- G. *Commercial apartment.* This is from one (1) to four (4) dwelling units located above, alongside, or to the rear of a nonresidential structure on the same lot.
- H. *Hamlet.* This is a special type of planned development that permits an extreme cluster with very extensive open space that is a freestanding community with residential, and a central place where commercial uses are permitted pursuant to the regulations of this Chapter.
- I. *Village.* This type of development is similar to a hamlet, permitting a cluster-style development with a community commercial district providing employment opportunities, pursuant to the regulations of this Chapter.
- J. *Group home.* A group home is a building that would otherwise be categorized as a single-family home, except for the fact that the number of unrelated individuals living in the unit does not qualify under the definition of family. The operation of a group home shall be a family living environment, not an institutional environment, where staff manages the living, and controls activities. If the unit would otherwise qualify as other types of dwelling units defined in this Chapter, such as apartment or attached housing, then the use shall be treated as such. Co-ops, nursing homes, other institutional residential and boardinghouse type of operations are expressly excluded since these are institutional or commercial lodging uses.
- K. *Manufactured home park.* A development designed to accommodate the sale or lease of sites for the placement of manufactured or mobile homes.
- L. *Small single-family.* The small single-family house is an affordable unit specially designed and built to serve the needs of individuals or small households who need small, compact, affordable housing. It is not intended to meet the needs of large families. Two (2) types of housing are provided: single-family detached one (1) story and single-family detached two (2) story. The small scale of these units permits them to fit into existing neighborhoods without threatening the neighborhood character.
- M. *Accessory dwelling unit (ADU).* This is a second, subordinate dwelling unit added to or created within a single-family detached dwelling, which provides independent living, sleeping, eating, cooking and sanitation facilities.
- N. *Pocket Neighborhood.* This describes a development that consists of one (1) or more of the following housing types: village houses on village lots and small single-family detached dwellings on small single family detached dwelling lots.

(Ord. No. 97-172, § 3(ch. 13, § 33.220), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.220), 9-22-1998; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 07-001, § 2, 4-10-2007; Ord. No. 09-037, § 1, 10-13-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 24-087, 9-24-2024, Ord. No. 24-137, 12-10-2024)

Sec. 40.33.221. Home uses.

- A. *Day care, family and large family.* A facility in a private home or nonresidential setting that is operated by one (1) or more persons duly licensed or qualified to be licensed by the State for the purpose of providing child day care for one (1) to not more than twelve (12) children at any one (1) time, who are not relatives of the day care provider (NAICS 62441). The terms "family day care home" and "large family day care" are further defined and limited by the State of Delaware, Department of Services for Children, Youth and Their Families, Office of Child Care Licensing regulations.

- B. *Home occupation.* Home occupation means any service, profession, occupation or trade which is conducted within a residential dwelling and which does not change the essential character of the residential use.
1. Exception: In Arden, Ardentown, and Ardencroft ("the Ardens") the home occupation may occur in the dwelling and any accessory structure on the same lot. Therefore, for the purposes of this Section and Section 40.03.420, the term "dwelling" shall be synonymous with the term "structure" when applying home occupation regulations in the Ardens.
- C. *Home business.* This is a business operated out of a home that permits the employment of up to two (2) unrelated individuals in the home. Uses shall be limited to office or service businesses and sales; wholesale or retail is prohibited. Farm workers are not included.
- D. *Cottage industry.*
1. An industrial or intensive use(s) conducted on a lot with a residential dwelling unit. Up to six (6) employees may be employed in addition to family members. Farm workers are not included.
 2. This use includes, but is not limited to, businesses related to agriculture, trucking operations, small automotive repair shops, septic system service, well service, carpentry, upholstery, woodworking, potteries, glassworks and other similar uses. It includes screened outdoor storage areas.

(Ord. No. 97-172, § 3(ch. 13, § 33.221), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.221), 9-22-1998; Ord. No. 99-134, § 2, 2-8-2000; Ord. No. 00-057, § 2, 7-25-2000; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.33.230. Institutional uses.

- A. *Assembly and worship.* This use includes churches and other places of worship (NAICS 8131).
- B. *Schools.* This use includes private and public, elementary and secondary, including public vocational high schools and places of worship with schools. These uses may include student housing facilities on-site. (NAICS 6111)
- C. *Colleges.* This includes colleges, universities, and professional schools (NAICS 6112, 6113). These uses may include student housing facilities on site.
- D. *Institutional, regional.* Libraries, museums, aquariums, cultural or arts centers, civic and social organizations, community recreation centers, cemeteries and all other public or private indoor institutional uses which are not otherwise defined in this Section. (NAICS 8134, 81222, 712) Conference centers with no lodging. Conference centers with accessory lodging, comprising less than twenty (20) percent of the GFA and available only to conference participants.
- E. *Institutional, neighborhood.* These uses include libraries, community recreation centers, cemeteries (NAICS 81222), day care centers for all ages, preschools (NAICS 6244) and all other public or private indoor institutional uses serving the neighborhood.
- F. *Institutional, residential.* Type I facilities accommodating more than four (4) and not more than ten (10) persons, and Type II facilities accommodating more than ten (10) persons. These uses include:
1. Convents or monasteries (NAICS 813110), and nursing homes
 2. Sheltered care facilities or group living facilities where the residents live in an institutional environment and are generally under the care or control of staff. All sheltered care, group care, and group homes, except emergency shelters and residential substance abuse facilities where total occupancy is more than eight (8), shall be considered institutional residential use. The residents would be members of an institution, or would have institutional care, or would be treated by staff in an institutional setting rather than living independently (NAICS 623, 624221).
 3. Institutional housing where there is commercial rental or condominium ownership combined with any of the following: common food service, nursing, or health care (NAICS 623, 624221).

- 4. Dormitories, fraternities, or sororities (NAICS 721310).
- G. *Protective care*. This is housing where the residents are assigned to the facility and are under the protective care of the City, County, State or federal government. This use includes jails, prisons, work release, other similar facilities (NAICS 92214).
- H. *Public service*. These uses include public service facilities e.g., ambulance, fire, police, rescue, national security (NAICS 62191, 92212, 92216, 92811). (See Office uses under Section 40.33.240.)
- I. *Hospitals*. Hospitals (NAICS 622).

(Ord. No. 97-172, § 3(ch. 13, § 33.230), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.230), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 10-113, § 1(Exh. A), 1-18-2011)

Sec. 40.33.240. Commercial uses.

A. *Adult uses*. This includes:

- 1. *Adult bookstore*. Means an establishment having, as a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Subsection A.2.a and A.2.b, or an establishment with a segment or section devoted to the sale or display of such material.
 - 2. *Adult entertainment establishment* means an enclosed building used for presenting material and/or conduct distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this Section, for observation by patrons therein. This includes bars, restaurants, movie theaters, theaters, peep shows, strip halls, special cabarets, physical culture establishments, photographic studios, or any other normally permitted use where "specified sexual activities" are displayed, or where "specified anatomical areas" are exposed to customers.
 - a. For the purpose of this definition, the term "specified sexual activities" is defined as:
 - i. Human genitals in a state of sexual stimulation or arousal;
 - ii. Acts of human masturbation, sexual intercourse or sodomy;
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - b. For purposes of this definition, the term "specified anatomical areas" is defined as:
 - i. Less than completely and opaquely covered:
 - (a) Human genitals, pubic region;
 - (b) Buttocks; and
 - (c) Female breast below a point immediately above the top of the areola; and
 - ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - 3. *Massage parlors*. These are establishments offering massage, manipulation, rubbing, vibration, stroking, or tapping of the human body with the hand or an instrument, staffed by one (1) or more persons who do not belong to any nationally recognized massage therapy association, or by persons who are not graduates of any recognized training school in massage therapy.
- B. *Agricultural support and other rural services*. This use includes farm supply services, equipment dealers, grain storage, farm product warehousing and storage, fishing, hunting and trapping industries, veterinary services, kennels, taxidermist, commercial greenhouse, nursery and garden center, mulch operations, and cemeteries (NAICS 114, 115, 49313, 4245, 444220, 54194, 81291, 81222).

- C. *Bed and breakfast.* (NAICS 721191) This is any place of lodging in which there are no more than eight (8) guestrooms, or suites of rooms, available for temporary occupancy for varying lengths of time, with compensation to the owner, by the general public, and in which meals may be prepared for them, provided that no meals may be sold to persons other than such guests, and that the owner resides therein as his or her principal place of residence.
- D. *Commercial lodging.* (NAICS 7211, 7213) These uses include hotels, motels, boarding and rooming houses, or a building or group of buildings offering transient lodging accommodations on a daily rate to the general public. Additional services to be provided may include a restaurant, meeting rooms, and recreational facilities.
- E. *Commercial retail and service.* These uses include the following:
- Wholesale trade, with a maximum gross floor area of twenty-five thousand (25,000) square feet (NAICS 42)
 - Automotive parts and accessory stores (NAICS 4413)
 - Furniture and home furnishing stores (NAICS 442)
 - Electronics and appliance stores (NAICS 443)
 - Paint and wallpaper stores (NAICS 44412)
 - Hardware stores (NAICS 44413)
 - Lawn and garden equipment and supply stores (NAICS 4442) plus unlimited outdoor plant storage
 - Food and beverage stores (NAICS 445)
 - Health and personal care stores (NAICS 446)
 - Clothing and accessory stores (NAICS 448)
 - Sporting goods, hobbies, books and music stores (NAICS 451)
 - General merchandise stores (NAICS 452)
 - Miscellaneous store retailers (NAICS 453, except 45393)
 - Postal service, local office only (NAICS 491)
 - Couriers and messengers, local office only (NAICS 492)
 - Consumer rental goods (NAICS 5322)
 - General rental centers (NAICS 5323)
 - Services to buildings and dwellings (NAICS 5617)
 - Electronic and precision equipment repair (NAICS 8112)
 - Personal and household goods repair (NAICS 8114)
 - Personal and laundry services (NAICS 812)
 - Commercial copy centers (NAICS 323114)
 - Gasoline station with convenience store, where more than one thousand (1,000) square feet of GFA is for convenience store retail sales (NAICS 447110)
 - Miniwarehouses and self storage units (NAICS 53113) with less than fifty thousand (50,000) GFA.
 - Retail uses with accessory wholesale sales of no more than twenty-five thousand (25,000) square feet of GFA.
 - Retail bakeries not exceeding twenty thousand (20,000) GFA (NAICS 311811)
 - Taxidermist
 - Special trade contractors (NAICS 238, except NAICS 238110 and 238110)
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- F. *Corporate guest house.* This use is composed of one (1) or more buildings owned by a business entity in which there are no more than ten (10) guestrooms, or suites of rooms, available for temporary occupancy for varying lengths of time, without compensation to the owner, by employees, customers, and other persons whose presence in the building is due principally to their relationship with the business entity.
- G. *Drive-in facility.* These uses include all drive-in and drive-through establishments providing service to customers in vehicles.
- H. *Heavy retail and service.* These are retail and/or service activities that have exterior service or storage areas as listed below.
- Special trade contractors (NAICS 238)
 - Truck, recreational vehicles, boats and other vehicle sales (NAICS 44121, 441222, 441229)
 - Building materials and home centers (NAICS 44411)
 - Other building materials dealers (NAICS 44419)
 - Manufactured home dealers (NAICS 45393)
 - Fuel dealers (NAICS 45431)
 - Miniwarehouses and self-storage units (NAICS 53113)
 - Truck, utility, trailer, RV rental (NAICS 53212)
 - Commercial industrial machinery and equipment rental (NAICS 5324)
 - Services to buildings and dwellings (NAICS 5617)
 - Automotive paint, body and interior repair and maintenance (NAICS 811121)
 - Commercial and industrial machinery and equipment repair (NAICS 8113)
 - Vehicle repair services, towing, parking, storage; motor vehicle auction
 - Taxi and limousine service (NAICS 4853)
 - Construction of buildings (NAICS 236)
 - Truck stop, including other associated uses such as restaurant, laundry, showers (NAICS 447190)
 - Marina and associated uses (NAICS 71393)
 - Outdoor display and sale of prefabricated garden sheds and other similar outdoor structures, including picnic tables and play equipment.
 - Warehousing storage facilities (NAICS 493) with a maximum GFA of fifty thousand (50,000) square feet
- I. *Light automobile service.* Automotive service and repair within buildings, fuel sales, car wash. (NAICS 447, 4413, 8111 except 811121 paint and body shop). There is no storage of towed vehicles except those vehicles that may be on-site for repairs/service. Automobile service stations with more than one thousand (1,000) square feet of convenience store retail sales are classified as Commercial retail and service.
- J. *Mixed use.* One or more buildings on a lot planned, designed and managed as an integrated development comprised of residential and nonresidential uses oriented to a pedestrian precinct and intended to provide convenient shopping, employment and residential opportunities while reducing vehicular trip generation.
- K. *Restaurants.* (NAICS 722, 722320, 531120). See Subsection 40.33.240.G. for restaurants with drive-in facilities.
- L. *Retail marijuana store.* This use includes entities licensed by the State of Delaware to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; and to sell marijuana and marijuana products to consumers. (NAICS 459991)
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M. *Office*. Office uses include:

Agricultural support and services (offices only) (NAICS 115)
Information services and data processing (NAICS 516, 518, 519)
Finance and insurance (NAICS 52)
Real estate (NAICS 531, except 53113)
Owner nonfinancial assets (NAICS 533)
Professional, scientific and technical services (NAICS 54)
Management of companies (NAICS 55)
Administrative and support services (NAICS 561, except 5617)
Business schools and computer and management training (NAICS 6114)
Technical and trade schools (NAICS 6115)
Other schools and instruction (NAICS 6116, except NAICS 61162)
Educational support services (NAICS 6117)
Ambulatory health care services (NAICS 621)
Social assistance (NAICS 624, except 624221, 6244)
Funeral homes (NAICS 81221)
Religious, grant making, civic, and professional and similar organizations (NAICS 813)
Public administration (NAICS 92, except 92214)
Miscellaneous administrative and business offices
Research and development facilities, where the facility generally resembles an office development and no finished product is manufactured.

N. *Craft alcohol production establishment ("CAPE")*. A farm winery, craft distillery or microbrewery, as defined by Title 4 of the Delaware Code, and licensed and regulated by the Office of Alcoholic Beverage Control Commissioner for the State of Delaware.

O. *Brewery-pub*. A restaurant in which beer is manufactured on the premises, as defined by Title 4 of the Delaware Code, and licensed and regulated by the Office of Alcoholic Beverage Control Commissioner for the State of Delaware.

P. *Shopping center*. A group of at least three (3) retail, personal, or professional service establishments planned, developed and managed as a unit, with shared off-street parking, signage, utilities, landscaping, pedestrian and vehicular access provided on the site. Other uses permitted in the zoning district may also locate in a shopping center if the above three (3) uses are established.

Q. *Vehicular sales, rental and service*. Automobile, light truck, boat, motorcycle, auto rental, but no other truck sales or rental (NAICS 4411, 441221, 441222, 53211).

R. *Firearm retail business*. Any establishment or portion of an establishment which engages in selling or purchasing guns, firearms, or ammunition.

(Ord. No. 97-172, § 3(ch. 13, § 33.240), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, § 33.240), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, § 33.240), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-124, § 5, 12-11-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 17-

108 , § 5, 5-8-2018; Ord. No. 18-020 , § 36, 7-10-2018, Ord. No. 24-084, § 4, 9-17-2024, Ord. No. 24-138, 12-10-2024)

Sec. 40.33.250. Amusement and resort uses.

- A. *Campgrounds*. A parcel of land where campsites are established as temporary living quarters for recreation, education or vacation purposes. (NAICS 7212)
- B. *Recreation, high intensity*. These uses are characterized by one (1) or more of the following: building or site development intensive, regional in nature, spectator oriented, fee required, community impacts; e.g., lighting, trash, noise, traffic. Indoor uses include, but are not limited to: casinos, bowling alleys, dancehall, health and exercise clubs, dance studios, indoor sports arenas, martial arts, gymnastics, indoor swimming pools, tennis, racquetball, or handball courts, movie theaters, performing arts facilities, dinner theater, indoor skating rinks (ice or roller), amusement game machine complex, pool halls, and shooting ranges. Outdoor uses include, but are not limited to, fairgrounds, outdoor stadiums, marinas, racing facilities, performing arts, theme parks, amusement parks, miniature golf, water parks, batting cages, chip and putt, driving range.
- C. *Recreation, low-intensity*. These uses are characterized by one (1) or more of the following: low FAR, open area emphasis, minimal site impact, community compatible, low spectator emphasis, club membership. The uses include, but are not limited to: zoos, botanical gardens, game preserves, passive recreational uses including, but not limited to: arboretums, wildlife sanctuaries, areas for hiking, equestrian facilities, nature areas, and other passive recreation-oriented park. Other recreational activities and supporting services including, but not limited to: jogging, cycling, tot-lots, playing fields, paint ball, parks, playgrounds. Clubs and associations, such as outdoor swimming pools and tennis courts, golf courses, country club, and shooting, archery, sportsman, rod and gun.
- D. *Resorts*. A lodging facility for transient guests where the primary attraction is recreational features or activities.

(Ord. No. 97-172, § 3(ch. 13, § 33.250), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.250), 9-22-1998)

Sec. 40.33.260. Reserved.

(Ord. No. 97-172, § 3(ch. 13, § 33.260), 12-31-1997)

Sec. 40.33.270. Industrial uses.

- A. *Compost operations (NAICS 325314)*. A process that results from the controlled biological decomposition and stabilization of organic substrates, under conditions that allow development of thermophilic temperatures as a result of biologically produced heat, to produce a final product that is stable, free of pathogens and plant seeds, and can be beneficially applied to land.
- B. *Data center*. A facility composed of networked computers, servers, storage systems, and telecommunications equipment used for data processing, storage, and distribution (NAICS 518210).
- C. *Extraction*. This category includes extraction uses such as mining and quarrying, and any other extraction use (NAICS 21).
- D. *Heavy industry*. This category includes construction, mining, manufacturing, transportation, and public utilities due to the land use intensity impacts typically associated with large industrial uses, their accessory outdoor storage uses, and large building areas. The following uses are permitted:
 - Animal food, meat product, seafood product manufacturing (NAICS 3111, 3116, 3117)
 - Tobacco manufacturing (NAICS 3122)
 - Breweries, wineries, distilleries other than brewery-pubs and craft alcohol production establishments (NAICS 31212, 31213, 31214)

Sawmills (NAICS 3211)

Manufactured home manufacturing (NAICS 321991)

Pulp, paper and paperboard mills (NAICS 3221)

Petroleum refining and related industries (NAICS 324)

Chemical manufacturing, including compost operations (NAICS 325)

Cement manufacturing (NAICS 32731)

Ready-mix concrete manufacturing (NAICS 32732)

Other nonmetallic mineral product manufacturing (NAICS 3279)

Primary metal manufacturing (NAICS 331)

Ammunition (except small arms) manufacturing (NAICS 332993)

Transportation equipment manufacturing (NAICS 336, except 3363, 336991)

Rail and water freight facilities (NAICS 482, 483)

Solid waste landfills (NAICS 562212)

- E. *Light industry.* This category is designed to accommodate limited intensity levels of manufacturing and assembly activities, storage, warehousing, services, associated offices and similar uses. This includes the following uses:

Construction of buildings (NAICS 236)

Heavy and civil engineering construction (NAICS 237)

Special trade contractors (NAICS 238)

Food manufacturing (NAICS 311, except 3111, 3116, 3117)

Beverage and tobacco product manufacturing (NAICS 312, except 31212, 31213, 31214, 3122)

Textile mills, textile product mills and apparel manufacturing (NAICS 313, 314, 315)

Leather and allied product manufacturing (NAICS 316)

Wood product manufacturing (NAICS 321, except 3211, 321991)

Paper manufacturing (NAICS 322, except 3221)

Printing and related support services (NAICS 323)

Carbon black manufacturing (NAICS 325182)

Pharmaceutical and medicine manufacturing (NAICS 3254)

Soap cleaning compound and toilet preparation manufacturing (NAICS 3256)

Printing ink manufacturing (NAICS 32591)

Plastics and rubber product manufacturing (NAICS 326)

Nonmetallic mineral product manufacturing (NAICS 327, except 32731, 32732, 3279)

Fabricated metal product manufacturing (NAICS 332, except 332993)

Machinery manufacturing (NAICS 333)

Computer and electronic product manufacturing (NAICS 334)

Electrical equipment, appliance and component manufacturing (NAICS 335)

Motor vehicle parts manufacturing (NAICS 3363)

Motorcycle, bicycle and parts manufacturing (NAICS 336991)

Furniture and related product manufacturing (NAICS 337)

Miscellaneous manufacturing (NAICS 339)

Wholesale trade (NAICS 42)

Nonstore retailers (NAICS 454, except 45431)

Trucking transportation (NAICS 484)

Transit and ground passenger transportation maintenance, service, storage facilities (NAICS 485, 487)

Support activities for transportation (NAICS 488)

Postal service, regional (NAICS 491)

Couriers and messengers, regional (NAICS 492)

Warehousing and storage facilities, including logistics services related to the distribution of goods (NAICS 493)

Information industries (NAICS 51)

Miniwarehousing and self-storage units (NAICS 53113)

Rental and leasing services (NAICS 532)

Architectural, engineering, and related services (NAICS 5413)

Scientific research and development services (NAICS 5417)

Services to buildings and dwellings (NAICS 5617)

Medical and diagnostic laboratories (NAICS 6215)

Special food services (NAICS 7223)

Automotive paint, body, interior repair and maintenance (NAICS 811121)

Commercial and industrial machinery and equipment repair (NAICS 8113)

Heavy industry, where the business is less than twenty thousand (20,000) square feet

Marina and associated uses (NAICS 71393)

Research and development facility, where the facility generally resembles an industrial or manufacturing facility or where such facility manufactures a finished product.

- F. *Recycling or storage.* This use includes any land or structure used for salvaging, recycling, resource recovery, junkyards, or storing of wastepaper, rags, scrap metal, and discarded materials, and the collection, dismantlement, storage, and salvage of two (2) or more inoperative vehicles, automobiles, boats, trucks, farm vehicles or equipment, or other types of machinery. This includes the aggregate storage of manmade equipment, machinery, scrap, or other used materials having a total cubic volume of seven hundred (700) cubic feet. Where there is no exterior storage, and all the material is stored inside buildings with impervious floors, the use shall be considered light industry.
- G. *Solar energy system, large scale.* Any SES that is engineered and designed to be the principle use of a lot or that is designed to generate more than one hundred ten (110) percent of the expected aggregate electrical consumption of all uses located on the lot.
- H. *Utility, major.* Any new facility or structure for the regional generation, transmission, distribution, treatment, disposal, regulation, or storage of power, natural gas, water, sanitary sewer, or waste management. Any new underground, surface or overhead facility or structure or an area of land used to generate, store, transmit, distribute or regulate electricity in excess of two hundred thirty (230) kilovolts (kV). This use shall exclude:
1. Any type of SES regardless of size;
 2. Poles and wires associated with transmission or distribution of electricity; and
 3. Disposal of hazardous or radioactive waste materials (NAICS 562211), which are prohibited.
- I. *Utility, minor.* Any facility or structure for the local generation, transmission, distribution, treatment, disposal, regulation, or storage of power, natural gas, water, sanitary sewer, or waste management that provides service solely within the boundaries of New Castle County. Any underground, surface or overhead structure or facility or an area of land used to generate, store, transmit, distribute, or regulate electricity of no more than two hundred thirty (230) kilovolts (kV). The alteration of the footprint of an existing major or minor utility. This use shall exclude:
1. Any type of SES regardless of size, and
 2. Poles and wires associated with transmission or distribution of electricity.
- J. *Utilities, maintenance facilities.* A building or outdoor yard for vehicle or equipment storage, repair, maintenance and service, which may include offices (administrative or business).

(Ord. No. 97-172, § 3(ch. 13, § 33.270), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.270), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-124, § 6, 12-11-2007; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 17-044, § 11, 10-10-2017; Ord. No. 17-108, § 6, 5-8-2018; Ord. No. 19-046, § 3, 8-27-2019; Ord. No. 23-104, § 9, 1-9-2024, Ord. No. 25-101, Sub 3 FA 3, 03-10-2026)

Sec. 40.33.280. Other uses.

- A. *Airports.* This use includes all airports (NAICS 481) and flight training schools (NAICS 611512), not including those for the private use of an individual. This term shall include Commercial Service Category Airport as defined as a publicly owned airport classified as a Commercial Service Category Airport pursuant to the National Plan of Integrated Airport Systems (NPIAS) and also having a Part 139 Certification pursuant to 14 CFR Part 139.
- B. *Commercial communication towers.* This category includes radio or television broadcasting towers, telecommunications towers, and antenna arrays (NAICS 515, 517), except residential and retail receiving satellite dishes.

(Ord. No. 97-172, § 3(ch. 13, § 33.280), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.280), 9-22-1998; Ord. No. 02-075, § 1(Exh. A), 10-22-2002)

Sec. 40.33.290. Temporary uses.

- A. *Concrete/asphalt batch plant.* A concrete or asphalt batch plant assembled on a site for the construction of a particular road improvement. This facility shall be disassembled and removed within six (6) months of project completion.
- B. *Contractor's office.* This includes watchman's trailers, construction equipment sheds, contractor's trailers and similar uses incidental to a construction project. Sleeping and/or cooking facilities may also be permitted.
- C. *Reserved.*
- D. *Model homes/sales office.* A dwelling unit in a subdivision used as a sales office, or a modular unit used as a sales office for a subdivision.
- E. *Commercial temporary outdoor sales.* Outdoor sales of merchandise, by either a store owner or occupant, outside the store in question. These sales are of a limited duration and are conducted on an occasional basis. This use excludes sales associated with a public interest or special event as defined in this Section.
- F. *Public interest.* Outdoor gatherings, auctions, art sales, flower/plant and holiday tree sales, bake sales and sales of similar items for the benefit of the community, or community service or non-profit organization.
- G. *Special event.* These events may include, but are not limited to, outdoor concerts, auctions, carnivals, circuses, outdoor religious meetings, and special entertainment at commercial properties. Such uses often travel to various communities, or involve noisy events regardless of purpose.
- H. *Temporary miscellaneous sales.* This use includes those activities which bring goods to a retail use in trucks, and sell that merchandise from the trucks or a temporary outdoor or tented sales area. Examples include, but are not limited to, holiday tree sales, flower and plant sales, furniture and other similar goods and products.

(Ord. No. 97-172, § 3(ch. 13, § 33.290), 12-31-1997; Ord. No. 98-080, § 1(ch. 13, § 33.290), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 08-115, § 3, 1-13-2009)

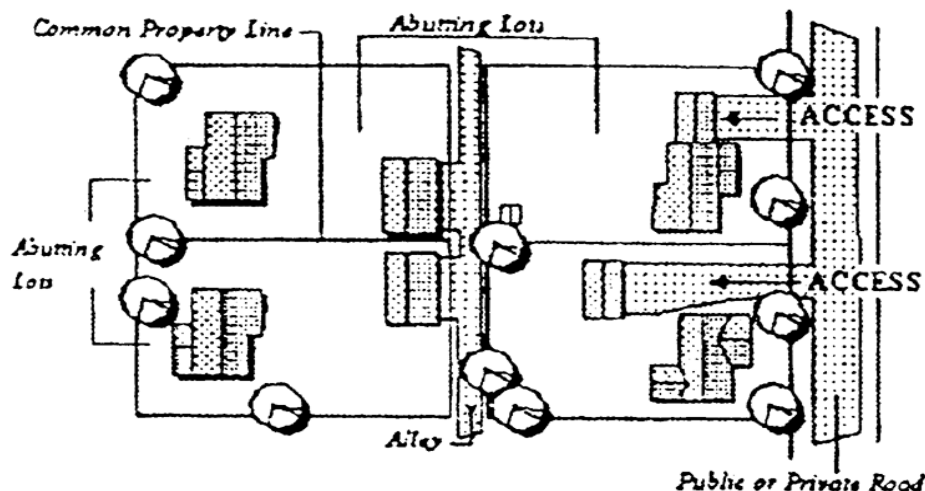
Division 40.33.300. General definitions.

This Division contains the definition of words used in this Chapter.

Abandonment. That the use, structure, or sign is not used, occupied, or otherwise operating for the intended nonconforming activity for the period specified in Section 40.08.120. Periods of active remodeling during which the use is closed for repairs should not be considered in determining abandonment, provided the remodeling is completed within a reasonable time period as indicated on the zoning permit issued for remodeling nonconforming use. Abandonment of signs shall mean having electricity disconnected for lighted signs, no message, or the failure to repair damaged signs.

Abutting. Two (2) lots sharing the same or common property lines, including lots separated by an alley. See Figure 40.33.301.

Figure 40.33.301



ABUTTING/ACCESS

Access. An area designated as a way for vehicles to enter or leave a property or lot to a public or private street or alley. Access is intended to permit residents to bring their vehicles onto the property, customers or tenants to park, and to provide for public access in emergencies. See Figure 40.33.301.

Access easement. That portion of a lot used for ingress/egress to an abutting lot and shown on a record plan by a recorded easement declaration. In no case shall a street right-of-way be construed to mean an easement.

Accessory building or structure. A building or structure detached from a principal building located on the same lot, and which is customarily incidental and subordinate to the principal use or building.

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

Active recreation. Recreational uses, areas, and activities oriented toward potential competition and involving special equipment. Playgrounds, sports fields and courts, swimming pools, picnic areas and golf courses are examples of active recreation uses. Also see *Passive recreation*.

Active stormwater infiltration practices. Designed, constructed and maintained stormwater practices that manages stormwater runoff by promoting infiltration into the ground.

Addition. Any construction which adds or enlarges the size of an existing building. Additions also include any extension or increase in floor area, or height of a building or structure. Examples of an addition are: a porch, carport, new room, roof configuration, etc. Also see *Conversion, Building or Use* and *Structural alteration*.

Afforestation. The establishment of forest cover on areas that are not presently forested, or where forest cover is below the afforestation threshold for the use.

Agricultural land management practices. Those methods and procedures generally accepted by the conservation districts and used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

Alley. See *Street, service*.

Alter or alteration. A change in the appearance of a building, structure, site, or object, which is not otherwise covered by the definition of demolition, or any other change for which a permit is required pursuant to this Chapter.

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Alternative development options. Residential developments that were permitted under the former Code, including lot averaging, comprehensive residential developments (CRD), cluster developments, and patio-type options.

Ancillary uses. Uses subordinate to the principal use being conducted on a lot located either on the same lot as the proposed use(s) or on a separate lot, but which provide services convenient to the operation of the principal use.

Apartment. A dwelling unit located in a building containing at least one (1) other dwelling unit or a commercial use permitted in the zoning district. See Figure 40.04.111.

Appeal. A way to obtain review of a decision, determination, order, or act of an administrative agency pursuant to the terms of this Chapter.

Applicant. A person, firm or governmental agency who executes the necessary forms to obtain approval or a permit for any zoning, subdivision, land development, building, land disturbance, or other activity regulated by this Chapter.

Approval. Approval shall mean final approval given by a department, or when County Council action is required for final approval, approval shall mean the adoption of all necessary ordinances, resolutions or the signature of the President of County Council when no ordinance or resolution is required.

Approved segment. A portion of a subdivision street for which a developer has posted a bond, letter of credit, or other surety with DelDOT or the County to ensure completion of specified public or private street improvements.

Aquifer. A body of rock (crystalline, sand or gravel) that contains sufficient saturated permeable material to conduct groundwater springs or to yield economically significant quantities of groundwater to wells.

Arborist. A person possessing a bachelors degree in arboriculture from a college or university who is certified through the International Society of Arboriculture with documented experience in mid-Atlantic states.

Arterial street. See Street, arterial.

As-built plans or record documents. A set of engineering or site drawings that delineate the lot lines, roads, water, sewer, other utilities, and stormwater management facility as actually constructed.

Atrium house. An attached, one (1) story dwelling unit with private individual access for a single family. Each unit shall have a private yard called an atrium. The entire lot area of atrium and house shall be enclosed by a wall. All living spaces (that is, living rooms, dens or bedrooms) shall face an atrium. An atrium house is permitted only in planned developments as provided in Articles 3 and 4. See Figure 40.04.111.

Attic. The area between roof framing and the ceiling of the rooms below, and that is not habitable, but may be reached by ladder and used for storage or mechanical equipment. Improvement to habitable status shall make it a story.

Average gross residential density (DPUD's only). The number of dwelling units per acre in a DPUD, computed by dividing the number of dwelling units which the developer proposes to construct by the number of acres in the development which are not planned to be devoted to commercial or industrial use.

Awning. A structure partially attached or entirely supported by a wall, and which is covered by canvas, cloth, plastic, other similar material, used as a protective cover for a door, entrance, window, walkway, or service area.

Base flood. The flood having a one percent chance of being equaled or exceeded in any given year; the base flood is also referred to as the one hundred (100) year flood or the one percent annual chance flood).

Base flood discharge. The volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the community's flood insurance rate map.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides. This also includes crawlspace areas.

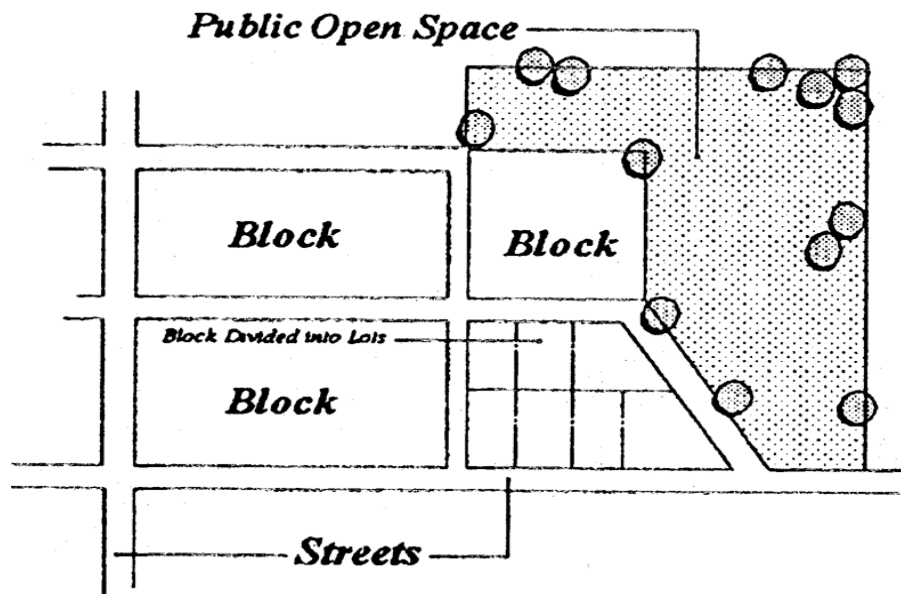
Base site area. A calculated area obtained by subtracting various land areas from the gross site area. See Table 40.05.420.

Benchmark. A definite point of known elevation and location, and of more or less permanent character. The identity and elevation shall be based on NAD 1927/NGVD 1929 or NAD 1983/NGVD 1988.

Best management practices. That combination of conservation measures, structures, vegetation or management practices, that reduces or avoids adverse impacts of development on adjoining site's land, water, or waterways and water bodies.

Block. A piece of land surrounded on all sides by streets or other transportation rights-of-way, or by physical barriers such as water bodies or public open spaces. Blocks are normally divided into lots. See Figure 40.33.302.

Figure 40.33.302



Brownfield. Any vacant, abandoned or underutilized real property the development or redevelopment of which may be hindered by the reasonably held belief that the real property may be environmentally contaminated and as defined under 7 Del. C. Ch. 91 (Hazardous Substance Cleanup Act). An applicant shall submit documentation from DNREC identifying and confirming the Brownfield site prior to any review.

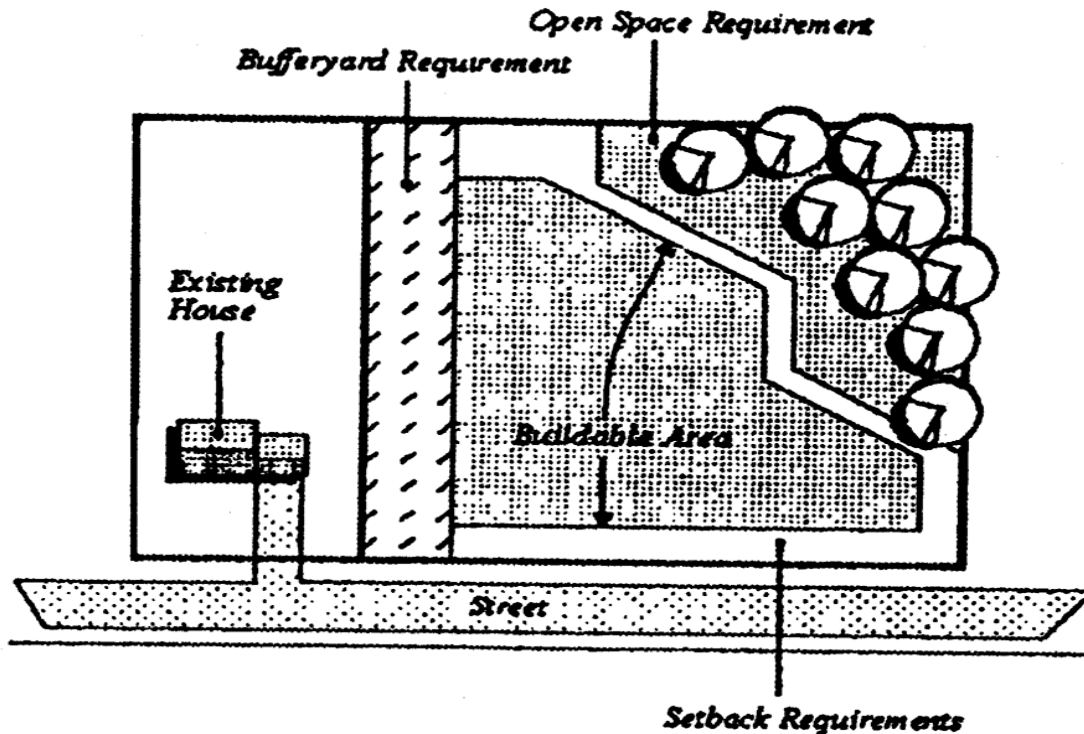
Buffer. A designated area between two (2) uses deemed incompatible with each other, or along the perimeter of a natural feature to be protected from an incompatible use, or along the perimeter of that use, which will absorb or otherwise preclude such incompatibility by some combination of construction design, vegetative plantings, fences and/or maintenance practices which shall be permanently maintained.

Buffer, riparian. See *Riparian buffer area*.

Bufferyard. A strip of land on the periphery of a property created to separate one (1) type of land use or zoning district from another when they are incompatible or in conflict. Bufferyards include street bufferyards that protect the use from road related nuisances or screen undesirable uses. See Figure 40.33.303.

Buildable area. The space remaining on a lot after the minimum open space or landscape surface requirements, bufferyards and setbacks have been met. See Figure 40.33.304 and Net buildable site area.

Figure 40.33.304



Building. A structure built on a lot, having a roof, and intended to shelter people, animals, property or business activity. Any structure used or intended to be used for supporting or sheltering any use or occupancy. The word "building" shall be construed as if followed by the words "or part or parts thereof and all equipment therein."

Building code. The family of International Codes published by the International Code Council as amended and adopted by New Castle County. The building code that applies to one- and two-family dwellings and their accessory structures is referred to as the "residential code". The building code that applies to all other buildings and their accessory structures is referred to as the "building code."

Building front. That exterior wall of a building which faces the front lot line.

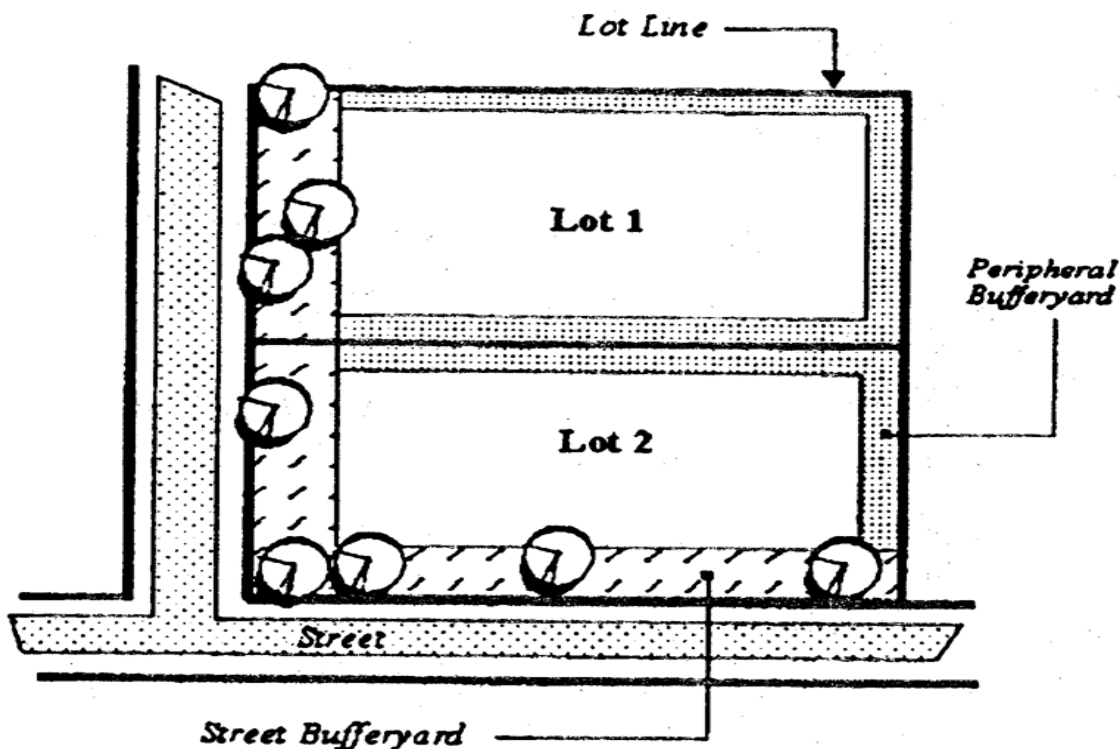
Building height. See *Height, building*.

Building line. That line formed by the rear, side, and street setbacks. Also see *Buildable area*.

Building Official. General Manager of the Land Use Department or his or her designee.

Build-to line. The building setback where the structure is required to be constructed.

Figure 40.33.303



Bulk regulations. Controls which establish the maximum size, height, and setback of a building on its lot. See Table 40.04.110.

Bulletin board. See *Sign, bulletin board*.

C&D Canal. Shall mean the Chesapeake and Delaware Canal.

Caliper. The diameter of new landscape plantings measured six (6) inches above ground.

Canopy. The uppermost layer in a forest, formed from a crown of trees.

Canopy tree. See *Tree, canopy*.

Capital improvements program (CIP). The capital improvements program approved by the New Castle County Council or DelDOT, the first year of which is termed the capital budget.

Capital Transportation Program (CTP). The statewide program for transportation programs and projects prepared in accordance with 29 Del. C. § 8419, as may be amended from time to time.

Certificate of adequate community facilities. A statement signed by the person designated in Article 5.

Certificate of occupancy. A statement signed by the Department setting forth that a building, structure or use legally complies with this Chapter and Chapter 6 and that the building, structure or use may be used for the purposes stated herein.

Certification of ownership. A statement bearing the signature of the owner of the subdivision or land development stating that all dedications are offered to the County, State, or private utilities.

Certified construction reviewer. Those individuals, having passed a DNREC sponsored or approved training course, who provide on-site inspection for sediment control and stormwater management in accordance with these regulations.

Clean fill. A nondecomposable, environmentally inert solid, such as rock, soil, gravel.

Clearcutting. The practice of wholesale, complete removal of all trees, disturbing shrubs, or other vegetation in the process. This definition does not include the selective removal of trees on a building pad or normal maintenance of vegetation.

Closed channel. A conveyance system not open to the atmosphere (usually, but not always, pipe).

Coastal high hazard area or special flood hazard area subject to high velocity wave action. An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms. Coastal high hazard areas also are referred to as "Zone V" or "V Zones" and are designated on FIRM's as flood insurance risk Zone VE.

Cockeysville Formation. The Cockeysville Formation water resource protection area shall be those areas which are directly underlain by the Cockeysville Formation as depicted on the Three Map series "Water Resource Protection Areas for the City of Newark, City of Wilmington, New Castle County, Delaware," prepared by the Water Resources Agency for the County that is dated 1993, or as amended.

The locations of the Cockeysville Formation were obtained from plate 1 of a report prepared by the Delaware Geological Survey in 1991 titled "Summary Report, Geology and Hydrology of the Cockeysville Formation, New Castle County, Delaware."

Cockeysville Formation drainage area. The Cockeysville Formation drainage area shall be those land surface areas which drain to the areas underlain by the Cockeysville Formation as depicted on the Three Map series "Water Resource Protection Areas for the City of Newark, City of Wilmington, New Castle County, Delaware," prepared by the Water Resources Agency for the County that is dated 1993, or as amended. Areas draining to and across the Cockeysville Formation were derived from the U.S. Geological Survey 7.5 minute topographic quadrangle maps.

Collector street. See *Street, collector*.

Collector, residential. See *Street, residential collector*.

Commencement of construction. Commencement of construction means that a building permit or other written permit required to be issued by the Department has been issued and work commenced under such permit which is recognizable upon an inspection of the property and which work is of a nature and character that reflects a good faith intention to continue the work until completion, such as the clearing of rights-of-way, rough-grading of the roadway, the installation of a drainage system or stormwater management facilities, and the placement and active maintenance of erosion and sediment control measures.

Common facilities. Common facilities shall mean and refer to any area on a record plan dedicated as private open space, stormwater management area, recharge or infiltration system, park, active recreation facility, common parking area, sidewalk not located in a DelDOT right-of-way, street not dedicated for public use, and landscaping, easement, fence or any other item if specifically defined as a common facility on the record plan or in the maintenance declaration.

Common land. That land set aside for open space, including stormwater retention lakes, ponds or recreational use areas for the owners of lots in a subdivision, which land is conveyed in trust for the benefit, use and enjoyment of the lot owners.

Community facilities. Facilities and services required to serve new development, including but not limited to:

- A. Roads, streets, highways, bridges and public transportation facilities;
- B. Water supply production, treatment and distribution facilities;
- C. Sewage collection, treatment and disposal facilities;
- D. Drainage facilities;

- E. Parks, open space and recreation facilities;
- F. Public primary and secondary schools;
- G. Police protection services;
- H. Fire and paramedic services;
- I. Libraries.

Comprehensive amendment. Any map amendment affecting all land in a district, or any change in a map affecting more than one hundred (100) property units.

Comprehensive rezoning. A County-initiated rezoning intended to guide and control future growth consistent with the spirit and intent of the Comprehensive Development Plan as provided by State law.

Condominium. A multi-family dwelling, or single-family detached or attached dwelling, governed by the Unit Property Act, 25 Del. C. § 22.

Conservation. The planned management of a natural feature to prevent its exploitation, destruction, or neglect.

Conservation design. A series of holistic land development design goals that maximize protection of key land and environmental resources, preserve significant concentrations of open space and greenways, evaluate and maintain site hydrology, and ensure flexibility in development design to meet community needs for complimentary and aesthetically pleasing development. Conservation design encompasses the following objectives: conservation/enhancement of natural resources, wildlife habitat, biodiversity corridors, and greenways (interconnected open space); minimization of environmental impact resulting from a change in land use (minimum disturbance, minimum maintenance); maintenance of a balanced water budget by making use of site characteristics and infiltration; incorporation of unique natural, scenic and historic site features into the configuration of the development; preservation of the integral characteristics of the site as viewed from adjoining roads; and reduction in maintenance required for stormwater management practices. Such objectives can be met on a site through an integrated development process that respects natural site conditions and attempts, to the maximum extent possible, to replicate or improve the natural hydrology of a site.

Conservation easement. A portion of a lot that is covered by an easement, running in favor of the County, or a nonprofit agency providing that such land shall be left in a natural state or open space access easement. The area of the lot, exclusive of the easement, shall meet the minimum lot area requirements of Article 4.

Construct or construction. The erection of a new building, structure, or object upon a site.

Constructed wetland. A low-lying, basin-like structure, artificially created by dredging, damming, or leveeing of earth for the retention of water, and the establishment of a hydrophytic vegetative community.

Construction buffer. A specific separation distance that serves to absorb the impact of land disturbing activities and protect a designated resource area.

Contiguous. Land that abuts other land, or lands that are separated only by streets, ways, pipelines, electric power lines, conduits or rights-of-way, owned in fee or less than fee, by third parties.

Contributing building, structure, site or object. A building, structure, site, or object within a historic district that reflects the historical or architectural character of the district.

Conversion, building or use. The process by which the original use of a building or land is changed to a different use. See also *Addition* and *Structural alteration*.

Cooperative. Multi-family dwellings or single-family group dwellings in which there is sold or offered for sale:

- A. An interest in the entity owning the building; and
- B. A lease to occupy a particular dwelling unit within the building.

Corridor. The road or highway right-of-way and the adjacent area that is visible from and extending along the road or highway. The distance the corridor extends from the road or highway could vary with the different intrinsic qualities as evaluated by the Department.

Corridor Management Plan (CMP). A document that specifies the practices and strategies to maintain the archaeological, cultural, historic, natural, recreational and scenic qualities that support a byway's designation. A CMP is developed with community involvement, provides for the conservation and enhancement of the byway's intrinsic qualities as well as the promotion of tourism and other economic development, and provides an effective management strategy to balance these concerns while providing for the users' enjoyment of the byway. The document should be generally consistent with the State of Delaware standards for such plans.

Critical natural area (CNA). Any site listed in the State natural areas inventory, as administered by the State Office of Nature Preserves, Division of Parks and Recreation, of the DNREC.

Critical natural areas report. A report analyzing the impact of a development or subdivision proposal on a CNA located on the site which shall include the following elements:

- A. A statement that the entire lot or parcel is included in the critical natural areas investigation or, with the approval of the Department, a description of a smaller area which is subject to the critical natural areas investigation;
- B. A scaled plan of the site accurately depicting critical natural area boundaries. The CNA boundary lines shall be identified with a metes and bounds description prepared by and bearing the seal of a professional land surveyor registered in the State, or a professional engineer with a background in civil engineering registered in the State. Where many survey traverses are necessary to accurately describe the CNA boundary, the developer may have the surveyor or engineer identify and prepare a metes and bounds description for the smallest polygon that contains all the critical natural areas identified on the site. In such instances, however, the limits of the polygon will be considered the CNA boundaries for plan review purposes;
- C. A narrative description of the extent to which the applicant proposes land disturbing activities within any critical natural areas which are shown on the scaled plan; and
- D. Any measures that will be taken to minimize or mitigate the disturbance of critical natural areas.

Critical Root Zone (CRZ). The protected area around the base of a tree.

- A. The CRZ is the zone in which the majority of a tree's roots are found that supply nutrients and water to the tree. In ideal growing conditions, a tree's roots are often concentrated in the upper twelve (12) to eighteen (18) inches of soil.
- B. To determine the CRZ utilize one (1) of two (2) methods: The CRZ is delineated by the greater of either:
 1. The outer drip line of the tree canopy; or
 2. The tree diameter at breast height (DBH), then multiply the diameter by a standard factor of one and one-half (1.5) feet. For example, an 18-inch diameter tree would have a CRZ of twenty-seven (27) feet (eighteen (18) inches x one and one-half (1.5) feet) measured radially from the center of the tree trunk.

Cutoff. The point at which all light rays emitted by a lamp, light source, or luminaire are intercepted by a shield preventing their continuation. For signs, the term "cutoff" simply refers to the use of shields to direct the light so light rays shine exclusively on the sign.

Cutoff angle of a luminaire. The angle of an outdoor light fixture or luminaire, measured up from the nadir (i.e., straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or lamp) is not visible.

Cutoff fixture. An outdoor lighting fixture or luminaire with intensity at or above ninety (90) degrees (horizontal), where no more than two and one-half (2.5) percent of the luminaire's light intensity is emitted at or

above horizontal, and no more than ten (10) percent of the luminaire's light intensity is emitted at or above eighty (80) degrees. See Figure 40.22.720.

Day-night level (DNL). A measure of noise that is an outdoor, day-night average A-weighted sound level.

Days. Working days.

Dedication. The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest, or less than fee simple interest, including easements. Dedication requires the acceptance of the interest to be complete.

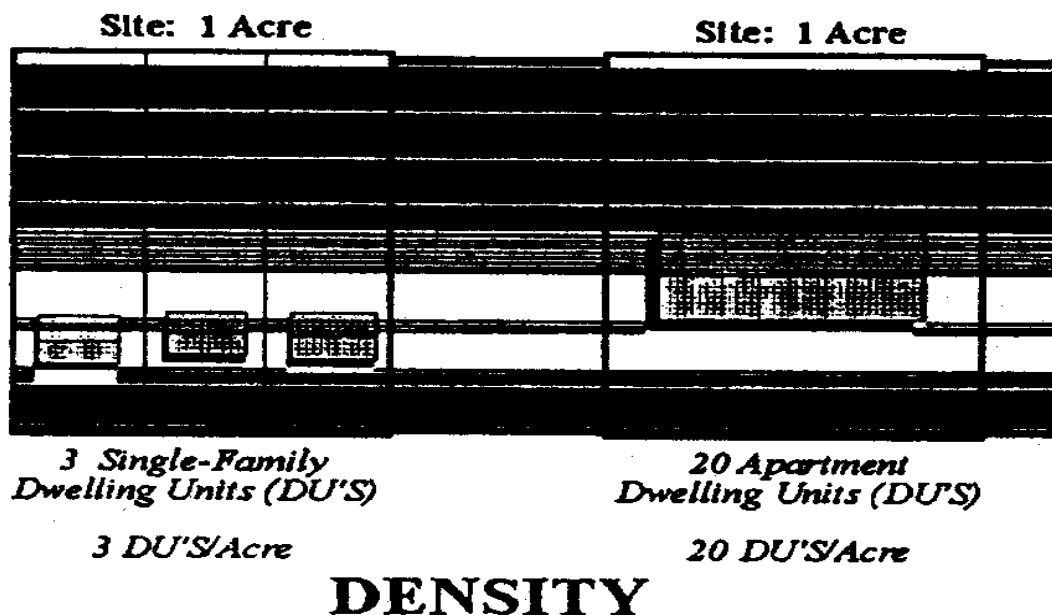
Demolish. Demolition or demolish means the razing or destruction, whether entirely or in significant part, of a building, structure, site, or object. Demolition includes the removal of a building, structure, or object from its site, the removal or destruction of the facade or surface, or the alteration to such an extent that repair is not feasible or is so costly so as to be prohibitive, rendering the property unfit for use. Demolition shall also include demolition by neglect as defined in this Chapter.

Demolition by neglect. The failure to provide ordinary and necessary maintenance and repair to a building, structure or object located in a historic district or meeting the criteria to be included in a historic district. Whether by ordinary negligence or willful neglect, purpose or design, by owner or any party in possession thereof, which results in any of the following conditions:

- A. The deterioration of the exterior features so as to create or permit a hazardous or unsafe condition to exist.
- B. The deterioration of exterior walls, roofs, chimney, windows, the lack of adequate waterproofing, or deterioration of interior features or foundations which will or could result in permanent damage or loss of exterior features.

Density. The number of dwelling units per unit of land. Figure 40.33.305.

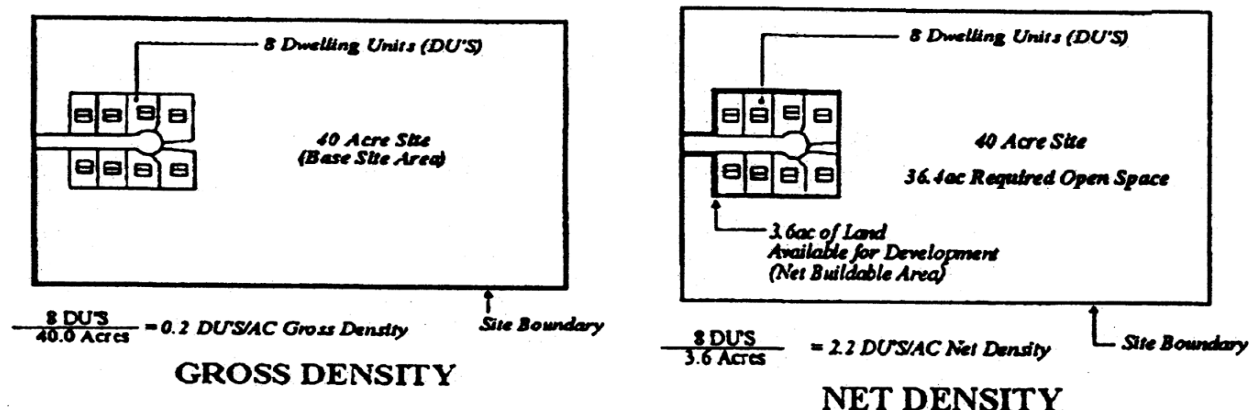
Figure 40.33.305



Density, gross, (GD). The number of dwelling units per unit of base site area, Figure 40.33.306.

Density, net, (ND). The number of dwelling units per unit of net buildable area of the site, Figure 40.33.306.

Figure 40.33.306



Design storm frequencies. Time interval in years at which a storm occurrence has a chance to exceed or equal the storm of specific duration and intensity used in design of drainage facilities.

Designated byway. A right-of-way having special scenic, historic, recreational, cultural, archeological, or natural qualities that is recognized as a byway by the Federal Government, State of Delaware, or County. The designated byways are:

1. The Brandywine Valley National Scenic Byway;
2. The Red Clay Valley Scenic Byway;
3. Harriet Tubman Underground Railroad Byway; and
4. Delaware Bayshore Byway.

Designated watershed. A watershed for which a comprehensive stormwater management plan has been approved, the requirements of which any proposed development within that watershed must conform to.

Detention/retention basin. A natural or manmade structure designed as a temporary holding basin for water. Water may be detained to minimize flooding downstream, or retained to increase aquifer recharge.

Developable land. All land within the boundaries of any tract proposed for development except for land which is located within the existing rights-of-way of any public or private road or any overhead utility line, floodplains, including land continuously covered with water, wetlands and prohibitive steep slopes.

Developed areas. Areas delineated on the Comprehensive Development Plan concept map or overlay maps amending the concept map.

Developer. A person seeking to build or develop as defined in this Chapter.

Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Also includes any action covered by Section 40.01.110.

Development Coordination Manual. The DelDOT regulations for the planning, design, construction, and acceptance of subdivision streets and access to State-maintained roadways, codified at 2 DE Admin. Code 2309, as amended.

Diameter at breast height (DBH). A measurement of the size of tree equal to the diameter of its trunk measured four and one-half (4.5) feet above the adjacent natural grade. See also *Caliper*.

Disposal field. A system of open jointed or perforated pipes laid in the upper strata of the soil to distribute sewage effluent into the soil for absorption and vaporization.

Diversified planned unit development (DPUD). A planned development which contains open space and which may contain one (1) or more types of residential, commercial, industrial, and institutional uses approved by County Council.

Domestic animals. An animal that is tame or domesticated and that is not normally found in the wild state. Hybrids of animals normally found in the wild state are not included within the meaning of domestic animal.

Dormitory. A building with many rooms providing sleeping and living accommodations for a number of usually unrelated persons; usually associated with an educational institution. See Section 40.33.230F.

Drainage. The process by which surface water (usually from rainfall) moves across the land surface. See *Stormwater management*.

Drainage areas. The delineated areas that currently contribute or are proposed to contribute runoff to a specific location or point.

Drainage facility. Any system of artificially constructed drains, including open channels and separate stormwater sewers, used to convey stormwater, surface water, or groundwater, either continuously or intermittently, to natural watercourses.

Drainageway. A minor watercourse (not in an RBA), seasonally or continually available for the passage of water, of which functions include, but are not limited to: flood control, groundwater recharge, drainage, and sedimentation and erosion control. The presence of a drainageway is determined by one (1) or more of the following two (2) conditions: (i) the presence of certain specific soil types, (such as Codorus silt loam (Co), Comus silt loam (Cu), Hatboro silt loam (Ha), Johnston loam (Jo), or Mixed alluvial land (Mv)); (ii) the land on either side of and within twenty-five (25) feet of the centerline of any swale, intermittent or perennial stream shown on the National Hydrographic Dataset (NHD) utilized by the United States Geological Survey as having an upstream drainage area of five (5) or more acres.

Drip line. A generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points.

Driveway. A private accessway, primarily for vehicles, leading from a street to a parking or loading area.

Dry floodproofing. A combination of measures which results in structures including attendant utilities and equipment, being watertight with all elements substantially impermeable and with structural components having capacity to resist flood loads.

Dry waste. Includes clean fill, plastics, lumber, trees, stumps, vegetative matter, asphalt pavement, asphaltic products incidental to construction/demolition debris, or other materials which have reduced potential for environmental degradation and leachate production.

Duplex. A single-family detached dwelling with no more than two (2) units per structure, located one over the other. This includes two (2) family dwellings.

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 one (1) or more other dwellings.

Dwelling, multiple-family. A building containing three (3) or more dwelling units typically located one over the other and including garden and high rise apartment buildings.

Dwelling, quadraplex. Four (4) attached dwellings in which each unit has at least two (2) open space exposures and shares one (1) or two (2) vertical walls with adjoining units and where no more than two (2) units may lack street frontage.

Dwelling, semi-detached (see Twin house).

Dwelling, single-family detached. A dwelling unit, including a manufactured home, designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit:

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- A. It has a minimum of seven hundred fifty (750) square feet of gross floor area.
- B. It has a minimum width along any exterior front, side and rear elevation of twenty (20) feet, exclusive of any garage area. If applicable, it must be multiple transportation sections at least ten (10) feet wide unless transportable in three (3) or more sections, in which case only one (1) section need be ten (10) feet wide.
- C. It is permanently mounted on a solid foundation or pier foundation system and anchored in accordance with Chapter 6.
- D. All wheels, axles, transportation lights and removable towing apparatus, if any, shall be removed from the dwelling when it is placed on the foundation in accordance with Subsection C.
- E. All utilities shall be permanently connected in accordance with the County plumbing and mechanical codes.
- F. It has a storage area either in a basement located beneath the living area, in an attic area, in a closet area, in an attached or detached garage or an enclosed structure constructed on a permanent foundation and having an area of at least one hundred sixty (160) square feet or any combination thereof. The total storage area must not be less than fifteen (15) percent of the gross floor area of the dwelling unit.
- G. It shall have a weather-resistant exterior covering material comparable in appearance, quality and durability to the materials used on the dwelling, such as brick, stone facing, treated lumber, masonry or masonry veneer, which shall extend to the ground.
- H. The siding of all dwellings shall be continuous so as to enclose any joining of two (2) or more sections.
- I. It complies with all other pertinent sections of the building and housing codes of the County, and the fire and health codes of the State.

Dwelling, small single-family detached. A one (1) or two (2) story dwelling unit, designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The following applies:

- A. It has a minimum of four hundred (400) square feet of gross floor area and less than seven hundred fifty (750) square feet of gross floor area.
- B. It is of light-frame or masonry construction and permanently mounted on a solid foundation or pier foundation system in accordance with Chapter 6.
- C. All utilities must be permanently connected in accordance with the County plumbing and mechanical codes.
- D. The dwelling must have a weather-resistant exterior covering material comparable in appearance, quality and durability to brick, stone, treated lumber, masonry, or masonry veneer, which shall extend to the foundation.
- E. The siding of all dwellings must be continuous so as to enclose any joining of two (2) or more sections.
- F. It complies with all other pertinent sections of the building and housing codes of the County, and the fire and health codes of the State.

Dwelling unit. One (1) or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one (1) family with separate facilities for all of the following: sanitation, living, sleeping, cooking and eating.

Easements. Any portion of a parcel subject to an agreement between the property owner and another party which grants the other party the right to make limited use of that portion of the property for a specified purpose. See *Conservation easement*.

Elderly. A person who meets the criteria set forth in the Federal Older Americans Act of 1965, as amended.

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Elevation certificate. The National Flood Insurance Program, Elevation Certificate (FEMA Form 086-0-33), used to document building elevations and other information about buildings. When required to be certified, the form shall be completed by a licensed professional land surveyor.

Enclosure below the lowest floor. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage, in an area other than a basement.

Endorsement. The signature of the General Manager of the Department, and, where applicable, that of the President of the County Council, appended to the record plan to signify approval thereof.

Engineer. An individual technically and legally qualified to practice the profession of civil engineering and who is registered to do so in the State.

Environmental Impact Assessment Report. Any study, report or application required by this Chapter, such as critical natural areas, floodplains, riparian buffers, steep slopes, water resource protection areas and wetlands.

Erosion. The wearing away of soil or rock fragments by water, rain, wind or earth gravity.

Erosion-prone slopes. Slopes that consist of land with soils of United States Department of Agriculture Soil Conservation Service capability classifications IVe, VIe, VIIs and VIIe as mapped by the soil survey of the County dated October 1970 or as later revised.

Essential access. An access that must cross a protected resource area, such as a wetland, floodplain or steep slope, to reach an area of the site that is otherwise buildable, and would result in damage to the protected resource.

Expire. When used in reference to a Subdivision/Land Development Plan, "expire" shall mean that a plan was not timely processed according to former Code provisions (e.g., Sections 32-95(a), 32-96(h)(2), 32-97, 32-152(c),(f)(2), and (g), as amended), or current Code provisions (e.g., Sections 40.01.120 and 40.31.390). Once a plan has expired, it is void and has no legal effect. Any subsequent submission must comply with the rules and regulations as they exist on the day of such submission.

Expressway. A limited access highway designed to carry regional traffic. All intersections shall be grade separated.

Exterior features. The architectural style, design and general arrangement of the exterior of a building, structure or object, including the color, nature and texture of building materials, and the type of style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of a building, structure or object.

Exterior storage. Outdoor storage of fuel, raw materials, products, equipment and other materials accessory to the permitted nonresidential use. Exterior storage includes all building materials or waste or scrap materials stored outdoors. Truck trailers held on the site for more than one (1) night storing materials or awaiting pickup shall be considered exterior storage. In the case of truck terminals, exterior storage includes all trucks, truck beds and truck trailers that are not involved in active loading.

Facade. One (1) exterior side of a building.

Family. Any number of individuals legally related through blood, marriage, adoption or guardianship, including individuals placed for foster care by an authorized agency, or up to four (4) unrelated individuals living and cooking together and functioning as a single housekeeping unit using certain rooms and housekeeping facilities in common.

Farm. The land, buildings, structures and machinery which are primarily adapted and used for agricultural purposes.

Fascia. A band located at the top edge of a building but below the actual roofline and above the building wall. Fascia material is often of a different type than either the actual roof or the building wall.

Federal Emergency Management Agency (FEMA). The federal agency with the overall responsibility for administering the National Flood Insurance Program.

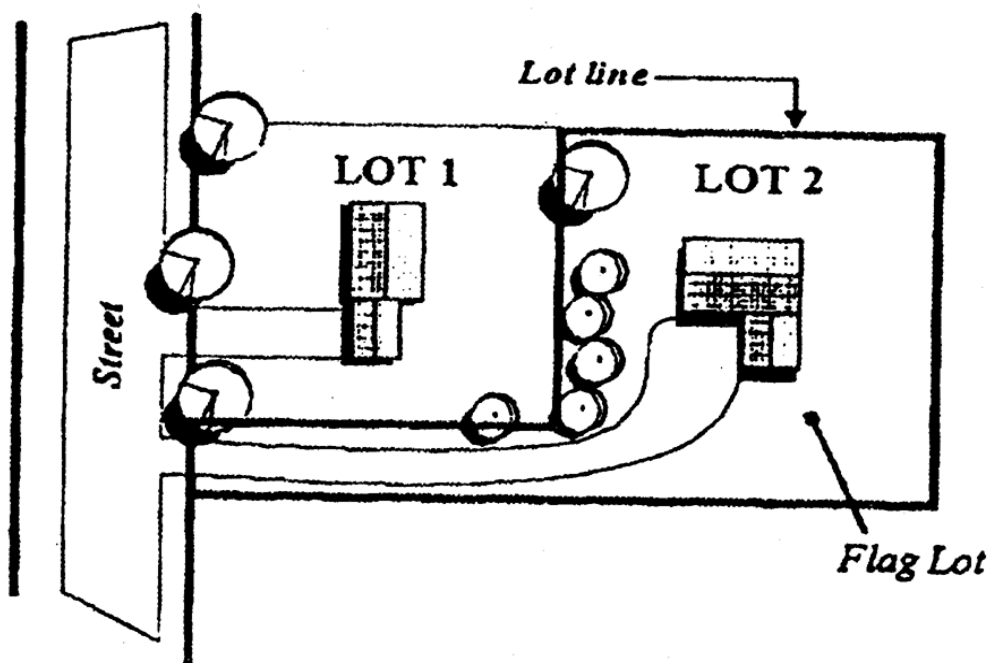
FEMA Technical Bulletin. A series of guidance documents published by FEMA to provide guidance concerning building performance standards of the National Flood Insurance Program. See sections where specific technical bulletin are identified.

Fence. Constructed barrier erected to enclose, screen, or separate areas and may include masonry walls designed and constructed for these purposes.

Filling. Inclusive of structures in Section 40.10.312, the depositing on land, whether submerged or not, of sand, gravel, earth or other materials. Biodegradable materials and other materials subject to decomposition or significant settling (such as garbage and other organic matter) shall not be considered filling.

Flag lot. A tract of land having insufficient lot width along a road or at the minimum setback line to meet Article 4 requirements but with sufficient area to meet all lot requirements further back on the lot. See Figure 40.33.307.

Figure 40.33.307



Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters, and/or
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood damage-resistant materials. Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. See FEMA Technical Bulletin #2 - Flood Damage Resistant Materials Requirements and FEMA Technical Bulletin #8 - Corrosion Protection for Metal Connectors in Coastal Areas.

Flood fringe. Those portions of the Zone AE floodplain, outside the floodway, subject to inundation by the one hundred (100) year recurrence interval flood or base flood and generally associated with standing or slowly moving water, rather than rapidly flowing water.

Flood insurance rate maps (FIRM). An official map on which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, and to designate applicable flood zones.

Zone A: Special flood hazard areas inundated by the one percent annual chance flood; base flood elevations are not determined.

Zone AE: Special flood hazard areas subject to inundation by the one percent annual chance flood; base flood elevations are determined; floodways may or may not be determined.

Zone AO: Areas of shallow flooding, with or without a designated average flood depth.

Zone X (shaded): Areas subject to inundation by the five hundred (500) year flood (two-tenths (0.2) percent annual chance); areas subject to the one percent annual chance flood with average depths of less than one foot or with contributing drainage area less than one square mile; and areas protected by levees from the base flood.

Zone X (unshaded): Areas determined to be outside the one percent annual chance flood and outside the five hundred (500) year floodplain.

Zone VE: Special flood hazard areas subject to inundation by the one percent annual chance flood and subject to high velocity wave action (also referred to as coastal high hazard areas).

Limit of moderate wave action (LiMWA): The inland limit of the area affected by waves greater than one and one-half (1.5) feet during the base flood. Base flood conditions between the Zone VE and the LiMWA will be similar to, but less severe than, those in the Zone VE.

Flood insurance study. The official report provided by Federal Emergency Management Agency (FEMA) containing the flood insurance rate map (FIRM), the flood boundary and floodway map (FBFM), the water surface elevations of the base flood and supporting technical data.

Floodplain. Any land area susceptible to being inundated by water from any source (see "Flood" or "Flooding"). Also referred to as special flood hazard area.

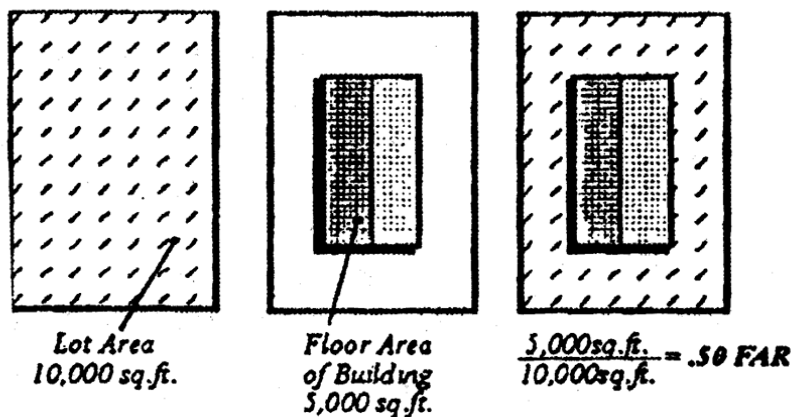
Floodproofing certificate. The National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structure's (FEMA Form 86-0-34), used by registered professional engineers and architects to certify dry floodproofing designs.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is not more than a designated height.

Floor area, gross. See *Gross floor area*.

Floor area ratio (FAR). A measure of the allowable size of floor area on a lot compared to the size of the lot. FAR gives developers flexibility in deciding whether to construct a low building covering most of the lot or a tall building covering only a small part of the lot, as long as the total allowable floor area coverage is not exceeded. See Figure 40.33.308.

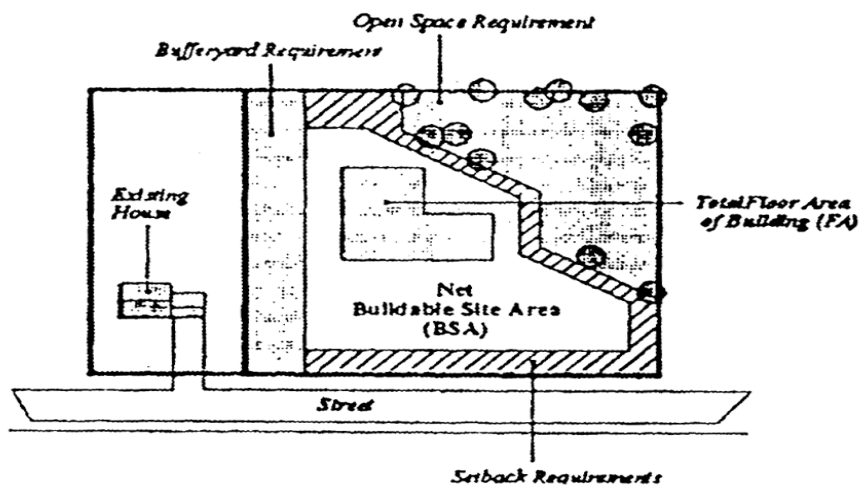
Figure 40.33.308



Floor area ratio, gross (GFAR). The total floor area of a building or structure divided by the base site area.

Floor area ratio, net (NFAR). The total floor area (FA) of a building or structure divided by the net buildable site area (BSA). See Figure 40.33.309.

Figure 40.33.309



FLOOR AREA RATIO, NET (NFAR)

Footcandle. A unit measuring the amount of illumination produced on a surface. One (1) footcandle is the amount of illumination falling on all points which are one (1) foot from a uniform point source of one (1) candle.

Forest. An area covered by a canopy of trees, covering a contiguous land area of at least one (1.0) acre or greater in size. Forests do not include trees planted and grown for commercial purposes, and do not include canopy cover over existing structures.

Forest cover. Is the total area of a site under the cover of an existing stand of trees or new stand of trees (reforestation or afforestation), meeting the minimum requirement of forest to be preserved and maintained.

Forest habitat value assessment. A method or process for determining the area or areas within a forest that contain high habitat value.

Forest interior. Habitat of high ecological value within the core of the forest located at least three hundred (300) feet from the forest edge.

Forest management practices. That combination of generally accepted methods for preserving, promoting and protecting silviculture, which may include selective cutting, burning and removal of trees.

Forest protection level.

Tier 1: A forested area or areas with the highest habitat value based on the forest habitat value assessment and a numerical point system. A Tier 1 protection level has fifty-two (52) or greater habitat value points.

Tier 2: A forested area or areas that has between twenty-six (26) and fifty-one (51) habitat value points.

Tier 3: A forested area or areas that has between one (1) and twenty-five (25) habitat value points.

Forester. A person possessing a bachelors degree in forestry from a college or university accredited by the Society of American Foresters or licensed in mid-Atlantic states maintaining licensing programs.

Former Code. The New Castle County Code and Comprehensive Development Plan Update in existence as of December 31, 1997, prior to the adoption of this Chapter and prior to any Comprehensive Development Plan Update amendments adopted by County Council on December 31, 1997.

Former zoning district. All New Castle County zoning districts (zoning designations) in existence as of December 31, 1997, prior to the adoption of this Chapter.

Freeboard. A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions. Such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

Front lot line. See *Lot line*.

Functional classification of streets. See *Street functional classification*.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water; the term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Garage, private. A garage accessory to a principal building and in which no business, service or industry is conducted.

Garage, public. A garage available to the public for free or fee.

Garden apartments. See *Apartment*.

Geologist. An individual technically and legally qualified to practice the profession of geology and who is registered to do so in the State of Delaware.

Governmental body. Any federal, State or local government including the departments, agencies, commissions and instrumentalities thereof.

Governmental parkland. Land that is owned, developed, or controlled by Municipal, County, State, and Federal governments for outdoor passive or active recreational uses excluding open space recorded on a plan as a development's open space.

Grade. The natural level of the ground adjoining the object whose height is to be measured. Where grade refers to a street or road, it is the existing grade at that point.

Grading. The excavating, filling (including hydraulic fill) or stockpiling of earth materials, or any combination thereof, including the land in its excavated or filled condition.

Green technology stormwater best management practices (GTBMP's). GTBMP's achieve stormwater management objectives by applying the principles of filtration, infiltration and storage most often associated with

natural vegetation and undisturbed soils. Green technologies stormwater GTBMP's may also be constructed using an imported soil medium and planted vegetation designed to promote the natural hydrologic process. These GTBMP's include vegetative filtration, riparian buffer plantings, bio-retention areas, vegetative flow conveyance, as well as recharge and surface storage in undisturbed natural areas.

Greenway. A linked system of open spaces, parklands, historic and cultural sites, wildlife management areas and natural preserves. Connecting corridors between such resources generally will be linear in nature and can include such features as natural areas, hiking trails, bike paths, city sidewalks, stream corridors, rivers, abandoned railroad rights-of-way, or scenic roads.

Gross area. The total land and water surface area contained within the boundaries of a lot or tract.

Gross floor area (GFA). The sum of the total horizontal areas of every floor of every building on a lot. The measurement of gross floor area shall be computed by applying the following criteria:

- A. The horizontal square footage is measured from the outside face of all exterior walls.
- B. Cellars, basements, penthouses, attics, enclosed storage or mechanical areas, mezzanines and similar structures shall be included as GFA wherever at least five (5) feet are provided between the finished floor and the ceiling.
- C. Except for upper floor spaces in open atriums, no deduction shall apply for horizontal areas void of actual floor space, for example, elevator shafts and stairwells.
- D. Parking structures and parking areas shall not count toward GFA except for the purpose of calculating the processing fee for such structure as delineated in Appendix 2 of this Chapter.
- E. Unheated structures or buildings, not fully enclosed whether temporary or permanent and exposed to the elements through the absence of walls on at least twenty-five (25) percent of its perimeter shall not be counted as GFA.

Groundwater. A portion of the subsurface water that occurs beneath the water table in soils and geologic formations that are fully saturated.

Hazardous substance. Any substance as found in 40 CFR 116, Designation of Hazardous Substances.

Height, building. The maximum height of a building permitted on a lot. Building height is determined from the vertical distance as measured from the average level of the finished grade adjacent to each exterior wall of the building to the highest point of the building, excluding chimneys and antenna. See Section 40.04.110.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Highway. Any road thoroughfare, street, boulevard, lane, court, trailway, right-of-way or easement used for, or laid out and intended for, public passage of vehicles or persons.

Historic district. A district possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic object. The term "object" is used to identify those resources that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment.

Historic renovation. The treatment of an historic resource through rehabilitation, restoration, or reconstruction as defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties.

Historic resource. Any building, structure, object, site or historic district that is important historically, architecturally or archaeologically in the history of the County, the State or the nation. These may be determined by the following criteria:

- A. Listed in or determined to be eligible for the National Register of Historic Places as provided in the National Historic Preservation Act of 1966, 16 U.S.C. 470. Historic resources may be listed individually or as part of a district.
- B. Designated or determined to be eligible for designation as an Historic overlay zoning district according to the provisions of this Chapter.

Historic site. The location of a significant event, a prehistoric or historic occupation or activity, of a building or structure, whether standing, ruined or vanished, where the location itself maintains historical, cultural or archaeological value regardless of the value of any existing structure. Four (4) types of sites are regulated. See Section 40.15.111.

Historic structure. The term "structure" is used to identify buildings and other man-made features designed and constructed for purposes other than human habitation, such as silos, water towers, gazebos, bandstands, grain elevators, kilns, stone walls, and windmills. Man-made alterations to the landscape such as canals, dams, earthworks, water control systems, irrigation systems, drainage ditches, marsh dikes and breakwaters may also be considered historic structures.

Home buyer. Home buyer shall mean and refer to any person whose intent is to accept a deed to a lot or dwelling unit.

Home occupation. See Section 40.33.221B.

Homeowner. Homeowner shall mean and refer to those individuals who accept a deed to a lot or dwelling unit.

Hotel. See Section 40.33.240D.

Housing trust fund. A fund into which contributions collected pursuant to this Chapter shall be deposited and from which monies shall be expended to construct, purchase and maintain permanently affordable units and to administer programs consistent with the purposes of this Chapter.

Hydraulically critical areas. Locations where the design high water level may exceed the top of bank, or overtop a catch basin or facility, causing flooding conditions.

Hydric soils. Soils which in their natural, undrained state are wet frequently enough at or near the surface to periodically produce anaerobic conditions, thereby influencing plant species composition and/or growth.

Hydrophytic vegetation. Those plants which are adapted to life in saturated soil conditions.

Impervious surface ratio (ISR). The proportion of a development that is impervious surface. It is determined by dividing the area in impervious surface by the base site area.

Impervious surfaces. Areas that do not allow significant amounts of water to penetrate.

Infiltration. The passage or movement of water through the soil profile.

Intensity. The degree to which land is allowed to be used for development. See *Density* and *Floor area ratio*.

Intermittent stream. A channel with banks and a bed within which concentrated water flows some of the time.

Intrinsic quality. Scenic, natural, historic, cultural, recreational, or archeological features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area.

Invasive plant species. Trees, woody plants, or herbaceous plants, alien to the Mid-Atlantic region, which have a tendency to spread, encroach, or infringe on other plant species, often displacing less hardy plant species. The list of invasive plant species is maintained by the Delaware Invasive Species Council (DISC).

Land development, major. See *Major land development*.

Land development, minor. See *Minor land development*.

Land disturbance. Changing the composition or character of the land or vegetation on the site. This includes cutting trees, clearing and grading operations, grading, excavation, removal or destruction of the ground cover.

Disturbance includes the act of preparing a site for a building. The act of construction of a building or any portion of a building is not covered by the term "land disturbance" and would be regulated by the land uses category.

Land grading. See *Grading*.

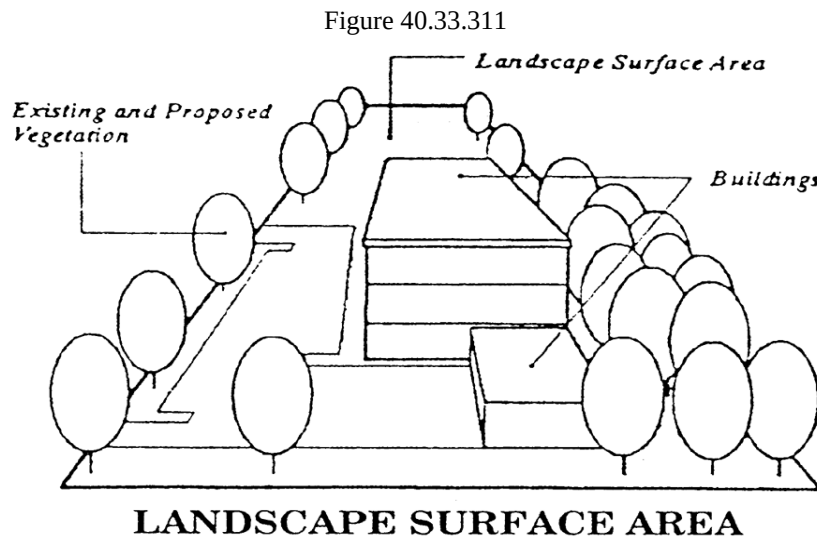
Land, improved. Vacant land which has been provided with power, water, sewage, streets and sidewalks, and other infrastructure.

Landowner. Any person, firm, partnership, corporation, or other legal entity who possesses a legal interest in property.

Landscape architect. An individual registered by the State to practice the profession of landscape architecture.

Landscape plan. A 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.

Landscape surface area. Surface area of land not covered by any buildings, storage areas, or impervious surface. These areas shall be maintained as lawn or a natural area and may be left undisturbed. See Figure 40.33.311.



Landscape surface ratio (LSR). The area of landscaped surface divided by the base site area.

Landscaping. The design and installation of plant material such as lawns, groundcover, trees, bushes, etc., in formal, informal, or natural arrangements.

Land use application. Any building permit application, zoning permit application, subdivision or land development plan application, rezoning application, limited use application, special use application, variance application, appeals, or any other application made to the County which, if granted, would have the effect of permitting the development or use of land. A land use application shall also include an approved DNREC site evaluation.

Leachable wastes. Waste materials including, without limitation, solids, sewage sludge and agricultural residue which may release waterborne contaminants to the surrounding environment.

Leachate. Liquid that has passed through, contacted or emerged from dry waste and contains dissolved, suspended or miscible materials, chemicals and microbial waste products removed from the dry waste.

Lessee. Any person who leases all or a portion of a premises on a day-to-day, week-to-week or month-to-month basis.

Letter of map change. A letter of map change is an official FEMA determination, by letter, to amend or revise an effective flood insurance rate map, flood boundary and floodway map, and flood insurance study. letters of map change include:

Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was inadvertently included in a designated special flood hazard areas. A LOMA amends the current effective flood insurance rate map and establishes that a specific property is not located in a special flood hazard area.

Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevation, floodplain and floodway delineation, and planimetric features. One common type of LOMR, a letter of map revision based on fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood; in order to qualify for this determination, the fill must have been permitted and placed in accordance with these regulations.

Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed flood protection project complies with the minimum National Flood Insurance Program requirements for such projects with respect to delineation of special food hazard areas. A CLOMR does not amend or revise effective flood insurance rate maps, flood boundary and floodway maps, or flood insurance studies; upon submission to and approval of certified as-built documentation, a letter of map revision may be issued.

Level of service (LOS). A measure of traffic on a roadway segment or intersection being used during peak hours, as determined by the most current version of report 209, the Highway Capacity Manual, prepared by the National Research Council's Transportation Research Board. Level of service is expressed on a scale of "A" to "F" with "A" indicating the best level of service and "F" indicating the worst. The definitions of levels of service "A" through "F" shall be those contained in the references cited in this definition.

Limit of moderate wave action (LiMWA). An area of special flood hazard subject to moderate wave action of between one and one-half (1.5) to three (3) feet.

Loading space. A durably paved, properly designed for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles in connection with the use of the property on which such space is located.

Local residential access street. See *Street, local residential access*.

Local street. See *Street, local*.

Lot. A parcel of land whose boundaries have been established by a legal instrument such as a recorded deed, court order or a recorded plot which is recognized as a separate legal unit for purposes of transfer of title.

Lot area. The area of a lot taken at its perimeter exclusive of any portion within a public or private street right-of-way.

Lot coverage. That portion of the lot area that is covered by buildings.

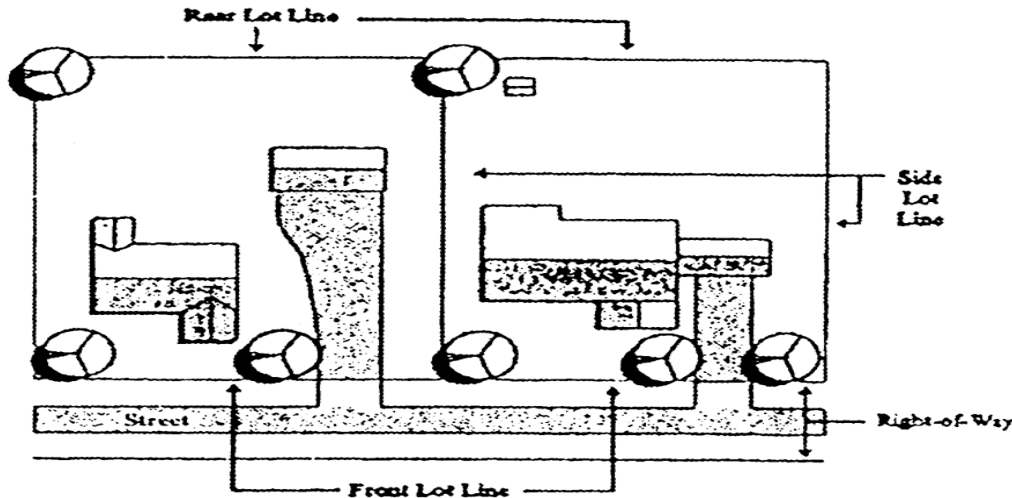
Lot, flag. See *Flag lot*.

Lot line. A property line dividing one (1) lot from another or from a street or other public place. A lease line shall not be interpreted to be a lot line. There are basically four (4) types of lot lines—front, rear, side, and street. See Figure 40.33.312.

- A. *Front lot line.* The street lot line from which the unit takes access. Where more than one (1) street yard could safely provide access, the street serving the smallest traffic volume unless otherwise determined by the Department. For parcels with no street frontage the front lot line must be determined by the Department.
- B. *Rear lot line.* The lot line opposite or nearly opposite the front lot line. In the case of a lot without a clearly identified rear lot line, that line shall be construed to be a ten (10) foot long line drawn parallel with the front street line.

- C. *Side lot line.* The lot line that runs generally perpendicular or at angles to the street or any line that is not a front, street or rear lot line.
- D. *Street lot line.* Any lot line that is also a street right-of-way line.

Figure 40.33.312



Types of Lot Lines

Lot-line house. A dwelling type consisting of a single-family, fully detached residence located on an individual lot with only one (1) side yard. No windows are permitted on the zero (0) lot line wall of the house. The zero (0) lot line may be achieved by placing the house on a side lot line and providing a maintenance easement six (6) feet wide on the adjoining lot.

Lot width. The distance across the lot (side lot line to side lot line) at the minimum front setback line.

Lowest floor. The lowest floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, useable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements specified in the building code for enclosures below the lowest floor.

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts ready to be mounted on pole or other location.

Maintenance corporation. A nonstock corporation consisting of lot or unit owners of a subdivision created for the purpose of owning and maintaining private open space and common facilities located within a residential subdivision.

Maintenance guarantee. A guarantee of facilities or work to ensure the correction of any failures of any improvements required by this Code, or to maintain same.

Maintenance organization. An organization approved by the County that is legally responsible for owning, maintaining, and/or managing open space. A maintenance organization may be a condominium association, a third party conservancy, or a maintenance corporation.

Major change. A change to the plan that increases density or floor area, decreases open space, bufferyards, or parking, or which alters the alignment or layout of streets by more than five (5) feet. For conditional approvals

granted prior to the adoption of this Chapter, any use proposed not contained in the original advertisement shall be considered a major change.

Major land development. A plan that proposes one (1) or more of the following:

- A. A new public or private street.
- B. Buildings or expansions that exceed the limits of the minor land development definition outlined in Subsection B.
- C. A subdivision of land resulting in more than five (5) lots.
- D. Apartment or multi-family development of ten (10) or more dwelling units.
- E. An electric power generating facility.

Manufactured home. A one (1) family dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it was built in compliance with Chapter 6 of the New Castle County Code or the Federal Manufactured Housing Construction and Safety Code.

Marijuana cultivation facility. Entities licensed by the State of Delaware to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce marijuana concentrates, tinctures, extracts, or other marijuana products.

Marina. A facility for storing, servicing, fueling, berthing, securing and launching boats. It may include supporting facilities and services.

Marquee. A hood or permanent roof-type construction which projects from the wall of a building above an entrance for movie theaters and similar uses.

Mass(ing). The arrangement of a building's bulk, including relative openness and solidity.

Maximum permitted illumination. The most illumination, measured in footcandles, that is allowed at the interior lot line or bufferyard line, if a bufferyard is required, at ground level.

Meadow. A grassland condition either planted or a result of natural succession that has been established for at least five (5) years. Areas with shorter establishment periods shall be considered disturbed land.

Mean surface water elevation. The observed limit of dry weather flow elevation in a watercourse or mean high water level in tidal areas.

Minimize. To reduce to the smallest amount possible using best management practices. "Minimize" shall not mean complete elimination, but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities, the conduct of which is adverse to the conservation of the natural features of land, the requirement to "minimize" shall include but not be limited to the requirement that the placement of dwellings and other structures and the locations of roads, sedimentation and erosion control devices, and earthmoving activities shall be planned and designed so as to permit the adverse effect of the activity in question to be reduced to the smallest amount possible under the circumstances consistent with the otherwise permitted development.

Minor change. A change to the plan that does not increase density or floor area, does not decrease open space, bufferyards or parking, or alter the alignment or layout of streets by more than five (5) feet.

Minor land development. A plan that proposes one (1) or more of the following:

- A. A subdivision of land resulting in five (5) lots or less and not creating new street rights-of-way.
- B. Except for single-family dwellings and residential accessory structures on fee simple lots, land development proposing new buildings or additions one thousand (1,000) square feet GFA or greater, or five thousand (5,000) square feet GFA or greater in the P, OR, BP, I, and HI zoning districts and meeting one (1) or more of the following criteria:

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ARTICLE 33. DEFINITIONS

1. Proposed buildings less than twenty thousand (20,000) square feet GFA. One (1) or more buildings may be constructed; however, once the cumulative total of approved square footage on the site exceeds twenty thousand (20,000) square feet GFA, the plan shall be reviewed as a major plan.
 2. For lots containing at least twenty thousand (20,000) square feet GFA of existing development, any number of expansions are permitted (including expansions in excess of twenty thousand (20,000) square feet GFA), provided the cumulative total of all the expansions does not exceed fifty thousand (50,000) square feet GFA. Any subsequent plan submission proposing a new building or expansion exceeding fifty thousand (50,000) square feet shall be reviewed as a major plan.
 3. In any OR, BP, I or HI zoning district on lots containing at least fifty thousand (50,000) square feet GFA of existing development, any size expansion of an existing industrial or manufacturing use provided no TIS is required by DelDOT.
 4. Apartment or multi-family development of less than ten (10) dwelling units.
 5. Development that would be considered a major land development in industrial or office parks for which a previous record major plan has been recorded to establish lots and otherwise depict the overall limits of development provided that no special studies are required for approval; e.g., TIS, CNA, environmental impact assessment report, floodplain application, WRPA, subsidence. The project must be such that any issues or concerns are minor in nature and can be evaluated without the necessity of a PLUS review.
 6. Expansions of existing institutional facilities or the replacement of existing public schools provided that no special studies are required for approval e.g. TIS, CNA, environmental impact assessment report, floodplain application, WRPA, subsidence. The project must be such that any issues or concerns are minor in nature and can be evaluated without the necessity of a PLUS review.
 7. Any land development plan subject to, and in compliance with, an approved Economic Empowerment District.
- C. Any major utility except electric power generating facilities.
- D. A minor utility that is:
1. A new utility substation that is used to transmit or distribute more than one hundred thirty-nine (139) kV of electricity; or
 2. An elevated storage tank or standpipe.
- E. Large scale solar energy systems.

Mitigation. Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict, or otherwise be deemed incompatible with surrounding properties.

Mixed use. See Section 40.33.240J.

Mobile home or mobile dwelling unit. A transportable one (1) family dwelling larger than three hundred twenty (320) square feet, designed to be used as a year-round residence. This definition shall not include motor homes or recreational vehicles.

Moderate-income household. A household earning more than eighty (80) percent, but not to exceed one hundred twenty (120) percent of the New Castle County area median income, as published and annually updated by the United States Department of Housing and Urban Development.

Monument. A stone or concrete boundary marker, as required by this Chapter, intended to fix the physical location of property lines.

Motel. See Section 40.33.240D.

Motor vehicle. For purposes of Section 40.03.440, the term "motor vehicle" shall include an automobile, light truck, boat, boat trailer, recreational vehicle, motorcycle and the like.

Mulch operations. A process that results in a product from the physical breakdown of yard trimmings and other approved materials into smaller pieces. Mulch is a protective cover placed over surface soil to modify the effects of the local climate. Mulch material may include the following: grass, leaves, bush and tree prunings, brush, shrubs, Christmas trees, tree limbs, hay, sawdust, and wood chips.

Multifamily Conversion. The conversion of office or commercial GFA to apartments or residential condominium units.

Multi-modal transportation. The availability or use of more than one form of transportation, such as automobiles, walking, cycling, transit, ride share, car-pool, or commuter rail.

National Geodetic Vertical Datum (NGVD). Elevations referenced to mean sea level datum of the 1929 or 1988 U.S. Geological Survey.

Native ground cover plants. See Appendix 3 to this Chapter - Native plants.

Native plant. A plant or tree species native and indigenous to the State of Delaware is one that has, over time, evolved and adapted to the environmental conditions of the area and is understood to have occurred in Delaware prior to the time of human settlement, or has established itself within the state independent of direct human activity.

Natural resource management plan. A supplemental plan associated with residential major subdivision plans, applicable to the natural resource area open space, which shall be referenced on the record plan as being an integral part of the record plan detailing the disposition, use and maintenance for all natural resource area open spaces. The plan shall include:

- A. *Executive summary.* A brief description of the contents of the plan and the natural resource area open space to be managed. The ownership of natural resource area open space shall also be identified.
- B. *Description of existing conditions.* Narrative description of protected resources on-site, including natural and scenic resources. The discussion of natural resources shall include a list of species found on the site and the overall condition and health of the natural systems. Other resources shall be similarly discussed, including their health and condition or significance.
- C. *Goals and objectives.* Overall goals and objectives for managing natural resource area open space shall be established along with methods of measuring the implementation of such objectives to help in determining that the goals are met.
- D. *Management measures.* A description of proposed activities, budget and schedule for managing and restoring natural resource area open space pursuant to the goals and objectives identified in Subsection C.
- E. *Maintenance and operation plan.* Identification of any annual or periodic maintenance and operation of natural resource area open space necessary to implement the management plan.

Net buildable site area. Calculations specified in Article 5.

New construction. Buildings and structures for which the "start of construction" commenced on or after December 3, 1971 including any subsequent improvements to such structures.

Nonconforming building. A building, structure or parts thereof lawfully existing at the time this Chapter or a subsequent amendment to this Chapter became effective which does not conform to the dimensional requirements of the district in which it is located.

Nonconforming lot. A lot, legally established prior to the adoption of this Chapter or a subsequent amendment to this Chapter, which does not meet the standards of the district in which it is located. This can involve minimum area, buildable area, or dimensional requirements of the lot.

Nonconforming sign. Any sign, legally established prior to the adoption of this Chapter or a subsequent amendment to this Chapter, which does not fully comply with the standards of this Chapter.

Nonconforming situation. A building/structure or the use of a lot or building/structure lawfully existing at the time this Chapter or a subsequent amendment to this Chapter became effective which does not conform to the dimensional and/or use requirements of the district in which it is located.

Nonconforming use. A use of land or use of a building/structure lawfully existing at the time this Chapter or a subsequent amendment to this Chapter became effective which does not conform to the use requirements of the district in which it is located.

Nondelineated floodplain. An area subject to a 100-year flood, for which FEMA has not delineated a floodplain, adjacent to a watercourse that is also identified by a blue line on the National Hydrographic Dataset (NHD) utilized by the United States Geological Survey or adjacent to a watercourse that is identified as a "stream" in the detailed maps of the N.C.C. Soil Survey.

Non-native plants. A species that is not native to North America (north of Mexico). Non-native species are thought to have been introduced by humans, primarily through agricultural or horticultural practices.

Notice of disturbance. This shall indicate that the Department (limited uses) or County Council has approved a disturbance of a certain acreage of natural resources. Each shall be listed along with the acres involved. The notice shall contain an indication of resources that may be further disturbed or any areas where resources will have to be restored if the site is developed.

Office park. A development on a tract of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

Old field. Lands formerly cultivated, timbered or grazed but later abandoned. The dominant plants include grasses and herbaceous plants, with encroaching woody vegetation, which evidences secondary succession; in particular, areas covered by woody plants eight (8) or more feet in height which either cover forty (40) percent or more of a property or cover eighty (80) percent of a contiguous area one (1) acre or greater in size.

Opacity. The measurement of the screening effectiveness of a bufferyard or fence expressed as the percent of vision that the screen blocks.

Open space. Parcels of land within a residential subdivision, exclusive of streets and lots, generally preserved in a natural state or improved to provide common amenities for the residents of the subdivision. Open space shall be categorized as either natural resource area open space or community area open space. Open space is intended to preserve environmentally sensitive areas and protected resources, provide active and passive recreation facilities, establish greenways, provide wildlife habitats, facilitate stormwater management functions, and landscaped bufferyards. Both natural resource area open space and community area open space can be public or private and would be annotated as such on the development record plan and/or deed.

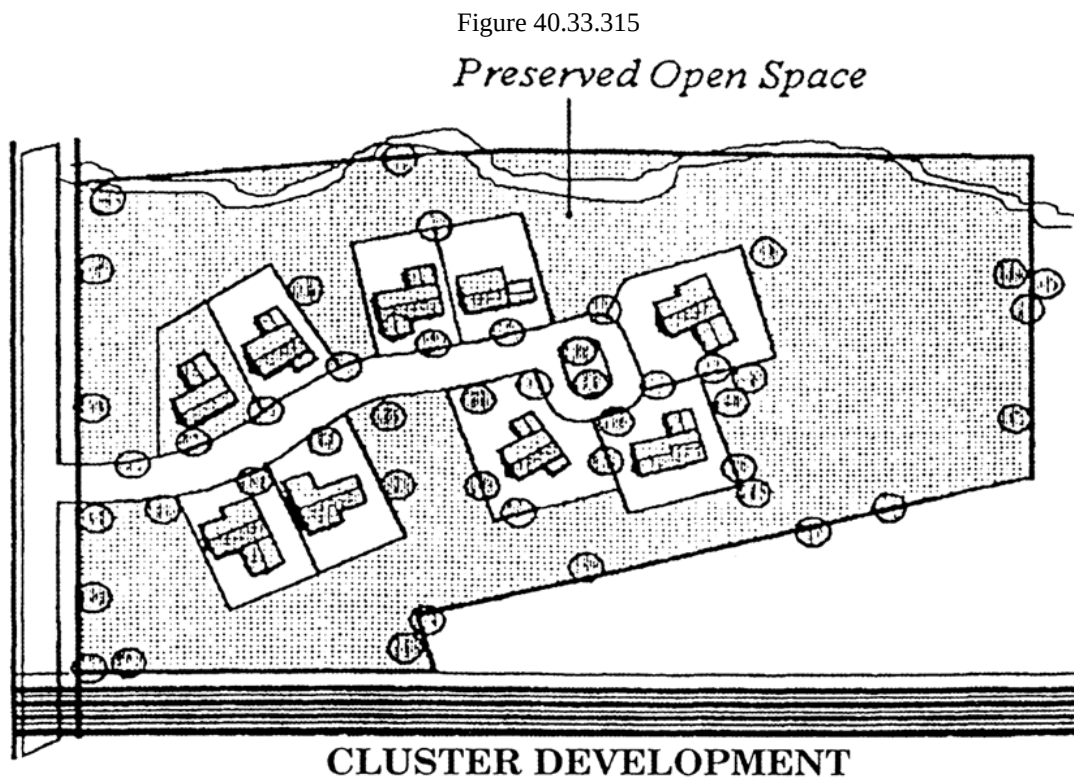
Open space, community area. One (1) of the two (2) types of open space in a residential subdivision is community area open space. In residential subdivisions with fewer than fifty (50) acres, all open space shall be considered community area open space. In subdivisions of fifty (50) acres or greater, community area open space shall be relatively smaller, isolated, and typically internal pockets of open space not necessarily contiguous with the natural resource area open space. Such open space parcels normally will provide a function benefiting the residents of the subdivision. The homeowners organization, comprised of the residents of the subdivision, will own and be responsible for community area open space. Approved improvements, conservation and long-term maintenance will be shown on the landscape plan approved for the open space.

Open space, natural resource area. One (1) of the two (2) types of open space in a residential subdivision of fifty (50) acres or greater. Natural resource area open space are those areas comprised of protected resources

including but not limited to wetlands, floodplains, riparian buffer areas, forests, steep slopes, critical natural areas, and water resource protection areas, as well as other relatively large, contiguous open spaces.

Open space ratio (OSR). The proportion of a development required to be left in open space. It is determined by dividing the area in open space by the base site area. When applied to resource protection, the open space ratio shall mean that percentage of the resource feature to be protected and/or preserved in the total land area in that resource.

Open space subdivision. A development pattern or design technique in which lots are grouped together rather than spread evenly throughout a parcel as in conventional subdivision development. Clustering development allows the remaining land to be used for recreation, open space and the preservation of natural resources. See Figure 40.33.315.



Outflow hydrograph. Graphical representation of the runoff rate versus time for flow exiting a stormwater management facility.

Outfall point. A specific location, as defined by local topography, where stormwater runoff exits a specific land area.

Overlay district. A district that is applied over other zoning districts and which may modify the permitted uses or intensity of use.

Owner. See *Landowner*.

Parcel. See *Lot*.

Park. An area open to the general public and reserved for recreational, educational or scenic purposes.

Park and ride facility. A public parking lot designed for drivers to leave their cars and use mass transit facilities beginning, terminating, or stopping at the park and ride facility.

Parking space. An area of land designated for the parking of motor vehicles. See Section 40.22.610.

Parking structure. An above-ground structure designed to accommodate vehicular parking spaces which are fully or partially enclosed or located on the deck surface of a building. A parking area located under a building that is entirely at or below-grade, and single-story garages accessory to a residential use shall not be considered a parking structure.

Passive recreation. Recreational uses, areas or activities oriented to noncompetitive activities which either require no special equipment or are natural areas. Bicycle riding, hiking and bird watching are examples of passive recreation activities.

Passive stormwater infiltration practices. Utilizes existing and restored natural areas with good hydrologic soils and dense vegetative attributes for stormwater management.

Patio house. A single-family dwelling type that is a detached or semi-detached unit (i.e., attached by a common wall to another dwelling unit), with one (1) dwelling unit from ground to roof. Each dwelling unit's lot shall be fully enclosed by a wall located at the lot line, thus creating a private yard, referred to as a patio, between the house and the wall. A "minimum patio area" rather than setbacks is used to determine minimum yard area. All living spaces, such as living rooms, dens and bedrooms, shall face into the yard or patio. A patio house is permitted only in planned developments as provided in Articles 3 and 4. See Figure 40.04.110.

Paved area. See *Impervious surfaces*.

Peak hours or peak periods. In general, periods from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:00 p.m. on weekdays. A peak hour is a sixty (60) minute period occurring within a peak period. Different peak hours may be established by the Department, based on type of development or traffic counts on a street.

Pedestrian precinct. A paved or largely paved area such as a plaza or courtyard set aside for pedestrian use that provides amenities, including but not limited to seating areas and other street furniture, lighting, landscaping, fountains, water features, art or other appropriate elements.

Pedestrian way. A publicly or privately owned right-of-way or easement for pedestrian or bicycle use.

Percolation tests. See *Soil borings and percolation tests*.

Perennial stream. A channel with banks and a bed within which concentrated water flows all of the time.

Performance guarantee. See *Surety*.

Period of significance. The length of time when a property was associated with important events, activities, or persons, or attained the characteristics which qualify it for Historic overlay zoning. These associations may include important contributions to the history, architecture, archaeology, engineering, or culture of the County, State or the nation.

Person. An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Pervious. A description of a surface that presents an opportunity for precipitation to infiltrate into the ground.

Plan, exploratory sketch. An informal plan indicating salient existing features of a tract and its surroundings, including the general layout of a proposed subdivision or land development.

Plan, major land development. A plan depicting a major land development which may include the subdivision of land.

Plan, minor land development. A plan depicting a minor land development which may include the subdivision of land.

Plan, record. A complete subdivision or land development plan, including all required supplementary data, which defines property lines, proposed streets and other improvements, and easements; or a plan of private streets to be dedicated to public use.

Plan, record conversion. A plan and supporting documentation describing the proposed conversion of a multi-family dwelling or single-family group dwellings from rental dwelling units to condominium or cooperative dwelling units.

Plan, record street. A minor land development plan the sole purpose of which is to dedicate private streets to public use.

Plans, site construction. All applicable plans or information on all applicable plans required during the land use application review process that will be reviewed by the Department regarding the engineering and design of a site, including but not limited to, the Stormwater Management Plan, Erosion and Sediment Control Plan, General Grading Plan, Pre-Bulk Grading Plan, Post-Bulk Grading Plan, Lines and Grades Plan, Landscape Plan, Natural Resource Management Plan, and Open Space Management Plan.

Planned development. A form of cluster development and residential use type. See Section 40.33.220.

Plot. See *Parcel*.

Preservation plan. A document describing the measures to be taken in the historic restoration or rehabilitation and preservation of an historic resource. See Section 40.15.310.

Principal building or use. The main use on a property in terms of size, area, and function. See *Accessory building* or *Accessory use*.

Property line. See *Lot line*.

Public improvement. Any improvement, facility or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs such as: streets, alleys, pedestrian walks or paths, storm sewers, flood control improvements, water supply and distribution facilities, sanitary sewage disposal and treatment, public utility and energy services.

Public utilities. See *Utility, public*.

Public water supply well. A well from which the water is used to serve a public water system as defined in the State of Delaware Regulations Governing Public Drinking Water Systems. All classes of public water supply wells are covered by this definition, including Community, Non-transient Non-community, and Transient Non-community as defined and mapped by the State of Delaware Regulations Governing Public Drinking Water Systems.

Rare species. A plant or animal defined as endangered or threatened by the State under 7 Del. C.Ch. 6 (Endangered Species).

Rational method. An engineering method of predicting peak runoff rates.

Receiving streams. Those streams which are downstream from a development area which may be affected by changes in course, volume, quality or velocity of flow, due to construction or development activity.

Recharge areas. The recharge water resource protection areas are designated as having the best potential for groundwater recharge. They were delineated using methodology described in a report prepared by the Delaware Geological Survey entitled "Delineation of Ground-Water Recharge Resource Protection Areas in the Coastal Plain of New Castle County, Delaware," dated January 1993 ("recharge resource area").

Recreation, active. See *Active recreation*.

Recreation, passive. See *Passive recreation*.

Recreational vehicle. A vehicle designed or used as living quarters for recreational, camping, vacation, or travel use, such as house trailers, travel trailers, trucks, trailers, pickup trucks and vans. For the purposes of this definition, a recreational vehicle shall not include trailers in excess of twenty-eight (28) feet in length or in excess of four thousand five hundred (4,500) pounds gross weight.

Redevelopment. A process used to identify previously developed land that is now vacant, abandoned or underutilized real property where older structures if they exist are rehabilitated or replaced.

Reforestation. Replanting or planting of forest plant materials. Also includes planting in areas not originally forested for mitigation purposes.

Renaming, existing public or private streets or recorded land development or subdivision plan. An administrative process by which a name is extinguished and another established for an existing public or private street, road or lane serving three (3) or more parcels; or recorded land development or subdivision plan.

Reserve strip. A parcel of ground in separate ownership separating a street from other adjacent properties or from another street.

Residential collector street. See *Street, residential collector*.

Responsible person. An agent, tenant, individual, corporation, firm, partnership, or any other legal entity having a legal or equitable interest in property or owing a legal duty to same.

Restoration. The reasonable rehabilitation of the affected land for useful purposes and the protection of the natural resources of the surrounding area, including surface water and groundwater.

Resubdivision. See Section 40.31.711.

Retaining wall. A structure which holds an earthen embankment in place.

Reverse frontage lot. A lot extending between and having frontage on two (2) generally parallel streets. Also referred to as "double frontage lot."

Rezoning. An amendment to the zoning map.

Right-of-way. An area of land dedicated for public or private use to accommodate a transportation system, except that with some older lots in New Castle County property lines may extend into the right-of-way. In no case shall a right-of-way be construed to mean an easement.

Riparian buffer area (RBA). An RBA consists of land which forms a transition zone between aquatic and terrestrial environments. RBA's include:

- A. One hundred (100) feet on either side of perennial and intermittent streams, lakes and tidal wetlands;
- B. All of the floodplain, plus an additional fifty (50) feet of adjacent land;
- C. All of a nontidal wetland greater than twenty thousand (20,000) square feet in area, plus an additional fifty (50) feet of adjacent land;
- D. All of any size nontidal wetland classified as a Piedmont Stream Valley Wetland, as defined in the 1997 New Castle County Comprehensive Plan Update and designated by the Delaware Natural Heritage Program, a Division of DNREC, plus an additional fifty (50) feet of adjacent land.

The riparian buffer area shall consist of two (2) zones.

- A. *Zone 1* is the land within twenty-five (25) feet of the water body or wetland. It shall also include any contiguous area of slopes in excess of fifteen (15) percent and erosion-prone slopes contiguous to and draining toward a floodplain or watercourse upstream of an existing public water supply intake.
- B. *Zone 2* is the remainder of the riparian buffer.
- C. *Identification and calculation.*
 - 1. Reserved.
 - 2. Initial identification of the watercourses/water bodies shall be made using the National Hydrographic Dataset (NHD) utilized by the United States Geological Survey or more accurate information, as available. Field verification to determine evidence and location of channelized flow is required for a specific determination.
 - 3. Measurements for the Zone 1 boundary are to be made horizontally, perpendicular from the following reference points: top of bank of perennial streams, centerline of intermittent streams,

and mean water level of lakes, ponds, and tidal wetlands. Measurements for the Zone 2 boundary are to be made horizontally, perpendicular from the boundary of the environmentally sensitive lands.

4. Measurements shall be made at appropriate intervals perpendicular to these reference points so as to accurately reflect the character of the adjacent land.
 5. The width of existing impervious area such as roadways, parking lots, structures, sidewalks, etc. shall not count towards the RBA measurements.
 6. Final determination of the boundaries of the RBA shall be made by the Department.
- D. *Exceptions.* An RBA shall not be designated along industrial ponds, sewage lagoons, manmade irrigation ditches, stormwater management basins and other artificial features with a similar water quality or storage function.

Road, arterial. See *Street, arterial*.

Road, collector. See *Street, collector*.

Road, local. See *Street, local*.

Roadway. The portion of a highway including the cartway and shoulders within a right-of-way.

Roof line. The top of a roof or building parapet, excluding any cupolas, pylons, chimneys, or other minor projections.

Runoff. That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on the land surface.

Sanitary sewage. Any liquid discharge from a structure or animal containment area, except roof drains.

Sanitary sewage disposal, community. A sanitary sewage collection system in which sewage is carried from individual lots, by a system of pipes, to a temporary central treatment and disposal plant, generally serving a neighborhood area.

Sanitary sewage disposal, on-lot. A system in which sanitary sewage and wastewater is collected from a single use or dwelling unit, by a system of pipes, and carried to a septic tank and tile disposal field located within the boundaries of an individual lot.

Sanitary sewage disposal, public. A system in which sanitary sewage and wastewater is collected from multiple uses or dwelling units, by a system of pipes, and carried to a central disposal facility, generally serving a region.

Sanitary sewer line. A sanitary sewer collection system in which sewage is carried from individual lots, by a system of pipes, to a central treatment and disposal plant, or to other pipes, that run to a central treatment and disposal plant.

Sanitary sewer system. A central treatment and disposal plant and related systems and pipes, including, but not limited to, sanitary sewer lines.

Scenic resource.

- A. A general term of reference for viewsheds and intrinsic qualities of a road or corridor that provide scenic beauty or character.
- B. A scenic resource has a high degree of natural beauty and historic or cultural value, characterized by one or more of the following:
 1. Size and dimension of landscape;
 2. Characteristics of roadway (e.g., runs with topography, winds through landscape, changes with terrain);

3. Visual accents or scenic vistas along roads;
4. Historic characteristics of the landscape, of a road, or along roads (e.g., historic bridges, houses, barns, mills, springhouses, stone walls, or other structures);
5. Natural resources or ecosystems near, or visible from, roads (e.g., watercourses, wetlands, rock outcrops, or other geologic formations, woodlands, wildlife habitat); and
6. Parkland or recreation along or adjacent to roadways.

Scenic viewshed. The land area generally along and visible from a byway or road. A scenic viewshed is identified using a motorist's line of sight, as measured from multiple observation points along the roadway, with a point of view approximately six (6) feet above the roadway pavement. The scenic viewshed includes all land area visible from the observation points in a winter, or leaf-off, condition.

Scenic vista. A broad or expansive view of a landscape, the scenic boundary of which is primarily defined by forest cover or other buffering features within the public viewshed.

Screen, visual. A physical device and/or landscaping, such as berms, walls or hedges, used to hide or conceal a use or structure from sight.

SCS Method. A method of estimating runoff and peak discharges in a watershed, including Technical Release 20 and Technical Release 55, promulgated by the U.S. Department of Agriculture.

Secondary containment. A system installed to prevent any volume of a substance released from the primary containment tank from reaching the soils and/or water outside the system for the anticipated period of time necessary to detect and recover the released substance.

Sediment. Soils or other surface materials transported and/or deposited by the action of wind, water, ice or gravity as a product of erosion.

Sediment and stormwater management plan. A plan for the control of soil erosion, sedimentation, stormwater quantity and water quality impacts resulting from any land disturbing activity.

Selective cutting. The felling of certain, but not all, trees in an area for the purpose of:

- A. Removing dead, diseased, damaged, mature or marketable timber;
- B. Improving the quality of a tree stand or species; or
- C. Meeting personal domestic needs.

Semi cut-off. An outdoor lighting fixture or luminaire with intensity at or above ninety (90) degrees (horizontal), where no more than five (5) percent of the luminaire's light intensity is emitted at or above horizontal, and no more than twenty (20) percent of the luminaire's light intensity is emitted at or above eighty (80) degrees. See Figure 40.22.720.

Septic tank. A multiple compartment, watertight receptacle which receives sewage from a building and is designed and constructed so as to permit settling of solids from the sewage, digestion of the organic matter and discharge of the liquid portion into a disposal area.

Septic system, individual. See *Sanitary sewage disposal, on-lot*.

Setback. A stated minimum distance on a lot as measured perpendicular from a lot line, a right-of-way line or the required bufferyard if Section 40.04.302, whichever is closest to the proposed structure.

Shared-use pathway. A transportation facility, serving non-motorized users, including pedestrians, cyclists and equestrians, typically located within an easement or right-of-way for public access and physically separated from motor vehicle traffic.

Sheltered care. See Section 40.33.230 F.

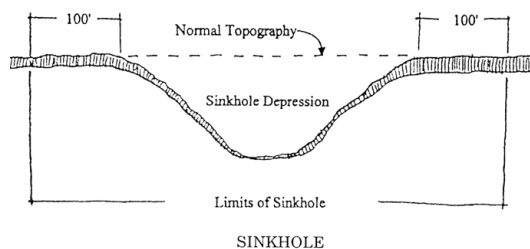
Sidewalk. A pedestrian way extending along, parallel to and within an easement or the right-of-way of a public or private street.

Siltation control. The installation of such devices as sediment ponds, bales of straw, fencing, siltation webbing, sodding, seeding and mulching, or other devices to prevent silting of abutting properties and roadways during the period of construction, up to and including, such times as permanent ground cover is attained.

Single lot development. A development consisting of one (1) or more buildings to be erected on a platted parcel of land or a single lot which is part of a subdivision, intended to be separately owned, developed and otherwise used as a unit.

Sinkhole. A topographic feature defining a depression in the ground's surface, typically formed by the collapse of underlying strata, which surface water drains. A sinkhole shall be considered as encompassing the entire area lying within the depression, plus an additional area one hundred (100) feet wide around the edge of the depression. See Figure 40.33.318.

Figure 40.33.318



Site analysis plan. For all minor and major land development applications, the applicant shall be required to submit a site analysis plan as the first phase of the pre-application sketch or exploratory plan review process. The Department may also require a site analysis plan for any other application type. The site analysis plan shall serve as a basis for the planning process and shall be used to determine the best areas of the site for open space and natural resource preservation, land conservation and development. The site analysis plan allows both the applicant and the Department the opportunity to utilize the natural site conditions to determine how the development of each parcel or tract can be designed to minimize environmental degradation while achieving highest possible community character design standards.

Site development agreement. A properly executed and legally binding contract between the developer of a parcel of land and the County to proceed with development as noted therein.

Site disturbance. See *Grading, Filling*, and Section 40.01.110B.

Site plan. A plan or drawing showing the location of buildings, parking, or other elements that is used for the issuing of approvals other than subdivision plans or land developments. The drawings shall show sufficient detail to enable the Department to determine whether the standard requiring a site plan has been met.

Slope, steep. The term "slope" is defined as the vertical change in elevation divided by the horizontal distance over which that vertical change occurs. The steep slope area consists of two (2) areas which are delineated and defined as follows:

- A. *Prohibitive slope.* Prohibitive slopes are those of greater than twenty-five (25) percent slope as based on a site survey, where such slope exists in any continuous horizontal increment of fifty (50) feet or more.
- B. *Precautionary slope.* Precautionary slopes are those of fifteen (15) to twenty-five (25) percent slope as based on a site survey, where such slope exists in any continuous horizontal increment of fifty (50) feet or more.

These definitions do not include manmade steep slopes resulting from the implementation of an approved plan.

Soil borings and percolation tests. Field tests conducted and used in judging the suitability of soil for on-site, subsurface sewerage and seepage systems. The borings indicate the soil formations penetrated and groundwater conditions. The percolation tests give an indication of the absorptive capacity of the soil and provide a basis for the design of seepage facilities.

Soil stabilizing function. A plant or structure which encourages resistance of soil to erosion, soil creep or other movement which results in net loss of soil from an area.

Solar energy system (SES). Any structure for the conversion of sunlight into electricity either directly using photovoltaics or indirectly using concentrated solar thermal power including all components thereof such as photovoltaic modules, collectors, panels, controls, energy storage devices, heat pumps, heat exchangers, mounting systems, cables, solar inverters, electrical accessories, and other materials and hardware necessary for the collection, storage, conversion, dissipation and distribution of energy. Installation and operation of any SES shall be approved as required by applicable state and federal law.

Solar energy system, accessory. Any SES that is designed to provide no more than one hundred ten (110) percent of the expected aggregate electrical consumption of all uses located on the lot on which the SES is located.

Solar energy system, community ("CSES"). Any large-scale SES meeting the definition of a "Community-owned energy generating facility" as set forth in § 1001, Title 26 of the Delaware Code.

Solar energy system, ground-mounted. Any SES that has its electricity-generating solar panels mounted or resting on the ground.

Solar energy system, rooftop. Any SES that has its electricity-generating solar panels mounted or resting on the rooftop of a building or structure.

Special flood hazard area (SFHA). The land in the floodplain subject to flood hazards and shown on a flood insurance rate map as Zones A, AE, AO, and Zone VE. The term also includes non-delineated floodplains as described in Article 10.

Specimen tree. Any tree or arborescent plant (i.e., a perennial woody plant with a treelike habit that resembles a tree in growth or appearance) in good health that is not in a forest and having a single trunk diameter in accordance with Table 40.23.320 and Appendix 3, or having seventy-five (75) percent or more of the trunk diameter of the current state champion tree as identified by the Delaware Forest Service. Non-native tree species considered invasive shall not be designated as specimen trees.

Spray irrigation system (or other approved large scale treatment system). Spray irrigation systems discharge treated effluent so as to recharge the groundwater table after providing final treatment by the plants and soil. The effluent may be discharged directly or indirectly to the land or a water body, or may be recycled or otherwise reused. Other approved large scale treatment systems include any sewage treatment system approved by the Department of Public Works and DNREC.

Stabilization. The prevention of soil erosion by surface runoff or wind through the establishment of vegetative or structural soil coverage measures. Examples include, but are not limited to, straw mulch with temporary or permanent vegetation, wood chips and stone or gravel ground cover.

Start of construction. See *Commencement of construction*.

Stormwater management. The management of stormwater runoff including quantity and quality control due to changes in land use through engineered practices that incorporates existing and/or modified land features.

- A. For water quantity control, a system of vegetative, structural, and other measures that control the volume and rate of stormwater runoff caused by land disturbing activities or activities upon the land; and
- B. 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 or activities upon the land.
- C. Can utilize green technology stormwater best management practices (GTBMP's).

Stormwater mitigation area corridor. An expanse of land secured for the express purpose of managing urban stormwater runoff exclusive of conventional structural stormwater management practices. These areas shall attempt to support and protect all natural resources from the detrimental effects of unmanaged urban stormwater runoff. This may be accomplished through preserving natural drainage patterns and filtering contaminants from stormwater runoff by encouraging infiltration and filtration. Open space may be used for the creation of these areas.

Stormwater utility. An administrative organization that has been established for the purposes of funding sediment control, stormwater management or flood control planning, design, construction, maintenance and overall resource needs by authorized and imposed charges.

Story, first. The ground floor story of a building, provided its floor level is not more than four (4) feet below the mean lot level adjacent to the foundation.

Story, half. A story under a sloping roof at the top of the building, the floor of which is not more than two (2) feet below the wall plate.

Street. A strip of land, comprising the entire area within the right-of-way, intended for use as a means of vehicular and pedestrian circulation to provide access to more than one (1) lot. However, the establishment of a common driveway for access purposes for no more than four (4) separate parcels contiguous to one another shall not be considered a street as this term is defined.

Street, arterial. Streets that generally carry high traffic volumes over longer distances. Arterial streets generally connect other arterials and/or collectors. Although arterial streets sometimes connect local streets, they rarely provide direct access to individual lots. Streets classified as arterial on the most recent version of the New Castle County Functional Classification Map (published by DelDOT) are considered arterial streets in this Chapter.

Street, collector. Streets that generally carry medium traffic volumes over shorter distances. Although collector streets connect all types of streets, they rarely provide direct access to individual lots. Streets classified as collector on the most recent version of the New Castle County Functional Classification Map (published by DelDOT) are considered collector streets in the UDC. Subdivision streets classified by DelDOT regulations as major collector or type III are considered collector streets in this Chapter.

Street, cul-de-sac. A short, independent, minor street having only one (1) point of ingress and egress, terminating in a circular turnaround or other approved termination.

Street frontage. The linear measurement of a parcel along a street line, private road or right-of-way to which the parcel abuts.

Street functional classification. The ranking of streets in a hierarchy, based on the type of service they provide. Streets comprise a network, with individual streets carrying traffic within the network. As links in a network, streets provide two types of service-mobility for through traffic and access to adjacent lands. Streets are ranked according to the proportion of each type of service they perform. Arterial streets, which emphasize mobility, are at the highest level of the street hierarchy. Collector streets, which provide both mobility and access, are in the middle of the hierarchy. Local streets, which emphasize access, are at the lowest level of the street hierarchy. The UDC recognizes the functional classification of individual streets on the most recent New Castle County Functional Classification Map (published by DelDOT).

Street, half (partial). A street, generally parallel and adjacent to a property line, having a lesser right-of-way width than normally required for improvement and use of the street.

Street line. A property line of a lot which coincides with a line indicating the limits of an existing or proposed right-of-way.

Street, local. Streets that generally carry low traffic volumes over short distances. Local streets generally provide access to adjacent lots and connect to other local and/or collector streets. Local streets rarely provide direct access to arterial streets. Streets classified as local on the most recent version of the New Castle County Functional Classification Map (published by DelDOT) are considered local streets in this Chapter. Streets classified as minor collector or minor streets in DelDOT Rules and Regulations for Subdivision Streets are considered local streets in this Chapter.

Street, local residential access. A street that provides access to individual residential lots and abutting properties.

Street, marginal access. A local street, parallel and adjacent to an arterial street, but separated from it by a long strip, which provides access to abutting properties and control of intersections with the major street.

Street, minor. See *Street, local*.

Street, private. Any street right-of-way not dedicated to public use.

Street, private estate. A local residential street having a limited length and serving a limited number of lots such that the streets will not be accepted for maintenance by DelDOT.

Street, public. Any street right-of-way dedicated to public use or maintained by the DelDOT Division of Highway Operations.

Street, residential collector. A street intended to gather traffic from local residential access streets and convey it to higher level streets. Note this street does not serve individual residential lots. Located in residential areas or developments, this street type collects and moves the traffic from local residential access streets whose total dwelling unit count exceeds two hundred forty (240).

Street right-of-way. See *Street* and *Right-of-way*.

Street, service. A minor right-of-way providing secondary vehicular access to the side or rear of two (2) or more properties.

Structural alterations. Any change in the supporting members of a building such as bearing walls, columns, beams or girders and floor joists, ceiling joists, roof rafters or stairways.

Structure. Any manmade object having an ascertainable stationary location on land or in water, whether or not affixed to the land.

Structure, permanent. A structure placed on or in the ground, or attached to another structure in a fixed position.

Structure, temporary. A structure that is designed to be repeatedly erected or inflated, tents and inflatable structures, or buildings that are picked up and moved.

Subdivision.

- A. The division or redivision of a lot, tract, or parcel of land, by any means, including by means of a plan or a description by metes and bounds, into two (2) or more lots, tracts, parcels or other divisions of land, for the purpose, whether immediate or future, of the transfer of ownership or of building development, exempting, however, the division of land for agricultural purposes into parcels of more than ten (10) acres not involving any new streets or easements of access, divisions of property by testamentary or intestate provision, or divisions of property upon court order;
- B. The division or allocation of land for the opening, widening or extension of any street or streets, or the division or allocation of land as open spaces for common use by owners, occupants or leaseholders, or as easements for the extension and maintenance of public sewer, water supply, storm drainage or other public facilities.
- C. The elimination of one (1) or more lot lines through the recordation of a deed that eliminates common property lines between lots that have not been previously depicted on an approved land development plan or between lots within an approved land development plan shall not be considered subdivision for purposes of this Chapter, provided the resulting lot(s) is in conformance with this Chapter. The deed shall indicate that the purpose of this deed is to comply with the definition of subdivision in Section 40.33.300, exempting subdivision review to eliminate one (1) or more interior division lines affecting the herein described property.

Subdivision, major. See *Major land development*.

Subdivision, minor. See *Minor land development*.

Subdivision regulations. Articles 1, 18, 20—27 and 30—33 of this Chapter.

Substantial construction.

- A. *Subdivisions:* Payment of surety, the clearing and grading of the site, installation of roads and utilities and placing of initial foundations.

- B. *Land developments*: Installation of parking, circulation, stormwater facilities and installation of foundations.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement. Any repair, alteration, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

Substantial rehabilitation. The reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure, or portion thereof.

Substantial repair. See *Substantial improvement*.

Sumps. A point of comparatively low elevation which cannot be drained by means of surface flow.

Superblock. An area bounded by arterial or collector streets or cut off by a body of water.

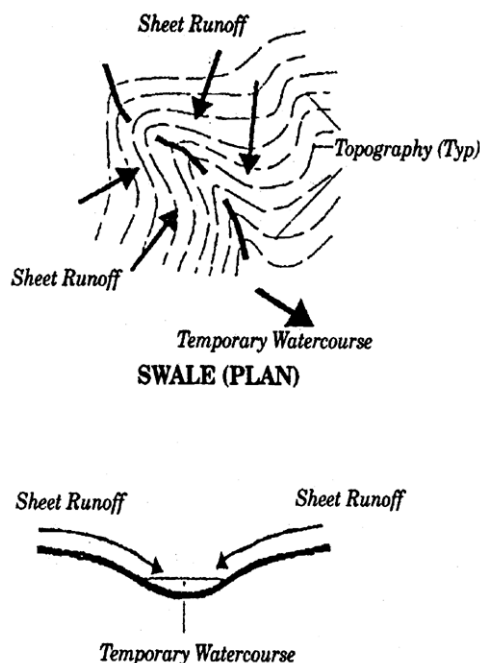
Surety. A form of financial guarantee that required improvements will be made by providing the County with the resources to install the improvements should the developer fail to do so. These include, bonds, cash, letters of credit, or other financial instruments approved by the County Attorney.

Surface water. Natural or artificial bodies of water greater than one (1) acre in extent at the normal annual water level, as depicted on the National Hydrographic Dataset (NHD) utilized by the United States Geological Survey and/or as determined by on-site surveys by a registered surveyor, landscape architect or engineer. Excluded from this definition are retention basins or other stormwater management facilities, farm ponds or other facilities associated with agricultural operations, sewage lagoons and other facilities for which normal maintenance and repair is necessary.

Surveyor. A land surveyor registered by and licensed to practice in the State of Delaware.

Swale. A linear depression in the land's surface in which sheet runoff would collect and form a temporary watercourse. See Figure 40.33.319.

Figure 40.33.319



Tidewater. Water inland from Delaware Bay which is affected by tidal influence.

Top of bank. A point above the mean water surface of a watercourse which defines the maximum depth of channel flow in the watercourse. It is either determined visually or computed as an elevation using the peak rate of runoff from a two (2) year storm event.

Topography. The characteristics of a parcel of land with respect to elevation.

Townhouse. A single-family dwelling in a row of three (3) or more other dwellings that share common vertical walls. See Figure 40.04.111.

Townhouse, weak-link. A townhouse having both a one (1) and two (2) story section. See Figure 40.04.111.

Travel demand management program. A program initiated by the employer that provides some combination of the following: business supplied car/van pooling, subsidy of transit passes, flex hours, staggered work hours, home work programs, subsidy of rents for living within walking commuting distance, company vehicles for daytime use or company run pickups from nearby transit stations.

Travel trailer. See *Recreational vehicle*.

Tree. A living perennial woody plant with single or multiple stems that branch into a well-formed crown of foliage and reaching a height of at least fifteen (15) feet under ideal growing conditions.

Tree, canopy. A tree whose foliage would occupy the upper level of a forest. These trees are also called shade trees, and typically reach heights of fifty (50) feet or greater at maturity under ideal growing conditions.

Tree cover. Applies to a stand of trees not meeting the minimum requirements of a forest and is the area of existing CRZ or an assumed CRZ after twenty (20) years of growth for newly planted trees. Tree Cover is an optional substitute for forest cover in order to meet minimum afforestation ratio standards.

Tree, small canopy/understory. A tree whose foliage would occupy the intermediate level of a forest.

Twin house (dwelling, semi-detached). A single-family dwelling that is attached by one (1) common vertical wall to one (1) other dwelling unit. See Figure 40.04.111.

Unbuildable. For purposes of Article 1, an approved record plan for a subdivision or land development shall be deemed unbuildable if, immediately prior to December 31, 1997, such plan did not comply with all applicable laws, including zoning and subdivision regulations, and no longer fell within any period of protection under former Code provisions, so that a valid building permit could not have been issued for construction of development or improvements.

Underground petroleum storage. Any underground storage vessel, including the underground pipes connected thereto, which is used to contain petroleum products including heating oil and diesel fuel, and the volume of which, including the volume of the underground pipes connected thereto, is buried ten (10) percent or more beneath the surface of the ground.

Underground storage tank system. Any one (1) or a combination of tanks including underground pipes connected thereto, which is used to contain an accumulation of regulated substances, and the volume of which, including the volume of underground pipes connected thereto, is ten (10) percent or more beneath the surface of the ground. See 7 Del. C. Ch. 74 (Underground Storage Tank Act).

Understory tree. See *Tree, understory*.

Unlawful acts. The violation of any note, regulation, order, permit condition or provision of the Chapter.

Utility. Publicly or investor owned or regulated entity which provides services to the general public utilities, e.g., water, sewer, communications, waste management, cable, gas and electric.

Variance. Relief from the standards of this Chapter.

Village house. A single-family dwelling which is detached from neighboring structures. A village house has very small front yards with special landscape requirements. Homes shall be built to the build-to line. A village house is permitted only in planned developments as provided in Articles 3 and 4. See Figure 40.04.111.

Vista points. Locations or vantage points along byways and roadways from which scenic vistas are viewed. Vista points are further depicted in Corridor Management Plans and other County studies related to designated byways as set forth in Appendix 8.

Visual accents. Elements or improvements that are compatible with the character and nature of a scenic area and add to the protection or enhancement of a scenic area's character-defining features or intrinsic qualities. Visual accents may be natural or man-made features which contribute to the landscape (e.g., rock outcroppings, historic structures, stone walls, farm complexes, historic stone bridges, streams or other water bodies).

Visual amenity. Any type of visible feature which the observer finds attractive or pleasing to the eye.

Visual intrusions. Elements or improvements that are not compatible with the character and nature of a scenic area and do not add to the protection or enhancement of a scenic area's character-defining features or intrinsic qualities. Visual intrusions may be identified in applicable studies or may be comprised of new improvements and structures that affect the byway (e.g., transmission lines, new structures proposed in a scenic viewshed, opaque fences).

Water body. Any watercourse, tidal wetland or lake defined by a bank or shore in which water can be found.

Watercourse. A stream channel (perennial, intermittent, mapped or unmapped) with banks and a bed within which concentrated water flows.

Water distribution system.

- A. *Community:* A system for supplying and distributing water from a common source to two (2) or more dwellings or other buildings within a single neighborhood.
- B. *On-site:* A system for supplying and distributing water to a single dwelling or other building from a source located on the same lot.
- C. *Public:* A system for supplying and distributing water from a common source to dwellings and other buildings, but generally not confined to one neighborhood.

Water quality. Those characteristics of stormwater runoff, usually from a land disturbing activity that relate to the chemical, physical, biological or radiological integrity of water.

Water resource protection area. Water resource protection areas (WRPA) are the Cockeysville Formation, Cockeysville Formation Drainage Area. Wellheads and recharge areas. All such areas are as depicted on the three-map series "Water Resource Protections Areas for the City of Newark, City of Wilmington, New Castle County, Delaware," prepared by the Water Resources Agency for the County that is dated 1993, or as amended. Any Class A Wellhead WRPA not depicted on the WRPA maps shall also be considered a Wellhead Water Resource Protection Area.

Watershed. The total or partial drainage area contributing stormwater runoff to a single point.

Water table. The level below the surface at which the ground is saturated by water.

Wellhead. The wellhead water resource protection areas are surface and subsurface areas surrounding public water supply wells or wellfields where the quantity or quality of groundwater moving toward such wells or wellfields may be adversely affected by land use activity. Such activity may result in a reduction of recharge or may lead to introduction of contaminants to groundwater used for public supply ("wellhead"). Three (3) classes of wellhead water resource protection areas exist in accordance with the following:

- A. *Class A.* The area within a three hundred (300) foot radius circle around all public water supply wells which are classified as public water systems, as defined in the State of Delaware Regulations Governing Public Drinking Water Systems.
- B. *Class B.* The Glendale and eastern states wellfields. These wellhead water resource protection areas have been delineated through the use of hydrogeologic mapping, analytical methods, and application of United States Environmental Protection Agency modular semi-analytical models using a five (5) year time-of-travel by the Delaware Geological Survey entitled "Application of the EPA WHPA Models for Delineation of Wellhead Protection Areas in the Glendale and Eastern States Wellfields," dated January 1993.
- C. *Class C.* Wellhead water resource protection areas delineated by the Delaware Geological Survey and DNREC through the interpretation of geologic and hydrologic reports and maps, water table maps and professional judgment. Such areas are considered preliminary designations.

Wetland. Those areas inundated or saturated by surface or groundwater 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 areas that are defined and delineated in accordance with the U.S. Army Corps of Engineers guidelines as may be amended from time to time, the U.S. Environmental Protection Agency, or the DNREC.

Wetland delineation and report. An on-site method or process for identifying wetlands as described by the U.S. Army Corps of Engineers guidelines as may be amended from time to time. The wetland delineation 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. When such a delineation and report is required as part of a land use application, such report and delineation may be required to be updated and revised if the original report was prepared more than three (3) years prior to the date of submission of the land use application.

Whips. Young trees having one (1) season's growth from the time of budding or grafting and usually forming a simple unbranched shoot.

Wildlife habitat. A community of plants that provide food, water, cover, nesting, and foraging or feeding conditions necessary to maintain populations of animals.

Woodland. See *Forest*.

Woodland management plan. A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such a plan shall be prepared by a person with demonstrable expertise in forest management and shall document the measures intended to be taken to:

- A. Protect water quality;

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- B. Minimize impacts from skid trails and logging roads, landing areas and the tree removal process; and
- C. Ensure site restoration.

Yard. An unoccupied space open to the sky on the same lot with a building or structure.

Yard, front. A yard extending the full width of the lot between the front lot line and the parts of the principal building erected thereon.

Yard, rear. A yard extending the full width of the lot between the rear lot line and the parts of the principal building erected thereon. For a corner lot, the rear yard shall not extend beyond the building setback line on the side street.

Yard, side. A yard between the parts of the principal building and the adjacent side lot line and extending from the front yard to the rear yard.

Yard, street. A yard extending the full width of the lot between the street lot line and the parts of the principal building erected thereon setting back from and nearest such street line.

Zero (0) lot line. See *Lot-line house*.

Zoning district. A designation shown on the zoning map as being in a district enumerated in Article 2 in which a specific set of zoning standards apply. The term may refer to the standards or an area so mapped. The term is also analogous with zoning classification or designation.

Zoning map. The map(s) showing the location and boundaries of the zoning districts established by this Chapter. These maps are entitled, "Official Zoning Map of New Castle County."

Zoning permit. A written permit issued by the Department that certifies that the proposed use of the land will be in compliance with this Chapter.

Zoning regulations. Articles 1—17, and 30—33 of this Chapter.

(Ord. No. 97-172, § 3(ch. 13, div. 33.300), 12-31-1997; Ord. No. 98-062, § 1(ch. 13, div. 33.300), 9-22-1998; Ord. No. 98-080, § 1(ch. 13, div. 33.300), 9-22-1998; Ord. No. 99-075, § 1, 12-14-1999; Ord. No. 99-084, § 4, 4-11-2000; Ord. No. 01-050, § 2, 7-24-2001; Ord. No. 01-085, § 3, 11-13-2001; Ord. No. 01-112, § 1(Exh. A), 3-12-2002; Ord. No. 02-075, § 1(Exh. A), 10-22-2002; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-059, § 1(Exh. A), 7-13-2004; Ord. No. 04-058, § 2, 10-5-2004; Ord. No. 06-007, § 7, 3-28-2006; Ord. No. 06-060, § 1(Exh. A), 9-26-2006; Ord. No. 07-124, § 7, 12-11-2007; Ord. No. 07-150, § 1, 2-26-2008; Ord. No. 08-121, § 2, 2-24-2009; Ord. No. 09-066, § 21, 10-13-2009; Ord. No. 09-068, § 1(Exh. A), 11-10-2009; Ord. No. 10-113, § 1(Exh. A), 1-18-2011; Ord. No. 14-108, § 2, 2-3-2015; Ord. No. 14-126, § 13, 1-13-2015; Ord. No. 15-053, § 5, 7-28-2015; Ord. No. 16-066, § 5, 1-10-2017; Ord. No. 17-044, § 12, 10-10-2017; Ord. No. 18-031, § 79, 4-24-2018; Ord. No. 18-020, § 37, 7-10-2018; Ord. No. 18-021, § 55, 7-10-2018; Ord. No. 19-005, § 6, 5-28-2019; Ord. No. 20-071, § 13, 10-27-2020; Ord. No. 21-009, § 12, 12-14-2021; Ord. No. 22-072, § 13, 10-11-2022; Ord. No. 23-104, § 9, 1-9-2024; Ord. No. 23-122, § 4, 5-14-2024; Ord. No. 24-057, 9-24-2024; Ord. No. 24-087, 9-24-2024, Ord. No. 24-138, 12-10-2024)

APPENDIX 1. APPLICATION AND PLAN REQUIREMENTS

1. Land development application submission requirements.

A. *Pre-application sketch plan (planning and engineering).*

1. SLD - 1 form;
2. Site analysis plan pursuant to Appendix 1(3)(K);
3. One or more concept plans with defined conservation, open space and development areas;
4. All adjacent recorded subdivision and development plans;
5. Estimated sanitary sewer flows, sewer location and all possible tie-ins;
6. All existing adjacent transportation, pedestrian and open space inter-connections;
7. The required review fee; and
8. All current County taxes, school taxes and sewer service fees must be paid or not delinquent at the time of application.
9. Any and all known restrictions or legal impediments which would interfere with or prevent the implementation of the proposed development.
10. For land development applications that contemplate connection to County sewer, a letter from the Department of Public Works indicating that sewer is or will be available for the proposed development.
11. All other information and items required by Section 40.31.112 of the County Code.

B. *Exploratory plan.*

1. Planning.
 - a. A completed application form.
 - b. The applicable filing fee in accordance with Appendix 2.
 - c. Four (4) folded paper prints at submission. Twenty (20) folded paper prints three (3) weeks prior to: 1) County Council rezoning ordinance introduction; 2) Planning Board public hearing; 3) County Council rezoning hearing.
 - d. One (1) copy of any deed restriction to which New Castle County is a party.
 - e. A wetlands report.
 - f. One (1) print of the most recently recorded subdivision or land development plan for the subject property.
 - g. Site capacity and concurrency calculations.
 - h. A septic system soils feasibility report approved by DNREC. The suitable soils area must be delineated on the plan for verification that the proposed location of the disposal field does not encroach upon any limiting feature (i.e. riparian buffer, wetland, floodplain, lot line, etc.).
 - i. Sewer feasibility plan for plans that contemplate connection to the County sewer.
 - j. All current County taxes, school taxes and sewer service fees must be paid or not delinquent at the time of application.
 - k. Photographic proof of posting and signed affidavit in accordance with Section 40.31.320 of the County Code.
 - l. All other information and items required by Section 40.31.113 of the County Code.

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- m. Digital CAD file for the plan in a format acceptable to the Department.
 - n. If not previously completed as part of a Pre-Application Sketch Plan, a Site Analysis plan pursuant to Appendix 1(3)(K).
 - o. A Conceptual Landscape Plan that generally delineates all planting areas and planting requirements in accordance with this Chapter.
 - p. Conceptual architectural renderings of proposed site development shall be required for all rezonings and major land development plans.
2. Engineering.
- a. One (1) copy of the exploratory plan.
 - b. The applicable engineering filing fee in accordance with Appendix 2.
 - c. One (1) copy of the engineering exploratory requirements in accordance with the Engineering Submission Requirements in Appendix 1(2)(B).
 - d. One (1) copy of the Department's approved Engineering Checklist—Exploratory Sketch Plan, signed and sealed by the responsible design professional in charge.
3. For land development applications that contemplate connection to County sewer, a letter from the Department of Public Works indicating that sewer capacity is or will be available for the proposed development.
4. The Land Development Improvement Agreement (LDIA) Information Sheet (may be submitted any time prior to recordation). The sanitary sewer agreement will not be executed until the sewer design plan is approved and the required sanitary sewer easements have been recorded.
5. For sewer only plans, the sanitary sewer agreement will not be executed until the sewer design plan is approved and required sanitary sewer easements have been recorded.
- C. *Site construction plans.*
1. *Planning.*
- a. Record check prints, to include proposed topography, dwelling units and any other proposed improvements (four (4) copies).
 - b. Final Landscape/Open Space and Site Management Plan. (2 copies).
 - c. One (1) copy of all special studies for which a decision or recommendation is required by the Board of Adjustment, Planning Board, Historic Review Board, or Resource Protection Advisory Committee; or which is subject to any other special studies (i.e. floodplain, environmental impact assessment, Cockeysville, etc.).
 - d. For land development applications that contemplate connection to County sewer, a letter from the Department of Public Works indicating that sewer is or will be available for the proposed development.
 - e. The applicable filing fee in accordance with Appendix 2.
2. *Engineering.*
- a. One (1) copy a complete site construction plan submission in accordance with the engineering submission requirements of Chapter 12 of the County Code, including:
 - i. Stormwater management plan.
 - ii. Erosion and sediment control plan.
 - iii. General grading plan/lines and grades plan.
-

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- iv. Pre-bulk plan.
 - v. Post bulk grading plan.
 - vi. A sequence of construction.
 - b. The applicable engineering filing fee in accordance with Appendix 2.
 - c. One (1) copy of the stormwater and drainage analysis in accordance with Chapter 12 of the New Castle County Code.
 - d. One (1) copy of all Department's approved engineering construction checklists, signed and sealed by the responsible design professional in charge.
 - e. One (1) Notice of Intent to Discharge Stormwater During Construction Activity (NOI) form, approved by DNREC.
- D. *Record plans (planning).*
- 1. A completed application form.
 - 2. The applicable filing fee and the applicable Recorder of Deed fee in accordance with Appendix 2.
 - 3. One (1) film reproducible and four (4) folded paper prints. At the applicant's option, submission of the film reproducible may be delayed until final record plan review comments have been received.
 - 4. Letter of approval from DelDOT regarding transportation matters.
 - 5. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 6. Reserved.
 - 7. Letter of approval from the State Fire Marshal.
 - 8. Water capacity certification—Form 40.05.310.
 - 9. Where applicable, any required maintenance agreement, cross access easement agreement, or deed restrictions, as properly submitted to and approved by the County Attorney.
 - 10. For sites containing tidal wetlands or requiring a sub-aqueous permit, an approval letter from the Delaware Department of Natural Resources and Environmental Control.
 - 11. For sites on which the disturbance of wetlands is proposed, copies of all required individual U.S. Army Corps of Engineers' permits, and/or written verification from the U.S. Army Corps of Engineers for the utilization of any Nationwide Permit(s).
 - 12. An affidavit from the developer that the land development plan under consideration is in compliance with Article 27 and other applicable UDC provisions pertaining to maintenance organizations, open space and common facilities.
 - 13. Approval of sewer design plans and required sanitary sewer easements by the Department of Public Works.
 - 14. Digital CAD file for the plan in a format acceptable to the Department.
 - 15. For Resubdivision Plans that revise lot lines, an original deed reflecting the proposed configuration of the subject parcels. The deed will be transmitted to the Recorder of Deeds with the record plan.
 - 16. All other information and items required by Section 40.31.114 of the Unified Development Code.

2. Land development plan requirements. The purpose of this Section is to specify the format, data, notes, graphics and information required for subdivision and land development plans submitted in accordance with the Unified Development Code. The level of detail depicted and noted on plans shall be that which is necessary to convey compliance with design details and purpose of the proposed land use action.

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Any of the notes and information listed below may be modified as necessary to apply to specific projects. Any notes which are not applicable to the particular plan need not appear on the plan. Additional notes may be required by any regulatory reviewing agency or as proposed by an applicant and approved by the Department of Land Use. Notes, data and/or graphic details should be added to plans whenever necessary to explain or clarify features of the project which are not otherwise self-explanatory.

A. *Plan requirements.*

Land Development

EX - Exploratory plan

RE - Record plan

Other

S - Site plan

P - Parking plan

"X" - Required

EX	RE	S	P	Specifications and/or Notes
X	X	X	X	1. Sheet size: shall be twenty-four (24) inches by thirty-six (36) inches.
X	X	X	X	2. A title block with the following information shall be in the lower right corner:
				a. Name of the subdivision or development
				b. Plan type and/or level of submission, e.g., Exploratory, Major Land Development Plan
				c. Name and address of Engineering or Surveying firm or individual responsible for the preparation of the plan.
				d. Application number (assigned by Department upon receipt of initial submission).
				e. Hundred, New Castle County, Delaware.
				f. Written and graphic scale.
				g. Date the original plan was prepared and all subsequent revision dates.
				h. Sheet/page number in a series
X	X	X	X	3. Location map in the top right corner of the first sheet of the plan with the following features:
				a. Scale: 1" = 800'.
				b. Site perimeter outlined and labeled.
				c. Adjacent street names and route numbers.
				d. Scale, New Castle County base map number, north arrow.
				4. A Certification of Accuracy, Certification of Ownership and Certification of Plan Approval along the bottom edge of the first page.
X	X	X	X	a. Certification of Plan Accuracy
				I _____ hereby certify that I am a registered professional engineer with a background in civil engineering in the State of Delaware and that all of the information on this plan is true and correct to the accuracy required by accepted surveying standards and practices and by the New Castle County Unified Development Code.

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				Registered Professional land surveyor or registered landscape architect in the State of Delaware may be substituted for or included with a professional engineer when applicable in accordance with State Code.
X	X	X	X	b. Certification of Ownership I _____ hereby certify that I am the owner of the property which is subject of this plan and that the land use action proposed by this plan is made at my direction and that I authorize this plan to be recorded in accordance with the regulations of the New Castle County Unified Development Code.
X	X	-	-	c. Certification of Plan Approval Approved <u> Date </u> by <u> General Manager </u> for Department of Land Use of New Castle County. Approved <u> Date </u> by <u> General Manager </u> for County Council of New Castle County. For major plans, General Manager should be changed to Council President under the second signature block.
X	X	X	X	5. A data column with enumerated items on the first sheet of the plan.
X	X	X	X	6. For multiple sheet plans, the first sheet shall show the entire property, lots, streets and building layout.
X	X	X	X	7. A purpose note shall be conspicuous on the first sheet.
X	X	X	X	8. Tax parcel numbers for all subject properties.
X	X	X	X	9. Zoning district designation, including any development options being used.
X	X	-	-	10. Source of title.
X	X	-	-	11. Survey datum and local benchmark, including number of existing monuments and number of proposed monuments.
X	X	X	X	12. Total site gross and net acreage.
X	X	-	-	13. The name of the water supplier and the note: "Water supply is subject to the approval of the Delaware State Department of Natural Resources and Environmental Control and the Delaware Department of Public Health."
X	X	-	-	14. Sanitary disposal method or source to include proposed sewer connection points and flows with the following note: "Sewerage is subject to the approval of the New Castle County Department of Public Works. At the time of approval of this plan, sewer capacity existed to accommodate the anticipated flows generated by this additional development. New Castle County has committed to provide sewer service in accordance with the Land Development Improvement Agreement for this development. The owner of this property, his successors or assigns, shall be responsible for extending sewer service to each lot shown on or created by this plan."
X	X	-	-	15. Septic Feasibility: If applicable, the following note: "Septic system feasibility has been satisfactorily established for each lot in this subdivision. The feasibility indicates only that, at the time of testing, there was at least one area on each lot that could meet the standards for an on-site sewage disposal system. Feasibility is not a design approval and does not imply a guarantee that such approval can be obtained. Such factors as building size and use, placement on the lot, and location of water wells (if applicable) will influence the final design. No building permits will be issued without review and approval of a detailed design for each lot."
X	X	X	X	16. North arrow.

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X	X	X	X	17. Name and address of real property owners of the subject parcels.
X	X	-	-	18. Number of existing and proposed lots and/or dwelling units.
X	X	X	X	19. Existing and proposed building gross floor area (nonresidential only), broken down by specific use. Label each building as proposed, existing, under construction, approved by previous plan.
X	X	X	X	20. Calculation of required parking and number of existing and proposed spaces. Show existing and proposed parking spaces with typical dimensions (existing spaces being eliminated need not be shown). Handicapped parking spaces in compliance with the American Disabilities Act.
X	X	X	X	21. Legend.
X	X	X	X	22. Tabular breakdown of total tract area by building coverage, streets, lots, open space, stormwater management areas, paving/impervious coverage, etc.
X	X	X	X	23. Adjacent property information for all abutting lots including owners name, tax parcel number, zoning district, and microfilm numbers or instrument numbers for all abutting recorded subdivisions or land developments.
X	X	X	X	24. Floodplain boundaries. Floodplain: A note referencing the applicable map panel of the FEMA current Flood Insurance Rate Maps with a statement as to whether or not the site is within a 100-year floodplain. If development within the floodplain or floodway is proposed, the date of County approval should be cited.
X	X	X	X	25. Water Resource Protection Area limits. WRPA areas: A note referencing the current date of the Water Resource Protection Area maps and whether or not the site is within a WRPA; if so, indicate the type of WRPA.
X	X	X	X	26. Wetlands boundaries and an indication of the limits of wetlands disturbance. Wetland lines must be described by metes and bounds either on the record plan or in a wetlands report. Wetlands: A note stating whether or not a wetlands investigation was conducted and, if so, cite the wetlands consultant, the date of the wetlands report and whether or not wetlands were found to exist. The title and date of the applicable Federal Manual for Identifying and Delineating Jurisdictional Wetlands should be cited. Acreage of any wetlands disturbance and the Corps of Engineers permit which authorizes such disturbance.
X	X	X	X	27. Critical Natural Area boundaries as approved by DNREC. Critical Natural Areas: A note referencing the State Inventory of Natural Areas and whether or not the site includes a CNA.
X	X	X	X	28. Deed restrictions: A note referencing the recording information of any applicable restrictions. Also, the nature of the restrictions should briefly be summarized in a note on the plan
X	X	-	-	29. Supersedes note: "This plan supersedes, in part, the plan of _____ dated _____ and recorded on _____ in the Recorder of Deeds in and for New Castle County, State of Delaware, Instrument No. _____."
-	X	-	-	30. Traffic impact study: Explanation of phasing or mitigation measures required as a result of a traffic impact study or deed restrictions.
X	X	X	X	31. Debris disposal: Note stating that no debris shall be buried on the site or, if a clean fill disposal area is approved, a note pertaining to its location and approval.

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-	X	-	-	32. Impact Fees: Add the following note to the plan: "This plan is subject to the impact fee provisions of Chapter 40, Article 14 of the New Castle County Code, as may be amended by New Castle County Council."
-	X	X	X	33. Landscape plan: When a landscape plan is required: "A landscape plan, prepared by _____ last dated _____ or as amended and approved in writing by the Department of Land Use, is hereby considered a part of the record plan."
-	X	-	-	34. Sidewalks: The following sidewalks note: "Unless otherwise specified on the plan, sidewalks shall be installed in the locations shown on this plan prior to the issuance of a Certificate of Occupancy for the dwelling (or group of dwellings for attached dwellings) in front of which they are shown. Sidewalks shall be five (5) feet in width and constructed of Portland Cement Concrete."
-	X	-	-	35. Maintenance of Common Facilities: When there are common facilities under the responsibility of a maintenance organization, the following note shall be added to the plan. "For maintenance of the common facilities including (list applicable common facilities such as private open space, private streets, etc.) Shown on the plan, see the maintenance declaration dated _____, and of record in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware, Instrument No. _____."
-	X	-	-	36. Utility easements add the following note: A 6' foot wide easement on each side of each side and rear lot line shown on the Plan, and on each side of each side and rear lot line subsequently established within the area shown on this Plan is hereby dedicated to be available for any utility use, provided that where any lot line is eliminated the easement along said lot line shall be extinguished except as to utilities then existing in said easement.
-	-	-	-	37. Reserved.
X	X	-	-	38. Total length of public and private rights-of-way with a linear footage breakdown by width or type of street; e.g. 60' collector street right-of-way, 50' minor street right-of-way.
-	X	-	-	39. The following notes should be placed on plans which create public streets: SUBDIVISION STREETS a. All entrances shall conform to the State of Delaware Division of Highways Standards and shall be subject to their approval. b. All rights-of-way are intended for dedication to public use. c. Subdivision streets constructed within the limits of the right-of-way dedicated to public use shown on this Plan are to be maintained by the State of Delaware following completion of the streets to the satisfaction of the State. The State assumes no maintenance responsibilities within the dedicated street right-of-way until the streets have been accepted by the State. d. For all projects with planned street interconnections, a note stating "Future Interconnection to Adjoining Property".
X	X	-	-	40. All streets abutting the site with the following: a. Existing and proposed right-of-way lines labeled with metes and bounds. b. The phrase "Dedicated to Public Use" or "Private, Not For Dedication". c. The width of existing and proposed right-of-way from centerline. d. Street names.

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				e. Existing and proposed monument locations with symbol and number in legend.
X	X	X	X	41. The graphic depiction of the plan drawn at a scale not smaller than 1"= 50' (unless the Department of Land Use authorizes a smaller scale for a unique circumstance) including the layout and arrangement of streets, lots, open spaces, stormwater management facilities, etc.; for multi-family and nonresidential developments, buildings, parking layout, open areas and stormwater management facilities.
X	X	X	X	42. Existing and proposed building and structure locations and uses.
X	X	-	-	43. Outline of stormwater management facilities with acreage indicated.
X	X	X	X	44. Precautionary and prohibitive steep slope areas and limits of disturbance.
X	X	X	X	45. Waterbodies and watercourses.
X	X	X	X	46. Existing and proposed easements and rights-of-way of all types with deed recording information.
X	X	-	X	47. All existing and proposed truck loading bays with dimensions.
-	X	-	-	48. Existing and proposed fire hydrants.
X	X	X	X	49. Riparian buffers and bufferyards with dimensions.
X	X	-	X	50. Dumpsters, shopping cart corrals and other similar stationary accessory features.
	-	-	-	51. Reserved.
X	X	-	-	52. Existing and proposed tree mass limits.
X	X	X	X	53. The locations of all existing structures and historic resources appropriately labeled to identify them and indicating if the structures are to be preserved or demolished.
X	X	-	-	54. Lot numbers for all lots.
-	X	-	-	55. Street names and postal addresses in accordance with the US Postal policy and as approved by the County Department of Police (Communications) for all lots.
X	X	X	X	56. Existing and proposed curbs and pavement types for parking lots.
X	X	-	-	57. All dimensional requirements including minimum lot area, front, street, rear, and side yard setback lines, and all required bufferyards for all lots.
X	X	-	-	58. Existing and proposed zoning district lines.
X	X	X	X	59. A line establishing the overall limits of land disturbance activity on the subject parcel or tract of land and all other specific limits of disturbance of resources throughout the site. This line should be labeled Limit of Disturbance (LOD) with the symbol explained in the legend on the plan.
X	X	-	-	60. Phasing lines with notes explaining phasing requirements, if applicable.
X	X	-	-	61.a. Perimeter tract boundaries described with bearings and distances in accordance with professional Delaware State surveying standards.
-	X	-	-	61.b. Interior lot lines described with bearings and distances in accordance with professional Delaware State surveying standards.
X	X	-	-	62. Sidewalk locations, pedestrian ways, bikeways, walkways, etc. with construction materials and dimensions indicated.
-	X	-	-	63. Sediment disposal areas for placement of stormwater management area dredge materials.
X	X	-	-	64. When multiple sheets depict the details of a large site, a key map indicating which sheets shows the details of which portion of the site.

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X	X	X	X	65. Any significant natural or manmade features on the site.
X	X	-	-	66. Any existing or proposed active recreation facilities
X	X	-	-	67. Any soil stockpile areas.
X	X	-	-	68. Any clean fill area if approved by the Department.
X	X	X	X	69. Directional arrows indicating one-way vehicular traffic circulation patterns
-	X	-	-	70. Coastal zone: If applicable, the following note, "This site lies entirely or partially within Delaware's Coastal Zone. Any manufacturing or heavy industrial use is regulated by the Coastal Zone Act and shall require a decision by the Secretary of the Department of Natural Resources and Environmental Control prior to commencing operation."
-	X	-	-	71. Airport: If applicable, the following note, "The U. S. Department of Transportation, Federal Aviation Administration, shall have the right and authority to implement such restrictions and safeguards on the premises as may be reasonable necessary to protect the safety and welfare of the public."
-	X	-	-	72. Conservation Easement: Show the limits of the required conservation easement for any protected resource and add the following note to the plan: "Any area designated for protection as a natural resource pursuant to Article 10 of the New Castle County Unified Development Code is hereby protected by a conservation easement that shall run in perpetuity for the benefit of New Castle County. Any area on this plan delineated as a conservation easement shall remain in its natural state."
X	X	-	-	73. Tie-in distance: Distance from the subject property to the nearest street intersection.
-	X	-	-	74. Nonconformities: If applicable, the following note, "The location of the existing (building, structure, use) identified on this plan does not comply with dimensional regulations in effect at the time of approval. (Building, structure, use) may or may not have nonconforming status under the provisions of Chapter 40 of the New Castle County Code. Recordation of this plan does not constitute verification of nonconforming status."
X	-	-	-	75. Site evaluation locations.
X	-	-	-	76. Existing topography with two (2) foot contours (unless otherwise permitted by the Department).
-	-	-	-	77. Reserved.
X	-	-	-	78. Utilities: Location and details including existing and proposed stormwater management and sanitary sewer, to include proposed sewer connection points and flows.
-	X	-	-	79. Community Postal Boxes note: "Postal boxes shall be installed in accordance with the rules and regulations of the United States Postal Service."
-	X	-	-	80. Land Development Improvement Agreement: if applicable, the following note. "All improvements required by this Plan and the New Castle County Code shall be subject to the Land Development Improvement Agreement (LDIA), and the performance guarantee incorporated therein. The LDIA is recorded in the Office of the Recorder of Deeds in and for New Castle County on _____, at Instrument No. _____."
-	X	-	-	81. A note stating: "New Castle County has the right of access to the site for the purposes of operating, maintaining and repairing the sanitary sewer lines contained within the sewer easements shown on this plan."

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-	X	-	-	82. Unless otherwise described by metes and bounds, or by mathematical reference to a property line, a 40' wide permanent easement, 20' on each side of the centerline of the pipe, shall be created where a sanitary sewer or storm sewer is designated for public use in unpaved areas and is outside of a dedicated public ROW. A 20' wide permanent easement, 10' on each side of the centerline of the pipe, shall be created where a sanitary sewer or storm sewer pipe is designated for public use in privately maintained paved areas, such as parking lots, private streets or driveways. If the constructed horizontal sewer main location deviates by more than 2.5' from the design location, the project may be subject to a resubdivision plan or pipe location as determined by the Department of Public Works.
-	X	-	-	83. A (type of traffic study), dated (month and year of study), was done for this plan by (organization doing the study). DelDOT reviewed the (type of study), providing comments and recommendations in a letter dated (date of letter).
-	X	X	X	84. New Castle County Drainage Code: "Drainage, erosion and sediment control, and stormwater management shall be provided in accordance with the New Castle County Drainage Code."

B. *Engineering requirements.*

1. Depiction of all natural resources, as listed in Table 40.10.010 of the UDC accompanied by the applicable UDC Table 10.210 use designation for each use proposed within the resource (i.e. Y, N, L, S, or I).
2. Approximate location, size and description of any proposed stormwater management facilities with outfall location(s). Identification of all points of analysis. Provide an assessment of any downstream properties that may be impacted by the post-developed stormwater discharge, existing downstream constraints (to the nearest watercourse) that may limit the peak rate discharge from the proposed development and the erosion potential of the receiving watercourse
3. Provide an exploratory stormwater and drainage narrative that addresses the following information:
 - a. The potential for implementation of conservation design practices and Green Technology Best Management Practices for managing the quality, quantity and volume of post-developed stormwater runoff including field testing that will be required to demonstrate feasibility;
 - b. Identify and submit one (1) copy of a designated watershed study and/or watercourse impairment standards from the EPA 303d list and/or the Pollution Control Strategy for the TMDL program from DNREC that governs the watershed in which the application is located;
 - c. Provide a narrative in which all of the predominant soil types over the extent of the project site are identified from the NCC Soil Survey or other source. The identification of the soil types shall include such information as the estimated depth to the seasonal high water table and the anticipated soil infiltration rate for each soil type. These parameters may be estimated based upon available documentation and site inspection;
 - d. The following questions shall be addressed within the engineering exploratory narrative:
 - i. Delineation and identification of the watershed in which the application parcel(s) are located as defined by the confluence of a watercourse to which the project parcel(s) contributes runoff to the nearest blue-line stream on the USGS Quadrangle Map.
 - ii. The location of the project parcel(s) within the watershed.

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- iii. Identification of all watercourse(s) adjacent to and/or downstream of the application to establish the analysis point for downstream impacts according to the NCC Drainage Code (Del. Sediment and Stormwater Regulations 10.3.8).
- iv. Identification of any available hydrologic and hydraulic studies that encompass the subject watershed along with statement applicability to the subject application.
- e. Statement of whether floodplain study/floodplain delineation is required for the application;
- f. Statement of whether a request for a waiver or variance from the Delaware Sediment and Stormwater Regulations is contemplated;
- g. Identification of offsite drainage easements that may be required to convey run-off from the site to a point of outfall with adequate capacity for the post-developed stormwater runoff.
- h. Article 22 mandates that drainage conveyance and stormwater practices be considered as a fundamental site design parameter. A response to the following questions is required at the exploratory stage:
 - i. Is field verified topography required to delineate the extent of any Article 10 resource (e.g. floodplain, steep slopes, etc.) prior to exploratory plan approval?
 - ii. How will the hydrology on the project parcel(s) be affected by the developed land use condition when compared to existing conditions? Describe the impact and mitigation strategy incorporating the following objectives, as a minimum.
 - What measures, in terms of project (open space and landscape surface area) configuration, stormwater practice selection and stormwater practice location will be implemented to maximize infiltration of stormwater runoff on the project parcels(s)?
 - How does the project configuration (layout of impervious and pervious areas) permit opportunity to incorporate green space for the purpose of hydraulically disconnecting impervious land cover areas?
 - iii. What measures, in terms of project (open space and landscape surface area) configuration, stormwater practice selection and stormwater practice location will be implemented to maximize filtration of stormwater runoff, according to the requirements of the Delaware Sediment and Stormwater Regulations, prior to discharging off of the project parcel(s)?
 - iv. Where and to what degree are points of interest and project discharge points vulnerable to an increase in stormwater velocity and what steps may be implemented to address the potential increase in velocity?
 - v. How does the project impact the watershed in which it is located? Describe the potential impact in terms of:
 - Identification of the watershed in which the project parcel(s) are located based upon the nearest USGS "blue-line" stream. Locate a suitable watershed point(s) of analysis on the blue line stream and identify hydraulic analysis points (location of limited conveyance between the project discharge points and the watershed point(s) of analysis).
 - Identify development conditions imposed by existing Designated Watershed Studies and/or watercourse impairment standards from the EPA 303d list and/or the TMDL program from DNREC upon the stormwater management strategy for the application.
 - vi. What unusual or nonstandard maintenance implications are associated with the measures proposed to accomplish objectives one through four? Identify the entity which will assume maintenance responsibility (private ownership, maintenance corporation or third party agreement) for stormwater features on the subject application and describe the nature of maintenance associated with stormwater features on the project.

4. One (1) copy of the appropriate USGS Quadrangle Map along with a narrative describing the means by which each objective is intended to be addressed:
 - a. Delineation and identification of the watershed in which the application parcel(s) are located as defined by the confluence of a watercourse to which the project parcel(s) contributes runoff to the nearest blue-line stream on the USGS Quadrangle Map.
 - b. The location of the project parcel(s) within the watershed.
 - c. Identification of all watercourse(s) adjacent to and/or downstream of the application to establish the analysis point for downstream impacts according to the NCC Drainage Code (Del. Sediment and Stormwater Regulations 10.3.8)
 - d. Identification of any available hydrologic and hydraulic studies that encompass the subject watershed along with statement applicability to the subject application.
5. Provide one (1) copy of the exploratory drainage plan (plan size shall be twenty-four (24) inches by thirty-six (36) inches) along with a narrative describing the means by which the applicant intends to address the applicable objectives:
 - a. Identification of all UDC Article 10 Natural Resources that are on the project site. The identification of the natural resources including such information as a description of the physical condition of all of the natural resources currently existing.
 - b. Topography on an appropriate datum. Field verified topography shall be required to be included at the time of the exploratory plan submission under the following condition:
 - i. When required to delineate the extent of any Article 10 resources (e.g. floodplain, steep slopes, etc.) prior to exploratory plan approval.
 - ii. If the previous condition in item 5.b.1 is not met, available information on the parcel's existing topography shall be required at the time of the exploratory plan submission from the following sources in the following order Topographic information (date and source of information) as may be needed to adequately delineate existing general site and environmental conditions of the subject parcel(s):
 - (a) Existing topography established under a previous application,
 - (b) Any other existing topography,
 - (c) USGS Quadrangle Map.
 - c. Soil association (type and hydrologic class delineation).
 - d. Natural drainage patterns (predevelopment conditions), boundaries and site discharge points based on characteristics such as soils, topography, vegetation and other local watershed issues:
 - i. Identify the current means of conveyance (characteristics of flow) to each discharge point.
 - ii. Description of the physical condition of the conveyance system on and down grade of the application parcel(s) as well as the site discharge point(s).
 - iii. Identification of the existing NRCS land cover and condition for the project site.
 - iv. Determination of the extent of area contributing offsite runoff to the subject parcel(s) and compute peak flow rate. Also list the appropriate sizing criteria for all proposed conveyance systems.
 - v. Identification of points of interest within the site, with respect to the location of all natural resources (as defined by Section 40.10.010 of this Chapter.
 - vi. Identification and delineation of areas suitable for conservation for stormwater management by passive infiltration and filtration.

6. Computation of the existing runoff peak rates and runoff volume contribution for the design storm events to each site discharge point including onsite and offsite contributing drainage areas. (This information shall be based upon the best available topographic information as required by item #5).
7. Provide an estimation of the proposed sewer flows (include both average and peak daily flows with rationale for the estimates) in addition to a plan view of the entire proposed sewer system to tie-in to the existing system including all proposed manholes, pump stations and force mains. Show all existing and proposed sewer easements, the location of any proposed commercial food establishments and 1,000-gallon grease traps. Note: All sanitary sewer easements to be dedicated to New Castle County shall be a minimum of forty (40) feet wide in unpaved areas and twenty (20) feet wide in paved areas. There shall be at least one hundred fifty (150) parcels to be connected to any proposed pump station.
8. If septic proposed, provide a soil feasibility/site evaluation (show boring locations, proposed and existing wells, primary dual and single fields and replacement system location, and any nearby existing systems) in accordance with the provisions of the Unified Development Code. Show approved test locations on exploratory plan. Depict area suitable for septic disposal field(s) on record plan.
9. Submit pervious area calculations to verify sufficient pervious area exists on the parcel to support the proposed septic system (per Section 22.360(C) of the UDC).
10. One (1) copy of all necessary computations signed, sealed and dated by a Delaware P.E./P.L.S.
11. Identification of any watercourse, as identified on a USGS map or Soil Survey map that conveys base flow and runoff through the site.

3. Other reports and applications.

- A. *Floodplain permit application.* Each floodplain permit application shall be prepared by a registered professional engineer and submitted to the Department for review and processing according to the provisions of this Chapter and shall contain the following information:
 1. A completed SLD 1 form.
 2. The applicable filing fee in accordance with Appendix 2.
 3. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 4. Name and address of the property owner.
 5. Narrative, including at a minimum:
 - a. Type of floodplain (FEMA classification or non-delineated).
 - b. Description of the proposed work including section of Code that permits work and the extent to which the applicant's primary purpose can be achieved by the use of alternatives or without the use of lands in the floodplain, or the extent to which the applicant can employ mitigation measures to offset adverse impacts, or to which the public at large would benefit from the activity or project and the extent to which it would suffer detriment.
 6. A plan of the site showing the exact size and location of the proposed land disturbing activity and construction and the following information:
 - a. Address and parcel number(s).
 - b. Identification of topographic datum and referenced benchmark (must be compatible with the FEMA National Flood Insurance Rate Maps).
 - c. Location map: Use the FEMA panel if the application is for activity in the FEMA floodplain, use the USGS Quadrangle map if the application is in reference to a nondelineated floodplain.
 - d. Existing and proposed contours.

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- e. Limits of the floodplain (flood fringe and floodway, if available) and source of those limits, based upon FEMA panel, hydrologic and hydraulic study, etc. If modifications to the floodplain are proposed, both the existing (effective) and proposed delineations shall be depicted.
 - f. Depiction and identification of all existing and proposed structures on the subject parcel including the proposed lowest floor and basement elevations based upon the referenced datum.
 - g. Soil types.
 - h. Sufficient detail to verify that:
 - 1. Erosive impact of the floodwater on the proposed land disturbance and construction will be minimal.
 - 2. All utility services are located and designed to minimize flood damage as required by Chapter 6 of the New Castle County Code.
 - 3. There is adequate drainage design according to the requirements of Chapter 12 New Castle County Code (Drainage).
 - i. Information concerning 100-year flood elevations and other applicable information such as:
 - 1. Size of structures.
 - 2. Location and elevation of streets.
 - 3. Water supply and sanitary sewer facilities.
 - 7. Where structures are proposed or impacted, a hydrologic and hydraulic study performed by a registered professional engineer according to recognized engineering standards to evaluate the impact on the floodwater elevations, velocities and limits of inundation. The study shall include the appropriate FEMA Conditional Letter of Map Revision or Map Amendment forms.
 - 8. A certification from a registered professional engineer, which states that any proposed land disturbance activity and structures have been adequately designed to withstand the one hundred (100) year flood pressures, velocities, impact and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the one hundred (100) year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure.
- B. *Parking plan.* The following items must be submitted.
- 1. A completed application form.
 - 2. The applicable filing fee in accordance with Appendix 2.
 - 3. Twelve (12) folded paper prints.
 - 4. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 5. Landscape plan, when required.
 - 6. Approval letters from DelDOT, State Fire Marshal, DNREC and Engineering Section, Licensing Division as determined by the Department.
 - 7. One (1) film reproducible following final approval of plan.
- C. *Site plan.* The following items must be submitted.
- 1. A completed application form.
 - 2. The applicable filing fee in accordance with Appendix 2.
 - 3. Twelve (12) folded paper prints.
 - 4. One (1) copy of any deed restrictions to which New Castle County is a party.
-

5. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 6. Landscape plan, when required.
- D. *Wetland report.* The report prepared by a wetlands delineator analyzes a site for the existence of wetlands, and if wetlands are found to exist, describes their boundaries and shall contain the following:
1. A scaled plan of the site accurately depicting the wetlands boundary. The wetlands boundary lines shall be identified with a metes and bounds description prepared by and bearing the seal of a professional land surveyor registered in the State of Delaware or a professional engineer with a background in civil engineering registered in the State of Delaware. Where many survey traverses are necessary to accurately describe the wetland boundary, the surveyor or engineer may prepare a metes and bounds description for the smallest polygon that contains all the wetlands identified on the site. In such instances, the limit of the polygon shall be considered the wetland boundaries for plan review purposes.
 2. A narrative description of the extent to which the subdivider proposes to disturb any wetlands depicted on the plan.
- E. *Critical natural area report.* A report analyzing the impact of a development or subdivision proposal on a CNA located on the site which shall include the following elements:
1. A statement that the entire lot or parcel is included in the critical natural areas investigation or, with the approval of the Department of Land Use, a description of a smaller area which is subject to the critical natural areas investigation;
 2. A scaled plan of the site accurately depicting critical natural area boundaries. The CNA boundary lines shall be identified with a metes and bounds description prepared by and bearing the seal of a professional land surveyor registered in the State of Delaware or a professional engineer with a background in civil engineering registered in the State of Delaware. Where many survey traverses are necessary to accurately describe the CNA boundary, the developer may have the surveyor or engineer identify and prepare a metes and bounds description for the smallest polygon that contains all the critical natural areas identified on the site. In such instances, however, the limits of the polygon will be considered the CNA boundaries for plan review purposes;
 3. A narrative description of the extent to which the subdivider or developer proposes land disturbing activities within any critical natural areas which are shown on the scaled plan; and
 4. Any measures that will be taken to minimize or mitigate the disturbance of critical natural areas.
- F. *Conceptual and final landscape plans.* The landscape plans must be prepared, signed and sealed by a landscape architect registered in the State of Delaware. Landscaping and screening should consist of a variety of deciduous and evergreen trees and shrubs. The utilization of plant species native to northern Delaware is encouraged. Designs that incorporate a single plant type or repetitious layout should be avoided. The landscape plan must include the following:
1. For both conceptual and final landscape plans, the project application number, tax parcel number(s), the owner/developer's signature, the landscape architect's signature and seal, and all relevant base site data from the exploratory or record plan.
 2. For each type of bufferyard, its opacity value, length, width, plant unit value per one hundred (100) lineal feet (Table 40.23.140), total number of plant units and plant unit alternative (Table 40.23.110).
 - a. If the computerized bufferyard model is used, the landscape architect shall place the results of the model run for each bufferyard proposed on the landscape plan.
 - b. Bufferyards that include proposed structures (e.g., walls, fences or berms) shall include construction detailing on the final landscape plan.
 3. Plant units per parking space and total parking lot plant units.
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4. For on-lot landscaping (Table 40.04.111), the acreage, plant units per acre and the total plant units. The acreage figure is the net remaining after required buffers, parking lot landscaping, paving and building footprint are subtracted.
 5. Street trees at the spacing required (Table 40.04.111).
 6. In certain protected resource areas, even though undisturbed, reforestation of native species and control or eradication of invasive plants may be required by Article 10 and Article 23.
 7. A table or plant list specifying proposed plant species common and scientific names, minimum sizes, quantities and any other special instructions. It is recommended that a list of alternative plant species be included.
 8. Inventory of any existing vegetation to remain and to be incorporated into the landscape plan.
 9. Lighting specifications (Table 40.04.111 C). Include light fixture name and model, height, whether it has a cutoff and foot candles at the property line at each light fixture location.
 10. Plant units must be located within the specific bufferyard segment. Plants may not be placed elsewhere on site or in different bufferyards. Landscaping is intended to be effective in the location where the specific standard or opacity value applies. Plant locations may vary within a given bufferyard to reflect site design, topography, buffer width and access considerations.
 11. One (1) twenty-four (24) by thirty-six (36) inch film reproducible and two (2) folded prints of the approved landscape plan must accompany the record plan submission.
 12. Integration of the proposed site development with both existing natural resources and the surrounding area context.
 13. Delineate all proposed planting areas, planting requirements and site features in accordance with this Chapter.
- G. *Deed restriction change application (maintenance declaration).*
1. Any party may seek to change a declaration of restrictions by directing a request to change such restrictions in writing to the Department of Land Use as set forth in New Castle County Code Section 40.31.130 or its successor.
 2. A draft resolution for County Council's consideration which is to also be provided in electronic form.
 3. The applicable Departmental filing fee in accordance with Appendix 2.
 4. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 5. The applicable Recorder of Deeds filing fee in the event the application is granted (the check will be returned if the application is rejected).
 6. All other information and items as required by Section 40.31.130 of the Unified Development Code.
- H. *Subdivision appeal/variance application.*
1. An applicant for a subdivision appeal or subdivision variance shall submit such request in writing to the Department of Land Use. The request shall clearly state the nature of the appeal or variance and shall identify the section(s) of the Code to which the appeal or variance is directed.
 2. The applicable filing fee in accordance with Appendix 2.
 3. Twelve (12) paper prints of the land development plan that is the subject of the variance or appeal.
 4. A copy of the Department of Land Use letter or response that contains the issue(s) or regulation(s) that is being appealed or for which a variance is being requested.
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- I. *Extractive use application.* Applications for extractive use operations not legally in existence prior to December 13, 1983 shall be submitted to the Department and shall submit five (5) twenty-four (24) by thirty-six (36) inch paper prints of the plan and the following:
1. An excavation plan prepared in accordance with all applicable requirements pertaining to subdivision and land development plans in Appendix 1 and requiring at a minimum the following:
 - a. Topographic contours of the existing site at two (2) foot contour intervals or less, using spot elevations taken from a two hundred (200) foot grid, as a minimum, or using aerial survey. Such topography shall include land extending at least two hundred (200) feet from the site's boundaries.
 - b. Perennial or intermittent watercourses with depth, width and direction of flow and ponds, with depth.
 - c. Complete adjacent land use information including all intersections with other lot lines, the names and addresses of the record owners of all abutting properties, a description of all land uses, identification of water sources for adjacent properties, including the location, type and depth of wells in use, and water level elevations within such wells where that information is obtainable.
 - d. Areas on the property subject to flood hazards.
 - e. Proposed excavation areas shown by phases, sequence, thicknesses of overburden, estimated seasonal high and low water table elevations, and anticipated depth of final excavation shown by proposed two (2) foot contour intervals.
 - f. Areas to be used for the storage of top soil and other overburden material, including volume calculations and method of stabilization.
 - g. Storage and loading areas to any related equipment, including but not limited to scales, scale houses, grading or crushing machinery, storehouses, lighting, fueling, and repair facilities.
 - h. Locations of test borings and/or monitoring wells, to be determined by a registered geologist or a professional engineer qualified in hydrogeology.
 - i. Locations, size and condition of existing and proposed on-site cartways and their points of connection with public roads.
 2. An operating report, incorporating the input of professional consultants, such as registered geologists and professional engineers qualified in hydrogeology, and requiring, at a minimum, the following:
 - a. List of the types, numbers, and sizes of major equipment to be used on site at any time.
 - b. Estimates of the average and maximum number of trucks to enter and leave the site per day and an estimate of the gross vehicle weight of each. Off-site traffic patterns shall be described and, when required, highway impact analyses shall be submitted.
 - c. Hours and days of operation.
 - d. Anticipated time requirements for phasing limits for each phase of the operation.
 - e. Outline of methods to be employed, including description, timing, and maintenance, to minimize to every extent possible any contamination of groundwater, surface water, or other harmful effects to the environment.
 - f. Results of test borings and/or monitoring wells, certified by a registered geologist or a professional engineer qualified in hydrogeology, indicating the dates of borings and the monitoring well tests, thickness of overburden material borrow materials, and elevations of seasonal high and low water tables. Water table data shall include sufficient information to estimate variations throughout the year due to natural fluctuations or recurring consumption demands.
 - g. Excavation and storage methods which will be used to retain top soil and other overburden to be used in site restoration.
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- h. Construction details of on-site and/or off-site wells to be monitored for both water level and quality before, during and after the operation. The objective is to maintain the water quality and quantity which existed prior to extractive operations.
 - i. Identification and discussion of local aquifers.
 - j. Compatibility of operation to existing and proposed surrounding land uses.
 - 3. A restoration plan at the same scale as the preliminary major plan, prepared by a registered professional civil engineer or registered landscape architect, and requiring, at a minimum, the following:
 - a. Final contours of the site after restoration at two (2) feet or less contour intervals.
 - b. Complete extent of areas which will be backfilled and depth of backfill shown with spot elevations.
 - c. Areas and depth of areas to be restored with top soil and other overburden.
 - d. Areas which will contain water either standing or runoff, and measures which will be taken to avoid stagnation or erosion.
 - e. Phasing diagram for restoration.
 - f. Complete landscape plan indicating location and type of proposed and existing landscape features to include a complete plant list and phasing.
 - g. Location of driveways, roads, fences, gates to be part of the restoration plan.
 - h. Description of the proposed final use of the site, with discussion of how the proposed use relates to the County Comprehensive Development Plan and zoning districts within the vicinity of the property.
 - i. Estimated timetable clearly expressing the maximum time required for various phases of the restoration plan.
 - j. Description of the disposition of operating facilities, machinery, etc., which shall be removed upon completion of the excavation activity.
 - 4. Drainage, erosion and sedimentation plans complying with the County Drainage Code, showing the measures to be provided during the extractive, restoration and final use phases.
 - 5. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 - J. *Level of service (LOS) waiver application.* The applicant shall submit all level of service waiver request materials to the Department and others. Such materials shall include:
 - 1. The application consisting of a copy of the Traffic Mitigation Agreement and DelDOT's recommendation and comment. The applicant shall also forward a copy of this application to the Clerk of County Council, the district Council member, and the President of County Council.
 - 2. A draft resolution for County Council's consideration that is to also be provided in electronic form.
 - 3. The applicable Departmental filing fee in accordance with Appendix 2.
 - 4. The applicable Recorder of Deeds filing fee in the event the application is granted (the check will be returned if the application is rejected).
 - 5. All current school taxes, County taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 6. All other information and items as required by Section 40.11.230 of the Unified Development Code.
 - K. *Site analysis plan.* For all minor or major land development applications, the applicant shall be required to submit a site analysis plan as the first phase of the pre-application sketch or exploratory plan review process.
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The Department may also require a site analysis plan for any other application type. The site analysis plan shall serve as a basis for the planning process and shall be used to determine the best areas of the site for open space and natural resource preservation, land conservation and development. The site analysis plan allows both the applicant and the Department the opportunity to utilize the natural site conditions to determine how the development of each parcel or tract can be designed to minimize environmental degradation while achieving highest possible community character design standards. The site analysis plan must include:

1. Existing topography and site features and structures;
2. Pre-development drainage patterns and local watershed information;
3. All fully and partially protected resources pursuant to Article 10 of this Chapter located on and within one thousand (1,000) linear feet of the tract;
4. Soils information as shown in/on the New Castle County Soil Survey;
5. All public and private open space, conservation areas and agricultural districts within one thousand (1,000) linear feet of the tract;
6. All existing and proposed transportation access points (including multi-modal options), facilities, easements and rights-of-way on or within 500 linear feet of the parcel or tract;
7. Any scenic viewsheds into and out of the site, ridgelines and historic resources;
8. Graphic scale, not to exceed one (1) inch equals two hundred (200) feet on parcels or tracts 50 acres or larger or one (1) inch equals one hundred (100) feet on parcels or tracts less than 50 acres and a north arrow.

L. *Natural resources management plans.*

1. *Resource analysis plan.* The following must be submitted:
 - a. The site analysis plan as a base map with the following additions:
 - i. Wetlands delineation. A wetlands report/jurisdictional determination.
 - ii. Forest survey. In accordance with Article 10 of this Chapter, a description of the condition and location of the forest stands on-site, as well as contiguous forested areas and corridors located off-site.
 - iii. Tree survey. The identification of all individual or groups of trees not located within forest areas to include species type, DBH, specimen tree status, condition, the location of both the center of the tree trunk and the CRZ delineation.
 - iv. Floodplain or floodway areas.
 - v. WRPA, which includes Cockeysville Formation/Drainage areas.
 - vi. Steep slope areas.
 - vii. Water bodies, streams or drainageways with top of bank.
 - viii. Riparian buffer areas; Zone 1 and Zone 2.
 - ix. All other resources as defined in Article 10 of this Chapter.
2. *Open space or site management plan.* The following must be submitted:
 - a. A narrative description of the goals and objectives based on the findings of the resource analysis plan.
 - b. Limit of disturbance and natural resource protection measures.
 - c. Non-native, invasive plant species identified on-site, with a control or eradication plan describing specific practices and areas to be treated.

- d. Planting details describing where and how any reforestation, meadow creation or other plantings will occur and are to be maintained, including proper methodologies and long-term schedules for:
 - i. Irrigation or watering;
 - ii. Mulching (e.g., mulch shall not be piled onto trunks of trees);
 - iii. Pruning, shearing or thinning;
 - iv. Soil amendments or fertilization—both initial and long-term;
 - v. Grass or herbaceous plant mowing, cutting, control or removal;
 - vi. Soil aeration.
 - e. Wetland features to be protected, created or enhanced.
 - f. A project timeline to include a proposed long-term maintenance program.
 - g. A project cost estimate that includes itemized entries and provisions for long-term maintenance needed to implement the plan in perpetuity.
 - h. Native, naturally occurring non-invasive weeds are permissible within the natural resource areas.
- M. *Record plan modification.* The following items must be submitted:
- 1. A completed application form.
 - 2. The applicable filing fee in accordance with Appendix 2.
 - 3. Two (2) folded paper prints.
 - 4. All current school taxes, county taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 5. Approval letters from DelDOT, State Fire Marshal, DNREC and Engineering Section, Licensing Division, as determined by the Department.
 - 6. Two (2) film reproducibles following final approval of plan.
- N. *Property line adjustment.* The following items must be submitted:
- 1. A completed application form.
 - 2. The applicable filing application fee in accordance with Appendix 2.
 - 3. One (1) copy of any deed restrictions to which New Castle County is a party.
 - 4. All current school taxes, county taxes and sewer service fees must be paid or not delinquent at the time of application.
 - 5. Property line adjustment survey. The property line adjustment survey must be drawn to scale and include the following information:
 - a. Tax parcel numbers for all subject properties.
 - b. Lot lines described with bearings and distances in accordance with professional Delaware State surveying standards.
 - c. Identification, location, and distance of all improvements (stick-built or manufactured structures, pole-buildings, or any other structures) from property lines after adjustment.
 - d. Delineation of all protected resources established by Article 10.
 - e. Dimensions and size (square feet or acres) of all proposed tracts prior to and after the proposed property line adjustment.
 - f. Legend.
-

- g. All abutting streets (noting whether public or private), including name.
 - h. All existing easements, including widths and types, specifically noting the use, whom they serve and deed recording information.
 - i. Location of any wells or septic systems.
 - j. The survey shall be signed, sealed and dated by a Delaware P.E./P.L.S.
- O. *Forest Habitat Value Assessment.*
- 1. *Criteria.*
 - a. A forest habitat value assessment must be conducted when existing forested areas are disturbed within (50) feet of the edge of the drip line. Drip line delineation is determined during peak foliage.
 - b. A forest habitat value assessment is not required when the existing forested areas within the project boundaries are less than 0.5 acres (21,780 square feet) in size.
 - c. A forest habitat value assessment is not required when the existing forested area and the fifty (50) feet within the edge of the dripline remains 100% undisturbed.
 - 2. *Initial Forest Investigation.*
 - a. When developing a site analysis or natural resource management plan, aerial imagery and GIS data (e.g., soil and wetland maps) should be used to initially analyze and delineate the forest types for study.
 - b. Any variations in forest types observed must be identified and delineated on a base map.
 - c. Interpreting aerial imagery over various years may help to delineate forest types and generally discern where forests have continuously existed. For example, if imagery over many years show that a site has been in continuous forest cover, then there is a high probability that existing on-site forest is mature.
 - d. Forest types may also be identified and delineated in the field. The following shall be recorded on a base map, if observed:
 - i. Breaks or changes from one forest type to another;
 - ii. Changes to the dominant tree species in the canopy (e.g. maple to oak/hickory);
 - iii. Differences in tree trunk diameters;
 - iv. Changes in the density of trees;
 - v. Areas with a high-percentage of native plant species;
 - vi. Areas with a high-percentage of non-native plant species.
 - 3. *Methodology.*
 - a. Number of Plots to Sample. Potential habitat value is measured by sampling plots that are 0.1 acres in size. The following number of plots are required based on the size of the forest type to be sampled. For every two acres of increase from three acres of forest, the number of plots required to sample increases by one. For example:
 - 0.5 to 2.99 acres = 1 plot
 - 3 to 4.99 acres = 2 plots
 - 5 to 6.99 acres = 3 plots
 - 7 to 8.99 acres = 4 plots

9 to 10.99 acres = 5 plots
11 to 12.99 acres = 6 plots
13 to 14.99 acres = 7 plots
15 to 16.99 acres = 8 plots
17 to 18.99 acres = 9 plots
19 to 20.99 acres = 10 plots
21 and greater...

- b. Sample Plot Location. To best represent the full range of habitat within a forest type, sample plots should be located away from field edges, canopy gaps, clear-cuts, roadsides and other human disturbed areas. It is important to place the plot in habitat that is floristically and structurally homogeneous and that represents the overall forest area that is being sampled.
 - c. Sample Plot Delineation. When plot location(s) have been determined for sampling within a forest type, the perimeter of each plot is delineated as follows: the center point of each plot is positioned with a GPS unit and from the center point, the plot perimeter is established by creating a circle that has a radius of 37.2 feet (0.1 acres in size).
 - d. Sample Plot Point Values. Once sampling of plots within a forest type is completed, data will then be summarized and analyzed. Habitat value is determined through a numerical value point system. Each habitat attribute to be measured is given points based on the data collected within the sample plot. If more than one plot is sampled within a forest type, then the total habitat value points from each plot within the forest type are averaged, giving an overall habitat value for that forest type. The forest type with the highest number of habitat value points is given the highest level of protection.
 - i. Protection levels are separated into three tiers: Tier 1, Tier 2 and Tier 3. A range of habitat value points have been calculated that relate to each level of protection as follows:
Tier 1 > 51 habitat value points
Tier 2 = 26-51 habitat value points
Tier 3 = 1-25 habitat value points
 - ii. A forest type with a Tier 3 protection level may have the lowest habitat value relative to the other forest types, but still provides value in ecosystem benefits. A project boundary might contain only Tier 1 forest.
4. *Protection Standards.*
- a. A forest type identified as either Tier 1, 2, or 3, is subject to a protected Critical Root Zone (CRZ). The protection extends to the edge of the CRZ for each tree that occurs around the perimeter or edge of the forest type to be retained.
 - b. Disturbance of Forest Interior areas identified within a project's boundary should be limited to the greatest extent possible.
 - c. The fragmentation of contiguous forested areas and corridors (both on-site and on adjacent properties) should be avoided where feasible.
 - d. If state rare or federally listed plant or animal species as determined by the Delaware Department of Natural Resources and Environmental Control (DNREC) are discovered within the project boundaries, then a representative from DNREC should be contacted to confirm its presence and offer recommendation(s).
5. *Scoring Sample Plots.*
-

- a. High value forested habitat is an area that contains any of the following attributes. Included with each attribute is the required method for sampling and ranking.
- i. **Large diameter trees.** Large diameter trees are an indication of a mid-to-late successional, maturing or mature forest. A mature forest ecosystem provides key environmental values and services and can support a high degree of biodiversity.

Methods and scoring:

- (a). All trees within the plot that are 18 inches or greater in diameter (measured at 4.5 feet from the base of the tree), are to be measured and recorded. An individual 18-19 inch diameter tree receives 1 value point. For every 2-inch increase in diameter, an additional value point is added for each individual tree. For example: an 18-19 inch diameter tree qualifies as 1 point; 20-21 inch diameter tree qualifies as 2 points.
- (b). Round to the nearest inch for trunk diameter. For example, a 19.5-19.9 inch tree qualifies as a 20 inch tree and 2 value points.
- (c). If any tree 18 inches or greater in diameter qualifies as a "value tree" below, then that tree receives an additional point. For example, if an 18-19 inch diameter tree is a native oak species, a native hickory species or an American beech, then that tree receives 1 extra value point. For an individual tree with multiple trunks, where the trunks are 18 inches or greater in diameter, the tree is recorded as the larger of the trunks.
- ii. **Floristic Quality Index:** The Floristic Quality Index (FQI) is a quantitative measure to determine the ecological quality of a natural area or site by recording all the native and non-native species observed within the sample plot. The FQI has been shown to be a reliable means of assessing quality with minimal data collection and allows for the comparison of floristic quality among many sites. Coefficient of Conservatism ranks (C-values) are used to determine the FQI of a specific site or plant community. C-values range from 0 to 10 and represent an estimated probability that a plant is likely to occur in a habitat that is relatively unaltered from what is believed to be a pre-settlement condition.

C-values for each species are based on the observed behavior of a species within the State of Delaware as follows:

- (a). All non-native plant species are assigned a C-value of 0.
- (b). Plants with a wide range of ecological tolerances are assigned C-values of 1, 2, or 3.
- (c). Plants with an intermediate range of ecological tolerances are assigned C-values of 4, 5, 6 or 7.
- (d). Plant with a narrow range of ecological tolerances are assigned C-values of 8, 9 or 10. In addition, state rare or uncommon plant species are given C-values of 8 to 10.

C-values are applied to the entire known flora of Delaware (See Flora of Delaware Online Database Advanced Search - <https://www.wrc.udel.edu/de-flora>).

Methods and Scoring: All native and non-native plants within the plot are recorded and the C-values for each species applied. All C-values are added together and the sum is then divided by the number of species recorded, which provides the FQI for a given plot. The calculated FQI is the number of habitat value points assigned to the plot.

- iii. **Presence of valued tree species:** Most species of trees provide a variety of benefits to wildlife; however certain species are considered to be highly valued by wildlife. To ensure that the forest is a relatively stable ecosystem in the long term and that dead or dying valued

trees are being replaced, it is critical that valued tree species be found in multiple layers of the forest, from the canopy as mature trees, to the herbaceous layer as seedlings.

Methods and Scoring: All valued tree species (see Appendix 3.3.A Trees) within the plot are recorded in the following forest layers: Herbaceous/Groundcover (0"-1.99'), Low Shrub (2'-5.99'), Tall Shrub (6'-11.99'), Sub-canopy (12' to the beginning of the tree crown), Canopy (the tree crown). If all five layers are represented in the plot with a valued tree species, then 5 value points are assigned. If four layers are represented, then 4 points are assigned, and so on. In addition, extra value points are assigned if more than one species of a valued tree genus is represented.

For example, if the value tree white oak (*Quercus alba*) occurs in the canopy, then 1 habitat value point is assigned for that layer. If value tree black gum (*Nyssa sylvatica*), mockernut hickory (*Carya tomentosa*), sweet birch (*Betula lenta*) and American beech (*Fagus grandifolia*) also occur in the canopy, then 4 additional value points are added for a total of 5 value points for that forest layer.

- iv. **Forest interior:** The forest interior is habitat deep within woodlands, away from the influence of forest edges and open habitats. Forest interior is of high ecological value. Many species of wildlife are dependent on forest interior habitat for their survival.

Methods and Scoring: Determining forest interior of a forest type is a GIS exercise. Identify the forest edge related to the sample plot that is being assessed (which may be off-site on an adjacent property) and measure 300 feet inward. If 0.2 acres or more of a forest type is within the forest interior, then it receives 5 value points.

- v. **Mature Forest Potential:** The biodiversity and environmental values of a forest ecosystem increases with age, meaning that a mature forest will be able to support a greater variety and number of plants and animals as time progresses.

Methods and Scoring: Determining mature forest potential of a sample plot is a GIS exercise. Historical aerial imagery from 1937, 1954, 1961, 1968, 1992, 1997, 2002, 2007, 2012, 2017 and 2019 is available on New Castle County ParcelView to identify potential areas of mature forest. If imagery from each year since 1937 to present day shows that a site has been in continuous forest cover, then there is a high probability that the site is mature. If 0.2 acres or more of a forest type is within a potential mature forest area, then it receives 5 value points.

6. *Summation and reporting standards.*

A report on the forest habitat value assessment shall be submitted to the Department and shall include the following: results of the assessment (including scoring data) and maps depicting sample plot boundaries, location and coordinates, and the locations of Tier 1, Tier 2 and Tier 3 forests.

- P. *Viewshed plan.* A viewshed plan is required for applications subject to Section 40.04.240 and must bear the seal of a registered landscape architect licensed in the State of Delaware or be prepared by an individual certified by the American Institute of Certified Planners. The viewshed plan must clearly indicate how the identified scenic resources are to be preserved and explain any efforts used to minimize disturbance to, and enhance the characteristics of, the byway. Information must be submitted in the form of a written narrative with accompanying photographs, maps, and graphic representations in CAD format. The viewshed plan must include the following minimum information:

- 1. Documentation

- a. A written narrative of any scenic resources, visual features, scenic viewsheds or vista points including those identified in the respective Corridor Management Plan (CMP) or other County study related to designated byways and included viewshed maps referenced in Appendix 8. Any observable additions to, or deletions from, the scenic landscape must be explained in the plan narrative.

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- b. Photographic or video documentation of the subject property as viewed from the roadway. Documentation must be submitted for the entire length of frontage of the subject property and shall record multiple observable angles from each location. Photographs or video shall specifically identify the existence, where applicable, of the scenic viewsheds, vistas and contributing features. Photographs or videos shall be taken from the observed height of a vehicle window, approximately six (6) feet above ground level. Photographs shall be taken at no less than 20-foot intervals and video at a speed not to exceed the speed limit of the roadway in question.
2. If the Department determines the application will affect a scenic resource, the applicant must submit graphic or enhanced photographic representation of proposed buildings or other improvements, if any, in the setting of the scenic resources identified in the narrative above. The documentation must describe the impact on other character-defining resources, such as trees and shrubs, historic resources, or other resources that currently contribute to the property's overall scenic quality.

4.Required Professional Licensure/Certification

The submittal matrix below identifies the licensed or certified professional who is permitted to submit each plan, study or report type.

SUBMITTAL MATRIX

Professional Licensure	Civil Engineer (PE)	Land Surveyor (PLS)	Landscape Architect (RLA)	Certified Planner (AICP)	Architect (RA)
Pre-Exploratory Sketch Plan	Y	Y	Y	Y	Y
Exploratory Plan	Y	Y	Y	N	L
Construction Plan	Y	Y	L	N	N
Record Plan	Y	Y	L	N	N
Parking/Site Plan	Y	Y	L	N	N
Conceptual/ Final Landscape Plan ¹	N	N	Y	N	N
Floodplain Permit/Study Application ²	Y	N	N	N	N
Wetland Delineation and Report ³	L	L	L	L	L
Critical Natural Area (CNA) Report ⁴	L	L	L	N	N
Site Analysis Plan ⁵	Y	L	Y	N	L
Natural Resources Management Plan ⁶	L	L	L	L	N
Boundary/Topographic Survey	L	Y	N	N	N
Forest Habitat Value Assessment ⁷	L	L	Y	L	N
Traffic Impact Study ⁸	Y	N	N	N	N
Environmental Impact Assessment Report (EIA) ⁸	L	L	L	L	N

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Y - Yes

N - No

L - Limited (item provided for Department review shall be submitted by a qualified professional in accordance with Title 24 of the Delaware State Code)

¹ See Appendix 1.3.F

² See Appendix 1.3.A

³ See Article 33, "Wetland Delineation and Report" definition and Appendix 1.3.D

⁴ See Article 33, "Critical natural areas report" definition and Appendix 1.3.E

⁵ See Article 33, "Site analysis plan" definition and Appendix 1.3.K

⁶ See Article 33, "Natural resource management plan" definition and Appendix 1.3.L

⁷ See Section 40.10.135.A. and Article 33, "Forest habitat value assessment" definition

⁸ See Section 40.11.130.A

⁹ See Section 40.10.701 and Article 33, "Environmental Impact Assessment Report" definition

(Ord. No. 97-172, § 3(ch. 13, app. 1), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 04-058, 10-5-2004; Ord. No. 15-024, § 2, 10-27-2015; Ord. No. 18-031, § 80, 4-24-2018; Ord. No. 18-020, § 38, 7-10-2018; Ord. No. 21-009, § 13, 12-14-2021; Ord. No. 22-072, § 14, 10-11-2022)

APPENDIX 2. FEES

1. Land Development and Rezoning Processing

- A. Subdivision/Land Development Plans/Rezoning/Title/Utility and Condominium Conversion Plans.
- A. Subdivision/Land Development Plans/Rezoning/Title/Utility and Condominium Conversion Plans.
 - 1. Minor/Resubdivision Exploratory Sketch Plan: \$900.00
Major Exploratory Sketch Plan without rezoning: \$1,200.00
 - 2. Exploratory Sketch Plan with rezoning, rezoning with Site Plan, or no plan required: \$3,675.00
 - 3. Historic Zoning Overlay: No fee.
 - 4. Check Print: \$900.00 each submission
 - 5. Minor Record Plan.
 - a. Residential subdivision or land development: \$3,675.00 plus \$185.00 per lot and/or dwelling unit, whichever is greater.
 - b. Nonresidential subdivision: \$3,675.00 plus \$185.00 per lot.
 - c. Nonresidential land development including mixed use: \$3,675.00 plus \$185.00 per 1,000 square feet gross floor area.
 - d. In addition, if the record submission is a rezoning: \$350.00 per acre.
 - 6. Major Record Plan.
 - a. Residential subdivision or land development: \$6,050.00 plus \$240.00 per lot and/or dwelling unit, whichever is greater.
 - b. Nonresidential subdivision: \$6,050.00 plus \$240.00 per lot.
 - c. Nonresidential land development including mixed use: \$6,050.00 plus \$240.00 per 1,000 square feet gross floor area.
 - d. In addition, if the record submission is a rezoning: \$350.00 per acre.
 - 7. Resubdivision Record Plan.
 - a. Residential: \$3,000.00
 - b. Nonresidential: \$4,850.00
 - 8. Resubmission fee for any plan submission found unacceptable: \$900.00 each submission.
 - 9. Plan expiration extension: \$100.00 per extension request.
- B. Street Plan: \$850.00
- C. Subdivision and/or Street Renaming.
 - 1. Residential apartment or residential condominium style developments: \$500.00
 - 2. Fee simple residential developments: \$100.00
 - 3. Nonresidential developments: \$500.00
- D. Plan Recordation Fees (made to the order of Recorder of Deeds).
Pursuant to New Castle County Recorder of Deed Fee Schedule, New Castle County Code Chapter 2, Section 2.03.004.

- E. Subdivision Standard Variance.
 - 1. Variance from subdivision standards for individual residential lot or use: \$500.00
 - 2. Variance from subdivision standards for other residential and nonresidential lots or uses: \$3,000.00
- F. Subdivision Standard Appeal.
 - 1. Appeal from any finding, decision or recommendation of the Department with regard to subdivision standards affecting an individual residential lot or use: \$500.00
 - 2. Appeal from any finding, decision or recommendation of the Department with regard to subdivision standards affecting other residential and nonresidential lots or uses: \$3,000.00
- G. Parking Plan: \$1,725.00
- H. Site Plan: \$1,725.00
- I. Revised Landscape Plan: \$1,150.00
- J. Incomplete plan submission fee: \$350.00 1st submission and \$575.00 for all subsequent submissions.
- K. Record Plan Modification: \$1,000.00
- L. Sunset Plan Review: \$1,700.00

2. Engineering Section

- A. Exploratory Sketch Plan Review.
 - Minor Plan: \$600.00
 - Major Plan Residential: \$1,200.00
 - Major Plan Nonresidential: \$1,200.00
- B. Site Plan review: \$315.00
 - Parking Plan review: \$315.00
- C. Major Record Plan Review.
 - Residential: \$2,415.00 plus \$30.00 per lot and/or dwelling unit.
 - Nonresidential: \$2,415.00 plus \$40.00 per acre or \$1,750.00 plus \$10.00 per 1,000 sf of GFA, whichever is greater.
- D. Minor and Resubdivision Record Plan Review: \$315.00
- E. Sanitary Sewer Plan.
 - Plan requiring DNREC review: \$1,500.00
 - Not requiring DNREC review: \$750.00
 - Sewage pump station review, per station: \$1,500.00
 - Grinder pump, per pump: \$350.00
 - Inspection fee, per linear foot of sewer: \$2.50
- F. Private Street review and inspection fee, per linear foot of street: \$2.00
- G. Individual Lines and Grades: \$65.00 per lot
 - Revised Lines and Grades: \$65.00 per lot
- H. Residential Grading Plan Review.

- 5 or less lots: \$600.00
- 6 to 24 lots: \$1,200.00
- 25 to 100 lots: \$1,800.00
- Greater than 100 lots: \$2,415.00
- I. Nonresidential Grading Plan Review
 - Less than 5 acres: \$900.00
 - 5 to less than 25 acres: \$1,200.00
 - 25 to less than 75 acres: \$1,800.00
 - 75 acres and greater: \$2,415.00
- J. Floodplain Study Review: \$600.00
 - Floodplain permit with GFA in floodplain: \$2,000.00
 - Floodplain permit with no GFA in floodplain: \$500.00
- K. Stormwater Management and Erosion and Sediment Control Plan review and site inspection: \$450.00 per disturbed acre per project. The minimum fee shall be \$450.00 per project. The fee for a general permit shall be \$450.00. Disturbed acreage greater than eighty (80) percent of total acreage requires payment based on total acreage.
 - First re-inspection: \$500.00
 - Second and all subsequent consecutive re-inspections: \$1,000.00
- L. Incomplete Plan Submission Fee: \$315.00
- M. Resubmission Fee: \$900.00
- N. Site Re-Inspection Fees:
 - 1. Pre-Bulk Inspection: \$1,000.00
 - 2. Post Bulk Inspection: \$1,000.00
 - 3. Record Plan Inspection: \$1,000.00
 - 4. Open Space Inspection: \$1,000.00
- O. Stormwater As-Built Plan Review (CCR Inspected): \$500.00
- P. Storm Sewer As-Built and pipe video review: \$500.00
- Q. Water Management Agreement review/inspection: \$5,000.00
- R. Stormwater Management Permit Fee(Per Facility, NCC Inspected): \$2,000.00
- S. Failure to submit escrow and semi-annual reports: \$100.00 for each day late
- T. Constructing a Stormwater facility without scheduling: \$500.00 per facility
- U. Starting site work without a pre-construction or site permit when required: \$1,000.00
- V. Failure to complete Stormwater Management prior to Occupancy: \$5,000.00 per month
- W. An annual administrative fee until full performance guarantee is provided: \$250.00

3. Board of Adjustment

- A. Dimensional Variance for individual residential lot or use: \$300.00/parcel

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- B. Dimensional Variance for other residential (e.g., apartments and condominiums, nursing home, day care, churches, blanket requests for residential developments, and other nonresidential uses in residential zoning districts) and nonresidential lot or use: \$2,000.00
- C. Use Variance or Beneficial Use for individual residential lot or use: \$1,500.00
- D. Use Variance or Beneficial Use for other residential and nonresidential lot or use: \$3,000.00
- E. Special Use: \$2,500.00
- F. Appeal of decision by an administrative officer or agency regarding the interpretation of a zoning provision in New Castle County Code, Chapter 40: \$3,000.00
- G. Special or expedited public hearing: \$6,000.00
- H. Public hearing continuance for individual residential: \$300.00
Public hearing continuance for other residential and nonresidential: \$1,500.00
- I. Mitigation of a Nonconforming Situation.
 - 1. Mitigation of a nonconforming situation for an individual residential lot or use: \$500.00
 - 2. Mitigation of a nonconforming situation for other residential and nonresidential lots or uses: \$3,000.00
- J. All Other Board of Adjustment Applications: \$3,000.00

4. Other

- A. Zoning Permit: See Chapter 6 of the New Castle County Code.
 - B. Sign Permit: See Chapter 6 of the New Castle County Code.
 - C. Planning Board Public Hearing Continuance: \$1,500.00 each continuance.
 - D. Deed Restriction Change: \$4,000.00
 - E. Maintenance Declaration Change: \$1,725.00
 - F. Zoning Verification.
 - 1. Individual residential lot or use (single-family uses and home occupations: \$90.00
 - 2. Other residential (e.g., apartment and condominiums, nursing home, church, daycare and other nonresidential uses in residential zoning districts) and nonresidential lot or use: \$375.00/tax parcel number.
 - G. Open Space Completion Agreement:
 - 1. Initial Fee: \$5,000.00
 - 2. Renewal Fee: \$10,000.00
 - 3. Expired Open Space Completion Agreement Fee: \$5,000.00
 - H. Adult Entertainment Use Verification: \$1,000.00
 - I. Department of Land Use Administrative Variance: \$50.00
 - J. Department of Land Use confirmation of nonconforming status for an individual residential lot or use: \$250.00
Department of Land Use confirmation of nonconforming status for other residential and nonresidential lots or uses: \$1,000.00
 - K. Environmental Impact Assessment Report Review by RPATAC: \$750.00
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- L. Extractive Use.
Extractive Use Renewal Fee: \$1,500.00
Preliminary Review: \$575.00
Hearing Fee: \$2,300.00 for the first 25 acres, plus \$115.00 for each additional acre.
Fee Limit: \$23,000.00
- M. Level of Service (LOS) Waiver Application: \$1,150.00
Request for a Traffic Impact Study (TIS) Waiver: \$1,150.00
- N. Expedited review: To expedite a project the fee(s) is tripled for each individual submission. All requests for an expedited review shall require that both planning and engineering reviews be expedited.
- O. Show Cause Hearing: \$300.00
- P. Wetland or Floodplain Review: \$65.00
- Q. Failed Foundation As-Built Survey: \$65.00
- R. Land Development Improvement Agreements, Water Management Agreements, and Other Agreements: \$300.00
- S. Temporary certificate of use including site plan review for commercial outdoor sales, special events and public interest uses: \$105.00; except for temporary miscellaneous sales which is \$55.00
- T. Administrative Subdivision Request: \$300.00
- U. Property Line Adjustment: \$500.00
- V. Unified Development Code Hard Copy Purchase: \$200.00
Unified Development Code Annual Supplement Subscription: \$150.00
- W. Any other permit required by Chapter 40: \$575.00
- X. Reserved.
- Y. Viewshed plan review: \$500.00

Exceptions: No fees are required when New Castle County is the applicant for land development plans/projects.

(Ord. No. 97-172, § 3(ch. 13, app. 2), 12-31-1997; Ord. No. 2007-1, 1-5-2007; Ord. No. 18-020 , § 39, 7-10-2018; Ord. No. 20-090 , § 8, 4-13-2021; Amend. eff. 8-31-2022 ; Ord. No. 22-072 , § 15, 10-11-2022)

APPENDIX 3. PLANT LISTS AND PLANTING GUIDANCE

1. Recommended Plant List. Plant species generally suitable for or native and indigenous to the State of Delaware. This list is for general guidance only and does not serve as an exhaustive accounting of all suitable plants. For plant species proposed that are not listed, the applicant shall provide arboricultural and botanical information as requested by the Department.

A.Large Canopy Trees (50'+)

Botanical Name	Common Name	Street	Urban	Canopy	Fls.	Native	Resilient	Grade	Notes
<i>Acer nigrum</i>	Black Maple	L	N	N	D	Y	Y	3	Lawn or border tree. Well-drained, acidic soils.
<i>Acer pseudoplatanus</i>	Sycamore Maple	Y	Y	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Acer rubrum</i>	Red Maple	L	L	Y	D	Y	Y	2	Lawn or border tree. Avoid areas subject to salt spray.
<i>Acer rubrum var trilobum</i>	Trident Red Maple	L	L	N	D	Y	Y	3	Lawn or border tree. Well-drained, acidic soils.
<i>Acer saccharum</i>	Sugar Maple	L	N	Y	D	Y*	Y	3	Lawn or border tree. Well-drained, acidic soils.
<i>Aesculus flava</i>	Yellow Buckeye	N	L	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Aesculus hippocastanum</i>	Horsechestnut	N	L	Y	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Aesculus x carnea</i>	Red Horsechestnut	L	L	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Carya cordiformis</i>	Bitternut Hickory	N	N	N	D	Y	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Carya glabra</i>	Pignut Hickory	N	N	N	D	Y	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Carya ovalis</i>	Sweet Pignut Hickory	N	N	N	D	Y	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Carya ovata</i>	Shagbark Hickory	N	N	N	D	Y*	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Carya tomentosa</i>	Mockemut Hickory	N	N	N	D	Y	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Castanea dentata</i>	American Chestnut	N	N	N	D	Y	Y	2	Lawn or border tree. Disease resistant available.
<i>Castanea mollissima</i>	Chinese Chestnut	N	N	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Celtis laevigata</i>	Sugar Hackberry	Y	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Celtis occidentalis</i>	Hackberry	L	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Cercidiphyllum japonicum</i>	Katsura Tree	Y	L	N	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Cladrastis kentukea</i>	American Yellowwood	Y	Y	Y	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Fagus grandifolia</i>	American Beech	N	L	N	D	Y	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Fagus sylvatica</i>	European Beech	N	L	Y	D	N	N	2	Lawn or border tree. Hedge tree with heavy pruning.
<i>Ginkgo biloba</i>	Ginkgo	Y	Y	Y	D	N	N	2	Dioecious. Use male plants near infrastructure.
<i>Gleditsia triacanthos var. inermis</i>	Thornless Honeylocust	Y	Y	Y	D	Y	N	3	Lawn or border tree. Select cultivars for street trees.
<i>Gymnocladus dioica</i>	Kentucky Coffeetree	L	Y	Y	D	Y	Y	1	Lawn or border tree. Produces large seed pods
<i>Juglans nigra</i>	Black Walnut	N	L	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Liquidambar styraciflua</i>	Sweetgum	Y	Y	Y	D	Y	Y	2	Lawn or border tree. Utilize fruitless cultivar on streets.

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<i>Liriodendron tulipifera</i>	Tuliptree	N	L	Y	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Magnolia acuminata</i>	Cucumbertree Magnolia	L	Y	Y	D	Y	Y	3	Lawn or border tree. Well-drained, acidic soils.
<i>Metasequoia glyptostroboides</i>	Dawn Redwood	N	Y	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Nyssa sylvatica</i>	Blackgum	Y	L	Y	D	Y	Y	1	Lawn or border tree. Wide range of soils.
<i>Platanus x acerifolia</i>	London Planetree	Y	Y	Y	D	N	N	2	Lawn or border tree. Wide range of soils.
<i>Platanus occidentalis</i>	American Sycamore	N	Y	L	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Picea abies</i>	Norway Spruce	N	L	Y	E	N	N	3	Border or hedge tree. Wide range of soils
<i>Picea omorika</i>	Serbian Spruce	N	L	Y	E	N	N	2	Border or hedge tree. Wide range of soils
<i>Picea pungens</i>	Colorado Spruce	N	L	Y	E	N	N	2	Border or hedge tree. Wide range of soils
<i>Pinus echinata</i>	Yellow Pine	N	Y	N	E	Y	N	3	Border or hedge tree. Wide range of soils
<i>Pinus rigida</i>	Pitch Pine	N	Y	L	E	Y	Y	3	Border or hedge tree. Wide range of soils
<i>Pinus strobus</i>	White Pine	N	Y	Y	E	Y	Y	3	Border or hedge tree. Wide range of soils
<i>Pinus taeda</i>	Loblolly Pine	N	Y	L	E	Y	Y	3	Border or hedge tree. Wide range of soils
<i>Pinus virginia</i>	Virginia Pine	N	Y	N	E	Y	N	3	Border or hedge tree.
<i>Populus deltoides</i>	Eastern Cottonwood	N	Y	Y	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Populus grandidentata</i>	Large Toothed Aspen	N	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Populus tremuloides</i>	Quaking Aspen	N	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Pseudotsuga menziesii</i>	Douglas Fir	N	L	Y	E	N	N	3	Border or hedge tree. Wide range of soils
<i>Quercus acutissima</i>	Sawtooth Oak	L	L	N	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus alba</i>	White Oak	N	N	N	D	Y	Y	1	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus bicolor</i>	Swamp White Oak	Y	Y	Y	D	Y*	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus coccinea</i>	Scarlet Oak	L	L	L	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus falcata</i>	Southern Red Oak	L	Y	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus imbricaria</i>	Shingle Oak	Y	Y	N	D	Y	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus macrocarpa</i>	Bur Oak	L	L	Y	D	Y	N	2	Lawn or border tree. Wide range of soils.
<i>Quercus michauxii</i>	Swamp Chestnut Oak	L	L	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus muhlenbergii</i>	Chinquapin Oak	L	L	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus phellos</i>	Willow Oak	Y	Y	Y	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus prinus</i>	Chestnut Oak	N	L	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus nigra</i>	Water Oak	N	L	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus robur</i>	English Oak	Y	Y	Y	D	N	N	2	Lawn, border or hedge tree. 'Fastigiata' narrow cultivar
<i>Quercus rubra</i>	Northern Red Oak	Y	Y	Y	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus shumardii</i>	Shumard Oak	L	Y	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Quercus velutina</i>	Black Oak	N	L	N	D	Y	Y	2	Lawn or border tree. Wide range of soils.
<i>Salix alba</i>	White Willow	N	L	Y	D	N	N	3	Lawn or border tree. Wide range of soils.
<i>Taxodium ascendens</i>	Pondcypress	Y	Y	Y	D	Y*	Y	2	Lawn or border tree. Wide range of soils.
<i>Taxodium distichum</i>	Baldcypress	Y	Y	Y	D	Y*	Y	2	Lawn or border tree. Wide range of soils.
<i>Thuja plicata</i>	Western Arborvitae	N	L	Y	E	N	N	2	Border or hedge tree. Well-drained, acidic soils.
<i>Tilia americana</i>	Basswood	Y	Y	Y	D	Y	Y	2	Lawn or border tree. Select cultivars for street trees.

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<i>Tilia cordata</i>	Littleleaf Linden	Y	Y	Y	D	N	N	2	Lawn or border tree. Select cultivars for street trees.
<i>Tilia tomentosa</i>	Silver Linden	Y	Y	Y	D	N	N	2	Lawn or border tree. Select cultivars for street trees.
<i>Ulmus americana</i>	American Elm	Y	Y	Y	D	Y	Y	3	Lawn or border tree. Dutch Elm resistance cultivar
<i>Ulmus carpinifolia</i>	Smoothleaf Elm	Y	Y	Y	D	N	N	3	Lawn or border tree. Dutch Elm resistance cultivar
<i>Ulmus parvifolia</i>	Lacebark Elm	Y	Y	Y	D	N	N	3	Lawn or border tree. Tolerant of a wide range of soils.
<i>Ulmus rubra</i>	Red Elm	L	N	N	D	Y	Y	3	Lawn or border tree. Dutch Elm resistance cultivar
<i>Zelkova serrata</i>	Japanese Zelkova	Y	Y	Y	D	N	N	2	Lawn or border tree. Tolerant of a wide range of soils.

B. Medium Canopy Trees (30' to 50')

Botanical Name	Common Name	Shade	Depth	Wind	Flood	Zone	Risk	Grade	Notes
<i>Abies balsamea</i>	Balsam Fir	N	L	Y	E	Y	Y	2	Border or hedge tree. Well-drained, acidic soils.
<i>Abies concolor</i>	White Fir	N	L	Y	E	N	N	2	Border or hedge tree. Well-drained, acidic soils.
<i>Abies fraseri</i>	Fraser Fir	N	L	Y	E	Y	N	2	Border or hedge tree. Well-drained, acidic soils.
<i>Acer negundo</i>	Boxelder	Y	Y	Y	D	Y	Y	3	Lawn or border tree. Tolerates flooding.
<i>Aesculus glabra</i>	Ohio Buckeye	L	N	L	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Alnus glutinosa</i>	Black Alder	Y	Y	Y	D	N	N	3	Lawn or border tree. Wide range of soils.
<i>Betula alleghaniensis</i>	Yellow Birch	N	N	N	D	Y	Y	2	Lawn or border tree.
<i>Betula lenta</i>	Black Birch	N	N	N	D	Y	Y	2	Lawn or border tree.
<i>Betula nigra</i>	River Birch	N	N	Y	D	Y	Y	2	Lawn or border tree. Cultivars for disease resistance.
<i>Betula populifolia</i>	Gray Birch	N	L	N	D	Y	Y	2	Lawn or border tree.
<i>Carpinus betulus</i>	European Hornbeam	Y	Y	Y	D	N	N	1	Upright cultivar for street trees. Lawn tree or hedges.
<i>Catalpa bignonioides</i>	Southern Catalpa	N	N	Y	D	N	N	2	Lawn or border tree. Ornamental
<i>Catalpa speciosa</i>	Northern Catalpa	N	Y	Y	D	N	N	2	Lawn or border tree. Ornamental
<i>Chamaecyparis nootkatensis</i>	Nootka Falsecypress	N	L	Y	E	N	N	2	Border or hedge tree. Tolerant of wet sites.
<i>Chamaecyparis obtusa</i>	Hinoki Falsecypress	N	L	Y	E	N	N	2	Border or hedge tree. Tolerant of wet sites.
<i>Chamaecyparis thyoides</i>	Atlantic Whitecedar	N	L	Y	E	Y	Y	2	Border or hedge tree. Tolerant of wet sites.
<i>Cedrus atlantica</i>	Atlas Cedar	N	Y	Y	E	N	N	1	Lawn or border tree.
<i>Corylus colurna</i>	Turkish Filbert	Y	Y	Y	D	N	N	2	Lawn or border tree. Wide range of soils.
<i>Cryptomeria japonica</i>	Japanese Cryptomeria	N	Y	Y	E	N	N	3	Border or hedge tree.
<i>Diospyros virginiana</i>	Common Persimmon	N	N	Y	D	Y*	Y	1	Dioecious. Patio, border or lawn tree.
<i>Ilex opaca</i>	American Holly	N	L	Y	E	Y	Y	1	Dioecious. Border or hedge tree. Wide range of cultivars.
<i>Juniperus scopulorum</i>	Colorado Redcedar	N	Y	Y	E	N	N	1	Border or hedge tree. Wide range of cultivars.
<i>Juniperus squamata</i>	Flaky Juniper	N	Y	Y	E	N	N	1	Border or hedge tree. Wide range of cultivars.
<i>Juniperus virginiana</i>	Eastern Redcedar	N	Y	Y	E	Y	Y	2	Border or hedge tree. Wide range of cultivars.
<i>Maclura pomifera</i>	Osage-orange	L	Y	Y	D	Y	N	3	Lawn, border or hedge tree. Tolerant of various soils.
<i>Magnolia grandiflora</i>	Southern Magnolia	L	Y	Y	E	Y	Y	2	Lawn or border tree. Select cultivar for street tree.

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<i>Magnolia macrophylla</i>	Bigleaf Magnolia	N	N	N	D	Y	Y	3	Lawn or border tree. Well-drained, acidic soils.
<i>Magnolia tripetala</i>	Umbrella Magnolia	N	N	N	D	Y	Y	1	Lawn or border tree.
<i>Morus rubra</i>	Red Mulberry	N	Y	N	D	Y	Y	3	Lawn or border tree.
<i>Ostrya virginiana</i>	American Hop-hornbeam	Y	Y	L	D	Y*	N	2	Lawn tree or hedges. Naturalistic areas.
<i>Pinus bungeana</i>	Lacebark Pine	N	L	Y	E	N	N	2	Border or patio tree. Attractive bark.
<i>Pinus serotina</i>	Marsh Pine	N	L	N	E	Y	Y	3	Border or hedge tree. Wide range of soils.
<i>Pistacia chinensis</i>	Chinese Pistache	Y	Y	N	D	N	N	2	Lawn or border tree. Wide range of soils.
<i>Prunus pensylvanica</i>	Wild Red Cherry	L	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Prunus serotina</i>	Wild Black Cherry	L	Y	N	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Prunus virginiana</i>	Chokecherry	L	Y	Y	D	Y	Y	3	Lawn or border tree. Wide range of soils.
<i>Quercus lyrata</i>	Swamp Post Oak	N	L	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Quercus marilandica</i>	Blackjack Oak	L	Y	N	D	Y	N	2	Lawn or border tree. Wide range of soils.
<i>Quercus stellata</i>	Post Oak	L	L	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Salix babylonica</i>	Weeping Willow	N	N	Y	D	N	N	3	Lawn or border tree. Wide range of soils.
<i>Sassafras albidum</i>	Common Sassafras	N	N	N	D	Y	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Sorbus x intermedia</i>	Swedish Whitebeam	Y	Y	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Styphnolobium japonicum</i>	Japanese Pagoda Tree	Y	Y	Y	D	N	N	2	Lawn or border tree. Well-drained, acidic soils.
<i>Thuja occidentalis</i>	Eastern Arborvitae	N	L	Y	E	Y	Y	2	Border or hedge tree. Well-drained, acidic soils.
<i>Ulmus alata</i>	Winged Elm	Y	Y	N	D	Y	Y	3	Lawn or border tree. Well-drained, acidic soils.

C.Small Canopy/Understory Trees (15' to 30')

Botanical Name	Common Name	St re et	U rb an	C o m m	F o l i a g e	N e e d s	R e s i s t a n c e	G r o w t h	Notes
<i>Acer burserianum</i>	Trident Maple	Y	Y	Y	D	N	N	3	Patio, border or hedge tree. Wide range of soils.
<i>Acer campestre</i>	Hedge Maple	L	Y	Y	D	N	N	2	Lawn tree or hedges. Wide range of soils.
<i>Acer carpinifolium</i>	Hornbeam Maple	L	L	N	D	N	N	2	Patio or border tree. Well-drained, acidic soils.
<i>Acer circinatum</i>	Vine Maple	L	Y	N	D	N	N	3	Patio, border or hedge tree. Wide range of soils.
<i>Acer ginnala</i>	Amur Maple	L	Y	Y	D	N	N	3	Patio, border or hedge tree. Wide range of soils.
<i>Acer griseum</i>	Paperbark Maple	L	L	Y	D	N	N	1	Patio or border tree.
<i>Acer japonicum</i>	Fullmoon Maple	N	L	N	D	N	N	1	Patio or border tree.
<i>Acer palmatum</i>	Japanese Maple	N	L	Y	D	N	N	1	Patio or border tree.
<i>Acer pensylvanicum</i>	Striped Maple	N	N	Y	D	Y	Y	1	Patio or border tree. Highly shade tolerant.
<i>Acer spicatum</i>	Eastern Mountain Maple	N	N	N	D	Y	Y	1	Patio or border tree. Well-drained, acidic soils.
<i>Acer tataricum</i>	Tatarian Maple	L	L	N	D	N	N	2	Patio or border tree.
<i>Acer truncatum</i>	Shantung Maple	Y	Y	Y	D	N	N	2	Patio, border or lawn tree. Wide range of soils.
<i>Amelanchier arborea</i>	Downy Serviceberry	L	N	N	D	Y	Y	2	Patio or border tree. Tolerates wet soils.
<i>Amelanchier canadensis</i>	Shadblow Serviceberry	L	N	Y	D	Y	Y	2	Patio or border tree. Tolerates wet soils.
<i>Amelanchier laevis</i>	Smooth Serviceberry	L	N	Y	D	Y*	Y	2	Patio or border tree. Tolerates wet soils.

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<i>Aralia spinosa</i>	Devils Walking Stick	N	Y	N	D	N	N	2	Border tree.
<i>Asimina triloba</i>	Pawpaw	L	L	Y	D	Y	Y	2	Patio or border tree. Tolerates wet soils.
<i>Carpinus caroliniana</i>	American Hornbeam	Y	N	N	D	Y	Y	1	Lawn, border or hedge tree. Well-drained, acidic soils.
<i>Castanea pumila</i>	Allegheny Chinquapin	N	N	N	D	Y	N	1	Lawn or border tree. Well-drained, acidic soils.
<i>Cercis canadensis</i>	Eastern Redbud	L	L	Y	D	Y*	Y	2	Patio or border tree. Well-drained, acidic soils
<i>Chionanthus retusus</i>	Chinese Fringetree	N	Y	Y	D	N	N	2	Border tree for naturalistic groupings.
<i>Chionanthus virginicus</i>	White Fringetree	N	Y	Y	D	Y	Y	2	Border tree for naturalistic groupings.
<i>Cornus alternifolia</i>	Pagoda Dogwood	N	N	Y	D	Y	Y	2	Border tree. Well-drained, acidic soils. Shade tolerant.
<i>Cornus florida</i>	Flowering Dogwood	N	N	Y	D	Y	Y	2	Border tree. Intolerant of salt or reflected heat.
<i>Cornus kousa</i>	Kousa Dogwood	N	N	Y	D	N	N	2	Border tree. Intolerant of salt or reflected heat.
<i>Cornus mas</i>	Cornelian Cherry Dogwood	L	L	Y	D	N	N	2	Border tree. Limb-up to reveal bark.
<i>Cotinus coggygia</i>	Common Smoketree	L	Y	Y	D	N	N	2	Dioecious. Border tree. Adaptable to difficult sites.
<i>Cotinus obovatus</i>	American Smoketree	L	Y	N	D	Y	Y	2	Dioecious. Border tree. Adaptable to difficult sites.
<i>Crataegus crus-galli</i> var. <i>inermis</i>	Cockspur Hawthorn	Y	Y	Y	D	Y	L	2	Patio, border or hedge tree. Wide range of soils.
<i>Crataegus phaenopyrum</i>	Washington Hawthorn	Y	Y	Y	D	Y	L	2	Patio, border or hedge tree. Wide range of soils.
<i>Crataegus</i> spp.	Hawthorns	L	Y	Y	D	Y	Y	2	Thornless for street trees. Native only for RBA.
<i>Franklinia alata</i>	Franklinia	N	N	N	D	Y	Y	2	Patio or border tree. Well-drained, acidic soils
<i>Halesia carolina</i>	Carolina Silverbell	N	N	Y	D	Y	Y	2	Patio, border or hedge tree. Well-drained, acidic soils.
<i>Ilex aquifolium</i>	English Holly	N	Y	Y	E	N	N	1	Dioecious. Border/hedge tree. Wide range of soils.
<i>Ilex cornuta</i>	Chinese Holly	N	Y	Y	E	N	N	1	Dioecious. Border/hedge tree. Wide range of soils.
<i>Ilex latifolia</i>	Lusterleaf Holly	N	L	Y	E	N	N	1	Dioecious. Border/hedge tree. Wide range of soils.
<i>Ilex pendunculosa</i>	Longstalk Holly	N	Y	Y	E	N	N	2	Dioecious. Border/hedge tree. Well-drained soils.
<i>Ilex vomitoria</i>	Yaupon Holly	N	L	Y	E	Y	L	1	Dioecious. Border/hedge tree. Well-drained soils.
<i>Juniperus chinensis</i>	Chinese Juniper	N	Y	Y	E	N	N	2	Border or hedge tree. Wide range of cultivars.
<i>Koelreuteria paniculata</i>	Goldenraintree	Y	Y	Y	D	N	N	3	Patio or border tree.
<i>Laburnum x watereri</i>	Goldenchaintree	L	Y	Y	D	N	N	2	Patio or border tree.
<i>Lagerstroemia indica</i>	Crapemyrtle	Y	Y	Y	D	N	N	3	Lawn or border tree.
<i>Maackia amurensis</i>	Amur Maackia	L	L	L	D	N	N	1	Patio or border tree.
<i>Magnolia salicifolia</i>	Anise Magnolia	L	L	Y	D	N	N	1	Lawn, patio or border tree. Well-drained, acidic soils.
<i>Magnolia stellata</i>	Star Magnolia	N	N	Y	D	N	N	1	Lawn, patio or border tree. Well-drained, acidic soils.
<i>Magnolia virginiana</i>	Sweetbay Magnolia	N	N	Y	D	Y	Y	2	Lawn, patio or border tree. Well-drained, acidic soils.
<i>Magnolia x loebneri</i>	Loebner Magnolia	L	L	Y	D	N	N	2	Lawn, patio or border tree. Well-drained, acidic soils.

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<i>Magnolia x soulangiana</i>	Saucer Magnolia	L	Y	Y	D	N	N	2	Lawn, patio or border tree. Tolerant of various soils.
<i>Malus hupehensis</i>	Tea Crabapple	L	L	Y	D	N	N	2	Lawn, patio or border tree. Single stem for street trees.
<i>Malus spp.</i>	Flowering Crabapples	L	L	Y	D	Y	Y	2	Lawn, patio or border tree. Single stem for street trees.
<i>Oxydendrum arboreum</i>	Sourwood	Y	N	N	D	Y	Y	1	Patio tree & for small areas. Acidic, well-drained soils.
<i>Parrotia persica</i>	Persian Parrotia	Y	Y	Y	D	N	N	2	Lawn, patio or border trees. Wide range of soils.
<i>Persea palustris</i>	Swampbay	N	N	N	E	Y	Y	2	Border or hedge tree. Acidic, well-drained soils.
<i>Pinus bungeana</i>	Lacebark Pine	N	N	Y	E	N	N	1	Patio or border tree. Well-drained, acidic soils
<i>Pinus pungens</i>	Table-Mountain Pine	N	Y	N	E	Y	N	1	Border tree. Dry, well-drained soils.
<i>Prunus spp.</i>	Flowering Cherry Trees	L	L	Y	D	Y	N	2	Lawn, patio or border tree. Single stem for street trees.
<i>Prunus americana</i>	American Wild Plum	N	Y	N	D	Y*	Y	2	Lawn or border tree. Well-drained, acidic soils.
<i>Prunus serrulata</i>	Oriental Flowering Cherry	Y	Y	Y	D	N	N	2	Lawn, patio or border tree. Wide range of soils.
<i>Ptelea trifoliata</i>	Hop Tree	N	Y	Y	D	Y	Y	1	Lawn or border tree. Wide range of soils
<i>Pyrus fauriei</i>	Asian Pear	Y	Y	Y	D	N	N	2	Lawn or border tree. Wide range of soils
<i>Quercus ilicifolia</i>	Scrub Oak	N	Y	N	D	Y	Y	1	Lawn or border tree. Wide range of soils
<i>Quercus prinoides</i>	Dwarf Chinquapin Oak	N	L	N	D	Y*	Y	1	Lawn or border tree. Wide range of soils
<i>Rhus typhina</i>	Staghorn Sumac	N	Y	Y	D	Y	Y	3	Lawn or border tree. Wide range of soils
<i>Salix bebbiana</i>	Gray Willow	N	N	N	D	Y	Y	3	Lawn or border tree. Well-drained acidic soils.
<i>Salix caroliniana</i>	Carolina Willow	N	N	N	D	Y	Y	3	Lawn or border tree. Well-drained acidic soils.
<i>Stewartia pseudocamellia</i>	Japanese Stewartia	N	L	Y	D	N	N	2	Lawn, patio or border tree.
<i>Staphylea trifolia</i>	American Bladdernut	N	N	N	D	Y	Y	3	Lawn or border tree. Well-drained acidic soils.
<i>Syringa reticulata</i>	Japanese Tree Lilac	Y	Y	Y	D	N	N	2	Lawn, patio or border tree. Single stem for street trees.
<i>Syringa vulgaris</i>	Common Lilac	L	N	Y	D	N	N	2	Lawn, patio or border tree.
<i>Taxus baccata</i>	English Yew	N	Y	Y	E	N	N	1	Border or hedge tree. Well-drained, acidic soils.
<i>Taxus cuspidata</i>	Japanese Yew	N	Y	Y	E	N	N	1	Border or hedge tree. Well-drained, acidic soils.
<i>Thuja orientalis</i>	Oriental Arborvitae	N	L	Y	E	N	N	1	Border or hedge tree. Well-drained, acidic soils.

D. Woody Shrubs, Vines and Groundcovers

Botanical Name	Common Name	Urb	Ch	Fl	Fla	N	R	B	Notes
<i>Abelia x grandiflora</i>	Hybrid Glossy Abelia	L	Y	D/E	N	N			Medium border or hedge shrub. Wide range of soils.
<i>Alnus serrulata</i>	Smooth Alder	L	Y	D	Y	Y			Medium to large shrub or small tree. Well-drained, moist, acidic soils.
<i>Amelanchier alnifolia</i>	Alder-Leaved Serviceberry	L	Y	D	N	N			Small to large border or hedge shrub. Wide range of soils.
<i>Aronia arbutifolia</i>	Red Chokeberry	Y	Y	D	Y	Y			Medium border or hedge shrub. Wide range of soils.
<i>Aronia melanocarpa</i>	Black Chokeberry	Y	Y	D	Y	Y			Small border or hedge shrub. Wide range of soils.
<i>Aronia x prunifolia</i>	Purple Chokeberry	Y	Y	D	Y	Y			Medium border or hedge shrub. Wide range of soils.
<i>Aesculus parviflora</i>	Bottlebrush Buckeye	L	Y	D	Y	Y			Medium to large border or hedge shrub. Well-drained, moist, acidic soils.

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<i>Bignonia capreolata</i>	Crossvine	L	Y	E	Y	N	Self-clinging/tendrill vine. Well-drained, moist, acidic soils.
<i>Buddleia davidii</i>	Butterfly-bush	Y	Y	D	N	N	Small to large border or hedge shrub. Wide range of soils.
<i>Buxus microphylla</i>	Littleleaf Boxwood	N	Y	E	N	N	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Buxus sempervirens</i>	Common Boxwood	N	Y	E	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Callicarpa americana</i>	American Beautyberry	N	N	D	Y	Y	Medium border or hedge shrub. Wide range of soils.
<i>Callicarpa dichotoma</i>	Purple Beautyberry	N	N	D	N	N	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Calycanthus floridus</i>	Carolina Allspice	L	Y	D	Y	Y	Medium border or hedge shrub. Wide range of soils.
<i>Camellia japonica</i>	Japanese Camellia	Y	Y	D	N	N	Medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Campsis radicans</i>	Trumpet Vine	Y	Y	D	Y	N	Self-clinging vine. Tolerant of a wide range of soils.
<i>Ceanothus americanus</i>	New Jersey Tea	Y	N	E	Y*	Y	Small border or hedge shrub. Wide range of soils.
<i>Celastrus scandens</i>	American Bittersweet	Y	N	D	Y*	N	Dioecious. Fast growing, twining vine. Wide range of soils.
<i>Cephalanthus occidentalis</i>	Buttonbush	L	N	D	Y	Y	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Clematis lanuginosa</i>	Lanuginosa Clematis	Y	Y	D	N	N	Self-clinging/tendrill vine. Well-drained, moist, acidic soils.
<i>Clematis virginiana</i>	Virginia Clematis	Y	Y	D	Y	N	Self-clinging/tendrill vine. Well-drained, moist, acidic soils.
<i>Clematis viticella</i>	Purple Clematis	Y	Y	D	N	N	Self-clinging/tendrill vine. Well-drained, moist, acidic soils.
<i>Clethra alnifolia</i>	Summersweet Clethra	Y	Y	D	Y	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Comptonia peregrina</i>	Sweetfern	L	Y	D	Y	Y	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Cornus alba</i>	Tatarian Dogwood	Y	Y	D	N	N	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Cornus amomum</i>	Silky Dogwood	Y	Y	D	Y*	Y	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Cornus racemosa</i>	Gray Dogwood	Y	Y	D	Y*	Y	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Cornus sericea</i>	Red Osier Dogwood	Y	Y	D	N	N	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Corylus americana</i>	American Filbert	L	L	D	Y	Y	Large border or hedge shrub. Wide range of soils.
<i>Corylus avellana</i>	European Filbert	N	Y	D	N	N	Large border or hedge shrub. Wide range of soils.
<i>Deutzia gracilis</i>	Slender Deutzia	L	Y	D	N	N	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Diervilla sessilifolia</i>	Southern Bush Honeysuckle	L	Y	D	Y	Y	Groundcover or small shrub. Wide range of soils.
<i>Euonymus atropurpureus</i>	Eastern Burning Bush	N	N	D	Y*	Y	Large border or hedge shrub. Wide range of soils.
<i>Forsythia suspensa</i>	Weeping Forsythia	L	Y	D	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Forsythia x intermedia</i>	Hybrid Border Forsythia	L	Y	D	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Fothergilla gardenii</i>	Dwarf Fothergilla	Y	Y	D	Y	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Fothergilla major</i>	Large Fothergilla	Y	N	D	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hamamelis vernalis</i>	Vernal Witchhazel	L	Y	D	N	N	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hamamelis virginiana</i>	Common Witchhazel	L	N	D	Y	Y	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hamamelis x intermedia</i>	Hybrid Witchhazel	Y	Y	D	N	N	Large border or hedge shrub. Wide range of soils.
<i>Hydrangea arborescens</i>	Smooth Hydrangea	N	Y	D	Y	Y	Small to medium border shrub. Well-drained, moist, acidic soils.

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<i>Hydrangea macrophylla</i>	Bigleaf Hydrangea	Y	Y	D	N	N	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hydrangea paniculata</i>	Panicle Hydrangea	Y	Y	D	N	N	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hydrangea quercifolia</i>	Oakleaf Hydrangea	Y	Y	D	Y	Y	Large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Hypericum androsaemum</i>	Tutsan	Y	Y	D	N	N	Groundcover to small shrub. Wide range of soils.
<i>Hypericum frondosum</i>	St. John's Wort	Y	Y	D	Y	Y	Small to medium border or hedge shrub. Wide range of soils.
<i>Hypericum prolificum</i>	Shrubby St. John's Wort	Y	Y	D	Y*	Y	Small border or hedge shrub. Wide range of soils.
<i>Ilex crenata</i>	Japanese Holly	Y	Y	E	N	N	Groundcover or small to large shrub. Wide range of soils.
<i>Ilex glabra</i>	Inkberry	L	Y	E	Y	Y	Dioecious. Small to large shrub. Well-drained, acidic soils.
<i>Ilex verticillata</i>	Winterberry	L	Y	D	Y	Y	Dioecious. Small to large shrub. Well-drained, acidic soils.
<i>Ilex x meserveae</i>	Hybrid Meserve Hollies	Y	Y	E	N	N	Dioecious. Small to large shrub. Wide range of soils.
<i>Itea virginica</i>	Virginia Sweetspire	L	Y	D	Y	Y	Small to medium shrub. Well-drained, moist, acidic soils.
<i>Juniperus communis</i>	Common Juniper	Y	Y	E	Y	Y	Groundcover. Wide range of soils.
<i>Juniperus conferta</i>	Shore Juniper	Y	Y	E	N	N	Groundcover. Wide range of soils.
<i>Juniperus horizontalis</i>	Creeping Juniper	Y	Y	E	N	N	Groundcover. Wide range of soils.
<i>Juniperus procumbens</i>	Japanese Garden Juniper	Y	Y	E	N	N	Groundcover to small shrub. Wide range of soils.
<i>Juniperus sabina</i>	Savin Juniper	Y	Y	E	N	N	Groundcover to small shrub. Wide range of soils.
<i>Kalmia latifolia</i>	Mountain Laurel	N	Y	E	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Lindera benzoin</i>	Spicebush	L	Y	D	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Lindera glauca</i>	Asian Spicebush	L	Y	D	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Lonicera sempervirens</i>	Trumpet Honeysuckle	L	Y	D	Y	N	Self-clinging/twining vine. Well-drained, moist, acidic soils.
<i>Leucothoe axillaris</i>	Coast Leucothoe	L	Y	E	Y	Y	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Leucothoe fontanesiana</i>	Drooping Leucothoe	N	Y	E	Y	N	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Menispermum canadense</i>	Canadiar Moonseed	L	Y	D	Y	N	Self-clinging/twining vine. Well-drained, moist, acidic soils.
<i>Morella pensylvanica</i>	Northern Bayberry	Y	Y	D	Y	Y	Medium to large border or hedge shrub. Wide range of soils.
<i>Morella cerifera</i>	Southern Bayberry	Y	Y	E	Y	Y	Medium to large border or hedge shrub. Wide range of soils.
<i>Nandina domestica</i>	Nandina	Y	Y	E	Y	Y	Medium border or hedge shrub. Wide range of soils.
<i>Osmanthus americanus</i>	Devilwood	L	N	E	Y	Y	Large border or hedge shrub. Wide range of soils.
<i>Parthenocissus quinquefolia</i>	Virginia Creeper	Y	Y	D	Y	N	Self-clinging/tendrill vine. Wide range of soils.
<i>Parthenocissus tricuspidata</i>	Boston Ivy	Y	Y	D	N	N	Self-clinging/tendrill vine. Wide range of soils.
<i>Physocarpus opulifolius</i>	Ninebark	Y	Y	D	Y*	Y	Groundcover or small border shrub. Wide range of soils.
<i>Pieris japonica</i>	Japanese Pieris	N	Y	E	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Prunus laurocerasus</i>	Cherry Laurel	Y	Y	E	N	N	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Prunus lusitanica</i>	Portugal Laurel	Y	Y	D	N	N	Large border or hedge shrub or small tree. Well-drained, moist, acidic soils.
<i>Prunus maritima</i>	Beach Plum	Y	Y	D	Y	L	Medium to large border or hedge shrub. Dry, sandy soils.
<i>Prunus x cistena</i>	Purple-Leaf Sand Cherry	Y	Y	D	N	N	Small to medium shrub. Well-drained, moist, acidic soils.

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<i>Pyracantha coccinea</i>	Scarlet Firethorn	Y	Y	D	N	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Rhododendron atlanticum</i>	Coast Azalea	Y	Y	D	Y	Y	Small border or hedge shrub. Wide range of soils.
<i>Rhododendron carolinianum</i>	Carolina Rhododendron	L	Y	E	Y	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rhododendron catawbiense</i>	Catawba Rhododendron	L	Y	E	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rhododendron maximum</i>	Rosebay Rhododendron	N	Y	D	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rhododendron periclymenoides</i>	Pinxterbloom Azalea	Y	Y	D	Y	Y	Medium to large border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rhododendron prinophyllum</i>	Roseshell Azalea	N	Y	D	Y	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rhus aromatica</i>	Fragrant Sumac	Y	Y	D	Y	Y	Groundcover to medium shrub. Wide range of soils.
<i>Rhus copallina</i>	Winged Sumac	Y	Y	D	Y	L	Large border or hedge shrub. Wide range of soils.
<i>Rosa palustris</i>	Swamp Rose	Y	N	D	Y	Y	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Rosa rugosa</i>	Rugosa Rose	Y	Y	D	N	N	Small to medium border or hedge shrub. Wide range of soils.
<i>Rosa virginiana</i>	Virginia Rose	Y	N	D	Y	N	Small to medium border or hedge shrub. Wide range of soils.
<i>Rosa x spp</i>	Hybrid Roses	Y	Y	D	N	N	Small to medium border or hedge shrub. Wide range of soils.
<i>Salix discolor</i>	American Pussy Willow	N	N	D	Y	Y	Medium to larger border or hedge shrub. Well-drained, moist, acidic soils.
<i>Sambucus canadensis</i>	Elderberry	L	Y	D	Y	Y	Small to large border or hedge shrub. Wide range of soils.
<i>Sambucus racemosa</i>	Red Elderberry	L	Y	D	Y	Y	Small to large border or hedge shrub. Wide range of soils.
<i>Spiraea alba</i>	Meadowsweet	L	Y	D	Y	Y	Small border or hedge shrub. Well-drained, moist, acidic soils.
<i>Spiraea spp</i>	Spiraeas	L	Y	D	N	N	Small to large border or hedge shrub. Wide range of soils.
<i>Stewartia malacodendron</i>	Silky Camellia	N	N	D	Y	Y	Large border or hedge shrub. Wide range of soils.
<i>Syringa meyeri</i>	Korean Lilac	Y	Y	D	N	N	Small border or hedge shrub. Wide range of soils.
<i>Syringa pubescens</i>	Manchurian Lilac	L	Y	D	N	N	Small to large border or hedge shrub. Wide range of soils.
<i>Taxus canadensis</i>	Canadian Yew	L	L	E	Y	Y	Groundcover to small shrub. Well-drained, acidic soils.
<i>Taxus cuspidata</i>	Japanese Yew	L	L	E	N	N	Groundcover or small to large shrub. Well-drained, acidic soils.
<i>Taxus x media</i>	Anglojap Yew	Y	Y	E	N	N	Groundcover or small to large shrub. Well-drained, acidic soils.
<i>Vaccinium angustifolium</i>	Lowbush Blueberry	N	Y	D	Y*	Y	Groundcover shrub. Well-drained, moist, acidic soils.
<i>Vaccinium corymbosum</i>	Highbush Blueberry	N	Y	D	Y*	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Vaccinium macrocarpon</i>	American Cranberry	N	Y	D	Y*	Y	Groundcover shrub. Well-drained, moist, acidic soils.
<i>Viburnum acerifolium</i>	Mapleleaf Viburnum	L	Y	D	Y	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.
<i>Viburnum x burkwoodii</i>	Burkwood Viburnum	Y	Y	D	N	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Viburnum carlesii</i>	Koreanspice Viburnum	Y	Y	D	N	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Viburnum dentatum</i>	Arrowwood Viburnum	Y	Y	D	Y	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Viburnum lentago</i>	Nannyberry	Y	Y	D	Y	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Viburnum opulus</i>	European Cranberrybush	Y	Y	D	N	N	Medium to large border or hedge shrub. Wide range of soils.
<i>Viburnum nudum</i>	Possumhaw Viburnum	L	Y	D	Y*	Y	Small to medium border or hedge shrub. Well-drained, moist, acidic soils.

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<i>Viburnum plicatum</i>	Snowball Viburnum	Y	Y	D	N	N	Small to medium border or hedge shrub. Wide range of soils.
<i>Viburnum rhytidophyllum</i>	Leatherleaf Viburnum	Y	Y	E	N	N	Small to medium border or hedge shrub. Wide range of soils.
<i>Vitex agnus-castus</i>	Chastetree	L	Y	D	N	N	Medium to large border or hedge shrub. Wide range of soils.

E. Herbaceous Plants, Vines, Groundcovers and Grasses

Botanical Name	Common Name	D	F	C	S	F	N	R	B	W	et	an	Notes
<i>Achillea millefolium</i>	Common Yarrow	L		Y		D	Y	Y		FACU			Herb. Wide range of soils. SWM facilities
<i>Actaea racemosa</i>	Black Cohosh	L		N		D	Y	Y		NI			Herb. Wide range of soils. SWM facilities
<i>Acorus americanus</i>	Sweetflag	N		Y		D	Y	Y		OBL			Herb. Moist soils. SWM facilities.
<i>Ageratina altissima</i>	White Snakeroot	Y		Y		D	Y	Y		FACU			Herb. Wide range of soils. Do not plant in livestock feeding areas.
<i>Ajuga reptans</i>	Carpet Bugleweed	Y		Y		D	N	N		NI			Herb. Wide range of soils.
<i>Agastache foeniculum</i>	Anise Hyssop	L		Y		D	Y	Y		NI			Herb. Moist soils. SWM facilities.
<i>Agrimonia gryposepala</i>	Tall Hairy Agrimony	L		Y		D	Y	Y		FACU			Herb. Wide range of soils.
<i>Agrostis gigantea</i>	Redtop	L		Y		D	Y	Y		FACW			Grass. Moist soils. SWM facilities.
<i>Agrostis perennans</i>	Perennial Bentgrass	Y		Y		D	Y	Y		FACU			Grass. Wide range of soils. SWM facilities.
<i>Alchemilla mollis</i>	Lady's Mantle	L		Y		D	N	N		NI			Herb. Wide range of soils.
<i>Alisma subcordatum</i>	Broadleaf Water-Plantain	N		N		D	Y	Y		OBL			Herb. Moist soils. SWM facilities.
<i>Allium canadense</i>	Meadow Onion	L		Y		D	Y	Y		FACU			Herb. Wide range of soils.
<i>Allium cernuum</i>	Nodding Onion	L		Y		D	Y	Y		NI			Herb. Wide range of soils.
<i>Allium nigrum</i>	Black Garlic	L		Y		D	N	N		NI			Herb. Wide range of soils.
<i>Allium atropurpureum</i>	Twincrest Onion	L		Y		D	N	N		NI			Herb. Wide range of soils.
<i>Allium tricocum</i>	Wild Ramps	L		Y		D	Y	Y		FACU			Herb. Wide range of soils.
<i>Amorpha canescens</i>	Lead Plant	Y		Y		D	N	N		NI			Herb. Wide range of soils.
<i>Amsonia ciliata</i>	Fringed Bluestar	L		Y		D	Y	Y		NI			Herb. Wide range of soils.
<i>Amsonia hubrichtii</i>	Threadleaf Bluestar	L		N		D	Y	Y		NI			Herb. Wide range of soils.
<i>Amsonia tabernaemontana</i>	Eastern Bluestar	Y		Y		D	Y	Y		FACW			Herb. Moist soils. SWM facilities.
<i>Andropogon gerardii</i>	Big Bluestem	Y		N		D	Y	Y		FAC			Grass. Wide range of soils. SWM facilities.
<i>Andropogon glomeratus</i>	Bushy Bluestem	L		N		D	Y	Y		FACW			Grass. Moist soils. SWM facilities.
<i>Andropogon virginicus</i>	Broomsedge Bluestem	Y		N		D	Y	Y		FAC			Grass. Wide range of soils. SWM facilities.
<i>Anemone americana</i>	Roundlobed Hepatica	N		N		D	Y	Y		OBL			Herb. Moist soils. SWM facilities.
<i>Anemone quinquefolia</i>	Wood anemone	N		N		D	Y	Y		OBL			Herb. Moist soils. SWM facilities.
<i>Antennaria plantaginifolia</i>	Hairy Plantain-leaf Pussytoes	Y		Y		D	Y	L		UPL			Herb. Dry soils. Mat-forming groundcover.
<i>Apios americana</i>	American Groundnut	L		L		D	Y	N		FACW			Vine. Moist soils.
<i>Aquilegia canadensis</i>	Eastern Red Columbine	L		Y		D	Y	Y		FACU			Herb. Wide range of soils. SWM facilities.
<i>Aralia nudicaulis</i>	False Sarsaparilla	N		N		D	Y	Y		FACU			Herb. Wide range of soils.
<i>Aralia racemosa</i>	American Spikenard	N		N		D	Y	Y		NI			Herb. Wide range of soils.
<i>Arisaema triphyllum</i>	Jack-in-the-Pulpit	N		N		D	Y*	Y		FACW			Herb. Moist soils.

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<i>Aristolochia macrophylla</i>	Dutchman's Pipe	L	N	D	Y*	N	NI	Vine. Moist soils.
<i>Asarum canadense</i>	Canadian Wildginger	N	N	D	Y*	Y	FACW	Herb. Moist soils.
<i>Asclepias incarnata</i>	Swamp Milkweed	L	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities. Attracts Monarch butterflies.
<i>Asclepias syriaca</i>	Common Milkweed	Y	Y	D	Y	L	UPL	Herb. Dry soils. Attracts Monarch butterflies.
<i>Asclepias tuberosa</i>	Butterfly Milkweed	Y	Y	D	Y	L	FACU	Herb. Wide range of soils. Attracts Monarch butterflies.
<i>Astilbe biternata</i>	Native False Goatsbeard	L	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Astilbe spp</i>	Astilbes	L	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Avenella flexuosa</i>	Wavy Hairgrass	Y	N	D	Y	Y	NI	Grass. Wide range of soils. SWM facilities.
<i>Baptisia australis</i>	Blue False Indigo	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Bidens cernua</i>	Nodding Bur-Marigold	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Bidens discoidea</i>	Swamp Tickseed	N	N	D	Y	Y	FACW	Herb. Moist soils.
<i>Bidens laevis</i>	Large Bur-Marigold	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Bigelovia nuttallii</i>	Rayless Goldenrod	Y	Y	D	N	N	UPL	Herb. Dry soils.
<i>Boehmeria cylindrica</i>	False Nettle	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Calamagrostis x acutifolia</i>	Feather Reedgrass	L	Y	D	N	N	OBL	Grass. Moist soils. SWM facilities.
<i>Calamagrostis canadensis</i>	Canadian Reedgrass	L	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Callitriche verna</i>	Vernal Water-Starwort	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities
<i>Caltha palustris</i>	Yellow Marsh Marigold	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities
<i>Campanula glomerata</i>	Clustered Bellflower	L	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Cardamine bulbosa</i>	Bulbous Bitter-Cress	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities
<i>Cardamine conctenata</i>	Cutleaf Toothwort	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Carex laxiculmis</i>	Spreading Sedge	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Carex pensylvanica</i>	Pennsylvania Sedge	L	Y	D	Y	Y	FAC	Herb. Moist soils. SWM facilities.
<i>Carex stricta</i>	Upright Sedge	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Caulophyllum thalictroides</i>	Blue Cohosh	N	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Chelone glabra</i>	White Turtlehead	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Chelone lyonii</i>	Pink Turtlehead	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Cardamine impatiens</i>	Narrowleaf Bittercress	N	N	D	Y	Y	FAC	Herb. Moist soils. SWM facilities.
<i>Chasmanthium latifolium</i>	Indian Woodoats	L	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Cinna arundinacea</i>	Stout Wood Reedgrass	N	N	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Circaea lutetiana</i>	Enchanter's Nightshade	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Claytonia virginica</i>	Narrowleaf Springbeauty	N	N	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Collinsonia canadensis</i>	Canada Horse-Balm	N	N	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Conoclinium coelestinum</i>	Blue Mistflower	N	Y	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities.
<i>Convallaria majalis</i>	Lily of the Valley	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Coreopsis verticillata</i>	Whorled Tickseed	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils.

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<i>Crocus chrysanthus</i>	Snow Crocus	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Crocus vernus</i>	Dutch Crocus	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Cryptotaenia canadensis</i>	Canada Honewort	N	N	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Cynoglossum virginianum</i>	Wild Comfrey	N	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Danthonia spicata</i>	Poverty Oatgrass	N	N	D	Y	Y	NI	Grass. Wide range of soils. SWM facilities.
<i>Dennstaedtia punctilobula</i>	Hay-Scented Fern	N	N	D	Y	Y	UPL	Herb. Dry soils.
<i>Deschampsia cespitosa</i>	Tufted Hairgrass	L	Y	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Deschampsia flexuosa</i>	Crinkled Hair Grass	L	Y	D	Y	Y	UPL	Grass. Dry soils. SWM facilities.
<i>Desmodium glabellum</i>	Dillen's Tick-Trefoil	N	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Dicentra cucullaria</i>	Dutchman's Breeches	N	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Dicentra eximia</i>	Wild Bleeding Heart	L	Y	D	Y	Y	NI	Herb. Wide range of soils.
<i>Dichanthelium boscii</i>	Bosc's Witchgrass	N	N	D	Y	Y	NI	Grass. Wide range of soils. SWM facilities.
<i>Dichanthelium clandestinum</i>	Deertongue	L	Y	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Dichanthelium dichotomum</i>	Forked Witchgrass	N	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Dichanthelium lucidum</i>	Bog Witchgrass	N	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Dichanthelium microcarpon</i>	Branched Witchgrass	N	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Dichanthelium sphaerocarpon</i>	Roundfruit Witchgrass	N	N	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Dryopteris carthusiana</i>	Wood Fern	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Echinacea purpurea</i>	Eastern Purple Coneflower	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities.
<i>Echinacea spp</i>	Coneflowers	L	Y	D	Y	L	NI	Herb. Wide range of soils. SWM facilities.
<i>Elephantopus carolinianus</i>	Carolina Elephant-Foot	N	N	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Elymus riparius</i>	River Wild Rye	N	N	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Elymus villosus</i>	Hairy Wild Rye	L	N	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Elymus virginicus</i>	Virginia Wild Rye	N	N	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Eragrostis spectabilis</i>	Purple Lovegrass	L	N	D	Y	L	UPL	Grass. Wide range of soils. SWM facilities.
<i>Erythronium americanum</i>	Yellow Trout-Lily	N	N	D	Y	Y	NI	Herb. Moist soils. SWM facilities.
<i>Eurybia divaricata</i>	White Wood Aster	N	N	D	Y	Y	NI	Herb. Moist soils.
<i>Eutrochium fistulosum</i>	Trumpet Weed	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Eutrochium purpureum</i>	Joe-Pye Weed	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Euthamia caroliniana</i>	Slender Goldentop	N	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Festuca subverticillata</i>	Nodding Fescue	L	N	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Galium circaeans</i>	Forest Bedstraw	L	N	D	Y	L	UPL	Herb. Dry soils.
<i>Galium lanceolatum</i>	Lance-Leaf Bedstraw	L	N	D	Y	L	NI	Herb. Dry soils.
<i>Galium obtusum</i>	Blunt-Leaf Bedstraw	L	N	D	Y	L	UPL	Herb. Dry soils.
<i>Galium odoratum</i>	Sweet Woodruff	L	Y	D	N	N	NI	Herb. Moist soils.
<i>Galium tinctorium</i>	Marsh Bedstraw	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.

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<i>Galium triflorum</i>	Sweet-Scent Bedstraw	L	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Geranium maculatum</i>	Wild Geranium	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Geum canadense</i>	White Avena	L	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Glyceria septentrionalis</i>	Floating Mannagrass	N	N	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Glyceria striata</i>	Fowl Mannagrass	N	N	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Hackelia virginiana</i>	Virginia Stickseed	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Helianthus annuus</i>	Common Sunflower	L	Y	D	Y	Y	FAC	Herb. Wide range of soils. Crop plant.
<i>Helenium autumnale</i>	Common Sneezeweed	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Helianthus angustifolius</i>	Swamp Sunflower	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Helianthus decapetalus</i>	Thinleaf Sunflower	N	N	D	Y	Y	FACU	Herb. Moist soils. SWM facilities.
<i>Helianthus microcephalus</i>	Small Woodland Sunflower	Y	Y	D	Y	L	UPL	Herb. Dry soils.
<i>Helianthus giganteus</i>	Tall Sunflower	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Hemerocallis spp</i>	Daylilies	Y	Y	D	N	N	NI	Herb. Moist soils. Plant where it cannot escape cultivation.
<i>Heracleum maximum</i>	Cow-Parsnip	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Heuchera americana</i>	Coral Bells	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Hieracium paniculatum</i>	Panicled Hawkweed	L	Y	D	Y	Y	NI	Herb. Wide range of soils.
<i>Hieracium venosum</i>	Rattlesnake Hawkweed	L	Y	D	Y	Y	NI	Herb. Wide range of soils.
<i>Hibiscus laevis</i>	Halberd-leaf Rosemallow	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Hibiscus moscheutos</i>	Eastern Rosemallow	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Hydrastis canadensis</i>	Golden Seal	N	N	D	Y	Y	NI	Herb. Moist soils. SWM facilities.
<i>Hydrocotyle americana</i>	American Water-Pennywort	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Hydrophyllum virginianum</i>	Eastern Waterleaf	N	N	D	Y*	Y	FAC	Herb. Wide range of soils.
<i>Hylotelephium spectabile</i>	Showy Stonecrop	Y	Y	D	N	N	NI	Herb. Wide range of soils. (Genus was formerly <i>Sedum</i>)
<i>Hypericum densiflorum</i>	Bushy St. John's Wort	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Hypericum walteri</i>	Walter's St. John's Wort	L	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Ipomoea batatas</i>	Sweet Potato	Y	Y	D	N	N	FACU	Vine. Wide range of soils.
<i>Ipomoea pandurata</i>	Man of the Earth	L	Y	D	Y	Y	FACU	Vine. Wide range of soils.
<i>Ipomoea spp</i>	Morning Glory Vines	L	L	D	N	N	NI	Vine. Wide range of soils.
<i>Impatiens capensis</i>	Orange Jewelweed	L	Y	D	Y	Y	FACW	Herb. Moist soils.
<i>Impatiens pallida</i>	Pale Jewelweed	L	Y	D	Y	Y	FACW	Herb. Moist soils.
<i>Iris cristata</i>	Dwarf Crested Iris	L	Y	D	Y	Y	FAC	Herb. Moist soils.
<i>Iris pseudacorus</i>	Yellowflag Iris	L	Y	D	N	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Iris sibirica</i>	Siberian Iris	L	Y	D	N	N	NI	Herb. Moist soils.
<i>Iris versicolor</i>	Blueflag Iris	L	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Juncus canadensis</i>	Canada Rush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Juncus effusus</i>	Soft Rush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Laportea canadensis</i>	Canada Wood-Nettle	N	N	D	Y	Y	FAC	Herb. Wide range of soils.

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<i>Leersia virginica</i>	Virginia Cutgrass	N	N	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Leucanthemum x superbum</i>	Shasta Daisy	L	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Liatris spicata</i>	Dense Blazing Star	N	Y	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities
<i>Lilium superbum</i>	Turk's Cap Lily	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Liriope muscari</i>	Lilyturf	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Liriope spicata</i>	Creeping Lilyturf	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Lobelia cardinalis</i>	Cardinal Flower	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Lobelia siphilitica</i>	Great Blue Lobelia	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Lupinus perennis</i>	Sundial Lupine	L	Y	D	Y	Y	NI	Herb. Wide range of soils.
<i>Luzula bulbosa</i>	Bulbous Woodrush	N	N	D	Y	Y	FACU	Grass. Moist soils. SWM facilities.
<i>Luzula echinata</i>	Hedgehog Woodrush	N	N	D	Y	Y	FAC	Grass. Moist soils. SWM facilities.
<i>Luzula multiflora</i>	Common Woodrush	L	N	D	Y	Y	FACU	Grass. Moist soils. SWM facilities.
<i>Lycopus americanus</i>	American Bugleweed	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Lycopus rubellus</i>	Taperleaf Bugleweed	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Lycopus uniflorus</i>	Northern Bugleweed	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Lycopus virginicus</i>	Virginia Bugleweed	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Lysimachia ciliata</i>	Fringed Loosestrife	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Maianthemum canadense</i>	Canada Mayflower	N	N	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Maianthemum racemosum</i>	Solomon's Plume	L	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Maianthemum stellatum</i>	Starflower	L	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Matteuccia struthiopteris</i>	Ostrich Fern	N	N	D	Y	Y	FACW	Herb. Moist soils.
<i>Medeola virginiana</i>	Indian Cucumber-Root	N	N	D	Y*	Y	UPL	Herb. Dry soils.
<i>Meehania cordata</i>	Meehan's Mint	L	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Mertensia virginica</i>	Virginia Bluebells	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Michella repens</i>	Partridgeberry	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Micranthes virginensis</i>	Virginia Saxifrage	N	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Monarda didyma</i>	Bee Balm	L	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Monarda fistulosa</i>	Wild Bergamot	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Muhlenbergia capillaris</i>	Hair-Awn Muhly	Y	Y	D	Y	Y	FACU	Grass. Wide range of soils.
<i>Nepeta cataria</i>	Catnip	Y	Y	D	N	N	FACU	Herb. Wide range of soils.
<i>Ophiopogon japonicus</i>	Dwarf Lilyturf	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Osmorhiza longistylis</i>	Scented Sweet-Cicely	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Osmunda regalis</i>	Royal Fern	N	N	D	Y	Y	FAC	Herb. Moist soils. SWM facilities.
<i>Osmundastrum cinnamomeum</i>	Cinnamon Fern	N	Y	D	Y	Y	FACW	Herb. Moist soils.
<i>Oxalis violacea</i>	Violet Woodsorrel	N	Y	D	Y	Y	NI	Herb. Moist soils.
<i>Packera aurea</i>	Golden Ragwort	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Paeonia spp</i>	Peonies	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Panicum amarum</i>	Coastal Panic Grass	Y	Y	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Panicum anceps</i>	Beaked Panicgrass	Y	Y	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Panicum virgatum</i>	Switchgrass	Y	Y	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Papaver orientale</i>	Oriental Poppy	L	Y	D	N	N	NI	Herb. Wide range of soils.

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<i>Passiflora incarnata</i>	Passion Vine	L	Y	D	Y	N	NI	Vine. Moist soils.
<i>Passiflora lutea</i>	Yellow Passion Vine	L	Y	D	Y	N	NI	Vine. Moist soils.
<i>Pachysandra procumbens</i>	Allegheny Pachysandra	L	Y	D	Y	Y	NI	Herb. Wide range of soils.
<i>Peltandra virginica</i>	Arrow Arum	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Penstemon digitalis</i>	Foxglove Beardtongue	L	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Penthorum sedoides</i>	Ditch Stonecrop	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Persicaria virginiana</i>	Virginia Smartweed	L	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Phacelia bipinnatifida</i>	Forest Phacelia	L	N	D	Y	Y	FAC	Herb. Moist soils.
<i>Phedimus spurius</i>	Caucasian Stonecrop	Y	Y	D	N	N	FACU	Herb. Wide range of soils. (Genus was formerly <i>Sedum</i>)
<i>Phlox divaricata</i>	Woodland Phlox	N	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Phlox paniculata</i>	Perennial Phlox	N	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Phlox subulata</i>	Moss Phlox	N	Y	E	Y	Y	FACU	Herb. Wide range of soils.
<i>Physostegia virginiana</i>	Obedient Plant	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Pilea fontana</i>	Spring Clearweed	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Pilea pumila</i>	Canada Clearweed	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Poa autumnalis</i>	Autumn Bluegrass	N	N	D	Y	Y	FAC	Grass. Wide range of soils.
<i>Poa sylvestris</i>	Forest Bluegrass	N	N	D	Y	Y	FACW	Grass. Wide range of soils.
<i>Podophyllum peltatum</i>	Mayapple	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Polemonium reptans</i>	Jacob's Ladder	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Polygala paucifolia</i>	Gaywings	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Polygonatum biflorum</i>	Solomon's-Seal	N	N	D	Y	Y	FACU	Herb. Moist soils.
<i>Polygonatum odoratum</i>	Scented Solomon's Seal	N	Y	D	N	N	NI	Herb. Moist soils.
<i>Polygonatum pubescens</i>	Downy Solomon's-Seal	N	N	D	Y	Y	FACU	Herb. Moist soils.
<i>Polystichum acrostichoides</i>	Christmas Fern	L	N	E	Y	Y	FACU	Herb. Wide range of soils.
<i>Pontederia cordata</i>	Pickernelweed	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Prosartes lanuginosa</i>	Yellow Mandarin	N	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Prunella vulgaris</i>	Native Self-Heal	N	Y	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities
<i>Pycnanthemum muticum</i>	Blunt Mountain-Mint	N	Y	D	Y	Y	FACW	Herb. Wide range of soils. SWM facilities
<i>Pycnanthemum tenuifolium</i>	Slender Mountain-Mint	N	Y	D	Y	Y	FACW	Herb. Wide range of soils. SWM facilities
<i>Onoclea sensibilis</i>	Sensitive Fern	N	Y	D	Y	Y	FACW	Herb. Wide range of soils. SWM facilities
<i>Ranunculus acris</i>	Meadow Buttercup	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Ranunculus pusillus</i>	Pursh's Buttercup	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Ranunculus sceleratus</i>	Cursed Buttercup	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Rhexia virginica</i>	Handsome Harry	L	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Rudbeckia fulgida</i>	Orange Coneflower	L	Y	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities
<i>Rudbeckia hirta</i>	Black-Eyed Susan	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities
<i>Rudbeckia laciniata</i>	Green-Head Coneflower	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Ruellia humilis</i>	Wild Petunia	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities

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<i>Salvia x sylvestris</i>	Salvia	Y	Y	D	N	N	NI	Herb. Dry soils.
<i>Sagittaria latifolia</i>	Duck Potato	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Sanguinaria canadensis</i>	Bloodroot	N	Y	D	Y	L	UPL	Herb. Dry soils.
<i>Sanicula canadensis</i>	Canadian Black Snakeroot	N	N	D	Y	L	UPL	Herb. Dry soils.
<i>Sanicula odorata</i>	Cluster Black Snakeroot	N	N	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities
<i>Saururus cernuus</i>	Lizard's Tail	N	Y	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Sedum ternatum</i>	Woodland Stonecrop	L	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities
<i>Schizachyrium scoparium</i>	Little Bluestem	L	Y	D	Y	L	FACU	Grass. Wide range of soils.
<i>Schoenoplectus acutus</i>	Hardstem Bulrush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Schoenoplectus pungens</i>	Threesquare Bulrush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Schoenoplectus tabernaemontani</i>	Softstem Bulrush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Scirpus atrovinctus</i>	Blackgirdle Bulrush	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Scirpus cyperinus</i>	Woolgrass	N	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Scrophularia lanceolata</i>	Lance-Leaf Figwort	L	N	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities. Attracts hummingbirds
<i>Scrophularia marilandica</i>	Maryland Figwort	L	N	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities. Attracts hummingbirds
<i>Scutellaria elliptica</i>	Hairy Skullcap	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Scutellaria incana</i>	Downy Skullcap	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Scutellaria serrata</i>	Showy Skullcap	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Silene virginica</i>	Fire Pink	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Silphium mohrii</i>	Mohr's Rosinweed	L	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Smallanthus uvedalius</i>	Yellow-Flowered Leafcup	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Solidago caesia</i>	Bluestem Goldenrod	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities.
<i>Solidago canadensis</i>	Canada Goldenrod	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities.
<i>Solidago flexicaulis</i>	Broad-Leaf Goldenrod	Y	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities.
<i>Solidago rugosa</i>	Rough-Leaf Goldenrod	Y	Y	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities.
<i>Solidago sempervirens</i>	Seaside Goldenrod	Y	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Solidago sphacelata</i>	Autumn Goldenrod	L	Y	D	Y	Y	FACU	Herb. Wide range of soils. SWM facilities.
<i>Sorghastrum nutans</i>	Indian Grass	Y	Y	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Spartina pectinata</i>	Prairie Cord Grass	Y	Y	D	Y	Y	OBL	Grass. Moist soils. SWM facilities.
<i>Sphenopholis intermedia</i>	Slender Wedgescale Grass	N	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Sphenopholis nitida</i>	Shiny Wedgescale Grass	N	N	D	Y	L	UPL	Grass. Dry soils.
<i>Sphenopholis obtusata</i>	Prairie Wedgescale Grass	N	N	D	Y	Y	FAC	Grass. Wide range of soils. SWM facilities.
<i>Spigelia marilandica</i>	Indian Pink	L	N	D	Y	Y	FACW	Herb. Moist soils.
<i>Sporobolus heterolepis</i>	Prairie Dropseed	L	N	D	Y	L	UPL	Grass. Dry soils.
<i>Stellaria longifolia</i>	Longleaf Starwort	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Symphyotrichum lanceolatum</i>	Narrow-Leaf Panicle Aster	Y	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Symphyotrichum nove-agliae</i>	New England Aster	Y	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.

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<i>Symphyotrichum nove-belgii</i>	New York Aster	Y	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Symphyotrichum puniceum</i>	Swamp Aster	Y	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Symplocarpus foetidus</i>	Skunk Cabbage	N	N	D	Y	Y	OBL	Herb. Moist soils. SWM facilities.
<i>Thalictrum pubescens</i>	Tall Meadowrue	N	N	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Thalictrum thalictroides</i>	Rue Anemone	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Tiarella cordifolia</i>	Heartleaf Foamflower	N	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Tradescantia hirsuticaulis</i>	Hairystem Spiderwort	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Tridens flavus</i>	Purpletop	L	Y	D	Y	Y	FACU	Grass. Wide range of soils. SWM facilities.
<i>Trillium luteum</i>	Wood Lily	L	Y	D	Y	Y	FACU	Herb. Dry soils.
<i>Trillium grandiflorum</i>	Large-Flowered Trillium	L	Y	D	Y	Y	FACU	Herb. Dry soils.
<i>Tripsacum dactyloides</i>	Eastern Gamagrass	L	Y	D	Y	Y	FACW	Grass. Moist soils. SWM facilities.
<i>Tulipa humilis</i>	Tulip Flower	Y	Y	D	N	N	NI	Herb. Wide range of soils.
<i>Uvularia perfoliata</i>	Perfoliate Bellwort	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Uvularia sessilifolia</i>	Sessile-Leaf Bellwort	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Veratrum viride</i>	American False Hellebore	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Verbena urticifolia</i>	White Vervain	N	N	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Verbena spp</i>	Verbena	L	Y	D	N	N	NI	Herb. Wide range of soils. Attract butterflies
<i>Vernonia gigantea</i>	Giant Ironweed	Y	N	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities.
<i>Vernonia glauca</i>	Woodland Ironweed	L	N	D	Y	Y	NI	Herb. Wide range of soils.
<i>Vernonia noveboracensis</i>	New York Ironweed	Y	N	D	Y	Y	FAC	Herb. Wide range of soils. SWM facilities.
<i>Veronicastrum virginicum</i>	Culver's Root	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Viola blanda</i>	Sweet White Violet	N	N	D	Y	Y	FACW	Herb. Moist soils.
<i>Viola cucullata</i>	Blue Marsh Violet	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.
<i>Viola hirsutula</i>	Southern Blue Wood Violet	N	N	D	Y	Y	FACW	Herb. Moist soils.
<i>Viola pedata</i>	Birdfoot Violet	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Viola pubescens</i>	Downy Yellow Violet	L	Y	D	Y	Y	FACU	Herb. Wide range of soils.
<i>Viola riviniana</i>	European Dog Violet	N	Y	D	N	N	FAC	Herb. Wide range of soils. Matt-forming.
<i>Viola sororia</i>	Common Blue Violet	L	Y	D	Y	Y	FAC	Herb. Wide range of soils.
<i>Viola striata</i>	Striped Cream Violet	N	Y	D	Y	Y	FACW	Herb. Moist soils. SWM facilities.

F. Definitions

Border Tree/Shrub—A tree/shrub species appropriate for the edges of spaces, such as lawns, or integrated among combinations of understory and screening or hedge plantings.

C/H/V—Indicates whether cultivars, hybrids or varieties of the plant species are commonly available in regional plant nurseries. Analysis may be needed per the differing habits and environmental tolerances of each cultivar, hybrid or variety. Y - Yes, N - No, L - Limited availability

Dioecious—Plant species that have both male and female plants. The nearby presence of male plants are usually necessary to produce significant fruiting in female plants.

Foliage—Indicates whether a plant species is D - deciduous or E -evergreen in the Mid-Atlantic (coastal plain and piedmont) region.

Goundcover—Low-growing woody or herbaceous plants.

Growth Category—General annual growth rates in height exhibited by each tree species under optimal growing conditions. 1) 12 inches or less, 2) Between 12 inches and 24 inches, 3) Greater than 24 inches. (Refers to Table 40.23.320)

Hedge Tree/Shrub—A tree/shrub species that can be utilized in naturalistic or clipped hedges or planting screens. Trees are typically multi-stemmed or fastigiate (upright and narrow) species and cultivars.

Lawn Tree—A tree species appropriate for open lawns or requiring large open spaces.

Native—Indicates whether a plant species is a "native plant" per the definition in Article 33. All plants and trees used for reforestation shall consist only of species native and indigenous to Delaware. Additionally, they shall not include cultivars or hybrids of the species nor shall State rare or endangered species be utilized. (Delaware Department of Natural Resources and Environmental Control)

Patio Tree—A smaller tree species appropriate for settings that are typically enclosed or don't require high clearance heights to branches.

RBA Usage—Plants generally appropriate for usage in Riparian Buffer Areas (RBA). Y - Yes, N - No, L - Limited requiring greater investigation per plant selected and site constraints.

Shrub Sizes—Approximate sizes attained by unpruned woody shrubs at maturity under optimal growing conditions. Small - Less than 5 feet, Medium - Between 5 feet and 10 feet, Large - Between 10 feet and 15 feet.

Street Tree—Appropriateness for typical street tree applications. Y - Yes, N - No, L - Limited requiring greater investigation per tree species/cultivar selected and site conditions.

Wetland Indicator Status—A Classification for hydrophytic plant species per the National Wetland Plant List.

OBL (Obligate Wetland)—Almost always occurs in wetlands

FACW (Facultative Wetland)—Usually occurs in wetlands, but may occur in non-wetlands

FAC (Facultative)—Occurs in wetlands and non-wetlands

FACU (Facultative Upland)—Usually occurs in non-wetlands, but may occur in wetlands

UPL (Obligate Upland)—Almost never occurs in wetlands

NI (No Indicator)—Insufficient information available to determine indicator status

Urban Tolerance—General degree to which a plant can tolerate conditions in an urban environment, particularly within parking lots and along streetscapes. Y - Yes, N - No, L- Limited requiring greater investigation per tree or plant species/cultivar selected and site conditions.

2. Plants to Avoid. Plant species that should be avoided or not planted within New Castle County due to invasive tendencies, disease or pest susceptibility, danger to human or livestock welfare or for other reason(s) indicated.

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A. Trees

Botanical Name	Common Name	Invasive Tendency	Notes
<i>Acer platanoides</i>	Norway Maple	H	Do not plant.
<i>Acer saccharinum</i>	Silver Maple		Over-used, weak wooded, short-lived. May use in riparian environment.
<i>Ailanthus altissima</i>	Tree of Heaven	I	Plant where it cannot escape cultivation.
<i>Albizia julibrissin</i>	Mimosa Trees	I	Plant where it cannot escape cultivation
<i>Aralia elata</i>	Korean Angelica-tree	I	Plant where it cannot escape cultivation.
<i>Betula papyrifera</i>	Paper/White Birch		Susceptible to bronze birch borer.
<i>Cupressus x leylandii</i>	Leyland Cypress		Over-used, short-lived, numerous diseases. Select alternative.
<i>Evodia danielli</i>	Korean Evodia	I	Plant where it cannot escape cultivation.
<i>Fraxinus spp.</i>	Ash Trees		Susceptible to emerald ash borer. Do not plant.
<i>Maclura pomifera</i>	Osage Orange	I	Plant where it cannot escape cultivation.
<i>Magnolia kobus</i>	Kobus Magnolia	I	Plant where it cannot escape cultivation
<i>Malus baccata</i>	Siberian Crabapple	I	Plant where it cannot escape cultivation
<i>Mimosa spp.</i>	Mimosa Trees	I	Plant where it cannot escape cultivation.
<i>Morus alba</i>	White Mulberry	I	Weak-wooded, numerous diseases. Hybridizes with native <i>Morus rubra</i> .
<i>Morus rubra</i>	Red Mulberry		Weak-wooded, messy/staining fruits.
<i>Paulownia tomentosa</i>	Empress Tree	I	Plant where it cannot escape cultivation
<i>Phellodendron amurense</i>	Amur Cork Tree	I	Plant where it cannot escape cultivation
<i>Photinia villosa</i>	Christmas Berry	I	Plant where it cannot escape cultivation
<i>Pinus nigra</i>	Austrian Pine		Susceptible to pinewood nematode.
<i>Pinus parviflora</i>	Japanese White Pine		Susceptible to pinewood nematode.
<i>Pinus thunbergiana</i>	Japanese Black Pine		Susceptible to pinewood nematode.
<i>Populus alba</i>	White Poplar	I	Weak-wooded. Plant where it cannot escape cultivation.
<i>Pyrus calleryana</i>	Callery Pear	H	Weak-wooded, over-used, short-lived. Do not plant.
<i>Robinia pseudoacacia</i>	Black Locust	I	Invasive. Plant where it cannot escape cultivation.
<i>Quercus palustris</i>	Pin Oak		Over-used. Select alternative.
<i>Styrax japonica</i>	Japanese Snowbell	I	Invasive. Plant where it cannot escape cultivation.
<i>Tsuga spp.</i>	Hemlock Trees		Susceptible to woolly adelgid.
<i>Ulmus pumila</i>	Siberian Elm	I	Invasive. Plant where it cannot escape cultivation.

B. Woody Shrubs, Vines and Groundcovers

Botanical Name	Common Name	Invasive Tendency	Notes
<i>Akebia quinata</i>	Five-leaf Akebia	I	Vine. Plant where it cannot escape cultivation.
<i>Ampelopsis brevipedunculata</i>	Porcelainberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Berberis thunbergii</i>	Asian Barberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Berberis vulgaris</i>	European Barberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Buddleia davidii</i>	Butterflybush	I	Shrub. Plant where it cannot escape cultivation.
<i>Celastrus orbiculatus</i>	Oriental Bittersweet	H	Vine. Do not plant. Use native species.
<i>Clematis terniflora</i>	Sweet Autumn Clematis	H	Vine. Do not plant. White flowers
<i>Eleagnus angustifolia</i>	Russian Olive	H	Shrub. Do not plant.
<i>Eleagnus umbellata</i>	Autumn Olive	H	Shrub. Do not plant.
<i>Euonymus alata</i>	Winged Euonymus	H	Shrub. Do not plant.
<i>Euonymus fortunei</i>	Wintercreeper	I	Vine. Use alternatives. Do not plant.
<i>Hedera helix</i>	English Ivy	I	Herb. Plant where it cannot escape cultivation.
<i>Hedera hibernica</i>	Atlantic Ivy	I	Herb. Plant where it cannot escape cultivation.
<i>Ilex crenata</i>	Japanese Holly	I	Shrub. Plant where it cannot escape cultivation.
<i>Leucothoe axillaris</i>	Coastal Doghobble	I	Shrub. Plant where it cannot escape cultivation.
<i>Ligustrum japonicum</i>	Japanese Privet	H	Shrub. Do not plant.
<i>Ligustrum obtusifolium</i>	Border Privet	H	Shrub. Do not plant.
<i>Ligustrum ovalifolium</i>	California Privet	H	Shrub. Do not plant.
<i>Ligustrum sinense</i>	Chinese Privet	H	Shrub. Do not plant.

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<i>Ligustrum vulgare</i>	Common Privet	H	Shrub. Do not plant.
<i>Lonicera fragrantissima</i>	Chinese Honeysuckle	I	Shrub. Plant where it cannot escape cultivation.
<i>Lonicera japonica</i>	Japanese Honeysuckle	H	Vine. Do not plant.
<i>Lonicera maackii</i>	Amur Honeysuckle	H	Vine. Do not plant.
<i>Lonicera morrowii</i>	Morrow's Honeysuckle	H	Shrub. Do not plant.
<i>Lonicera tatarica</i>	Tatarian Honeysuckle	I	Vine. Plant where it cannot escape cultivation.
<i>Mahonia bealei</i>	Beales Barberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Mahonia repens</i>	Creeping Mahonia	I	Shrub. Plant where it cannot escape cultivation.
<i>Philadelphus coronarius</i>	European Mock-orange	I	Shrub. Plant where it cannot escape cultivation.
<i>Pueraria montana</i>	Kudzu	H	Vine. Do not plant.
<i>Rhamnus cathartica</i>	Common Buckthorn	H	Shrub. Do not plant. Mildly poisonous berries.
<i>Rhamnus frangula</i>	Alder Buckthorn	H	Shrub. Do not plant.
<i>Rhodotypos scandens</i>	Jetbead	I	Shrub. Plant where it cannot escape cultivation.
<i>Robinia hispida</i>	Bristly Locust	I	Shrub. Plant where it cannot escape cultivation.
<i>Rosa multiflora</i>	Multiflora Rose	H	Shrub. Do not plant.
<i>Rubus laciniatus</i>	Evergreen Blackberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Rubus parvifolius</i>	Australian Raspberry	I	Shrub. Plant where it cannot escape cultivation.
<i>Rubus phoenicolasius</i>	Wineberry	H	Shrub. Do not plant.
<i>Viburnum dilatatum</i>	Linden Viburnum	I	Shrub. Plant where it cannot escape cultivation.
<i>Viburnum lantanoides</i>	Hobblebush	I	Shrub. Plant where it cannot escape cultivation.
<i>Viburnum seiboldii</i>	Seibold Viburnum	I	Shrub. Plant where it cannot escape cultivation.
<i>Viburnum setigerum</i>	Tea Viburnum	I	Shrub. Plant where it cannot escape cultivation.
<i>Wisteria sinensis</i>	Chinese Wisteria	I	Vine. Plant where it cannot escape cultivation.

C. Herbaceous Plants, Vines, Groundcovers and Grasses

Botanical Name	Common Name	Invasive Tendency	Notes
<i>Acorus calamus</i>	European Sweetflag	H	Herb. Do not plant.
<i>Ageratina altissima</i>	White Snakeroot		Herb. Causes milk sickness. Do not plant in livestock feeding areas.
<i>Alliaria peiolata</i>	Garlic Mustard	I	Herb. Plant where it cannot escape cultivation.
<i>Allium vineale</i>	Field Garlic	I	Herb. Plant where it cannot escape cultivation.
<i>Ampelopsis glandulosa</i>	Porcelain-berry	I	Herb. Plant where it cannot escape cultivation.
<i>Arthraxon hispidus</i>	Joint-head Arthraxon	I	Herb. Plant where it cannot escape cultivation.
<i>Bambusa spp.</i>	Bamboo	H	Woody, clumping bamboo. Highly invasive. Do not plant.
<i>Bidens polylepis</i>	Tickseed Sunflower	I	Herb. Plant where it cannot escape cultivation.
<i>Bromus inermis</i>	Awnless Brome	I	Grass. Plant where it cannot escape cultivation.
<i>Bromus japonicus</i>	Japanese Brome	I	Grass. Plant where it cannot escape cultivation.
<i>Bromus sterilis</i>	Poverty Brome	I	Grass. Plant where it cannot escape cultivation.
<i>Bromus tectorum</i>	Cheat-grass Brome	I	Grass. Plant where it cannot escape cultivation.
<i>Cabomba caroliniana</i>	Carolina Fanwort	I	Herb. Plant where it cannot escape cultivation.
<i>Centaurea maculosa</i>	Spotted Knapweed	I	Herb. Plant where it cannot escape cultivation.
<i>Cicuta maculata</i>	Water Hemlock		Herb. Highly poisonous to humans and livestock. Do not plant.
<i>Cirsium arvense</i>	Creeping Thistle	I	Herb. Plant where it cannot escape cultivation.
<i>Commelina communis</i>	Asiatic Dayflower	I	Herb. Plant where it cannot escape cultivation.
<i>Conium maculatum</i>	Poison Hemlock	I	Herb. Highly poisonous to humans and livestock. Do not plant.
<i>Coronilla varia</i>	Crownvetch	H	Vine. Do not plant.
<i>Cynanchum louiseae</i>	Black Swallow-wort	I	Herb. Do not plant.
<i>Datura stramonium</i>	Jimsonweed	I	Herb. Poisonous. Do not plant.
<i>Dioscorea polystachya</i>	Chinese Yam	I	Vine. Plant where it cannot escape cultivation.
<i>Egeria densa</i>	Brazilian Waterweed	I	Herb. Plant where it cannot escape cultivation.
<i>Eichhornia crassipes</i>	Water Hyacinth	I	Herb. Plant where it cannot escape cultivation.
<i>Endodeca serpentaria</i>	Virginia Snakeroot		Herb. Poisonous. Do not plant.
<i>Eragrostis curvula</i>	Weeping Lovegrass	I	Grass. Plant only where it cannot escape cultivation.
<i>Fallopia japonica</i>	Japanese Knotweed	H	Herb. Do not plant.
<i>Ficaria verna</i>	Lesser Celandine	I	Herb. Plant where it cannot escape cultivation.

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<i>Galanthus nivalis</i>	Common Snowdrop	I	Herb. Plant where it cannot escape cultivation.
<i>Glechoma hederacea</i>	Ground-Ivy	I	Herb. Plant where it cannot escape cultivation.
<i>Heimerocallis spp</i>	Daylilies	I	Herb. Plant where it cannot escape cultivation.
<i>Hesperus matronalis</i>	Dame's Rocket	I	Herb. Plant where it cannot escape cultivation.
<i>Hordeum jubatum</i>	Foxtail Barley	I	Grass. Plant where it cannot escape cultivation.
<i>Humulus japonicus (scandens)</i>	Japanese Hop	H	Vine. Do not plant.
<i>Hydrilla verticillata</i>	Hydrilla	H	Aquatic herb. Do not plant.
<i>Iris pseudacorus</i>	Yellow Flag Iris	I	Herb. Plant where it cannot escape cultivation.
<i>Lespedeza cuneata</i>	Chinese Bushclover	I	Herb. Plant where it cannot escape cultivation.
<i>Leucojum aestivum</i>	Summer Snowflake	I	Herb. Plant where it cannot escape cultivation.
<i>Ludwigia peploides</i>	Creeping Primrose	I	Herb. Plant where it cannot escape cultivation.
<i>Lysicachia nummularia</i>	Creeping Jenny	I	Vine. Plant where it cannot escape cultivation.
<i>Lythrum salicaria</i>	Purple Loosestrife	I	Herb. Plant where it cannot escape cultivation.
<i>Matteuccia struthiopteris</i>	Ostrich Fern	I	Herb. Plant where it cannot escape cultivation.
<i>Microstegium vimineum</i>	Japanese Stiltgrass	H	Grass. Do not plant.
<i>Miscanthus sinensis</i>	Chinese Silvergrass	I	Grass. Plant where it cannot escape cultivation.
<i>Murdannia keisak</i>	Marsh Dayflower	I	Herb. Plant where it cannot escape cultivation.
<i>Myriophyllum aquaticum</i>	Parrott Feather	I	Herb. Plant where it cannot escape cultivation.
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil	I	Herb. Plant where it cannot escape cultivation.
<i>Narcissus pseudonarcissus</i>	Daffodil	I	Herb. Plant where it cannot escape cultivation.
<i>Ornithogalum nutans</i>	Dropping Star-of-Bethlehem	I	Herb. Plant where it cannot escape cultivation.
<i>Ornithogalum umbellatum</i>	Star-of-Bethlehem	I	Herb. Plant where it cannot escape cultivation.
<i>Oxipolis rigidior</i>	Cowbane		Herb. Highly poisonous to humans and livestock. Do not plant.
<i>Pachysandra terminalis</i>	Japanese Pachysandra	I	Herb. Plant where it cannot escape cultivation.
<i>Pennisetum orientale</i>	Oriental Fountain Grass	I	Grass. Plant where it cannot escape cultivation.
<i>Perilla frutescens</i>	Beefsteak Plant	I	Herb. Plant where it cannot escape cultivation.
<i>Persicaria longiseta</i>	Oriental Lady's Thumb	I	Herb. Plant where it cannot escape cultivation.
<i>Persicaria perfoliata</i>	Mile-a-minute Weed	H	Vine. Do not plant.
<i>Phalaris arundinacea</i>	Reed Canary Grass	I	Grass. Plant where it cannot escape cultivation.
<i>Phyllostachys spp.</i>	Bamboo	H	Large, woody, running bamboo. Do not plant.
<i>Phragmites australis</i>	Common Reed	H	Grass. Do not plant.
<i>Pistia stratiotes</i>	Water Lettuce	I	Herb. Invasive. Plant where it cannot escape cultivation.
<i>Pseudosasa spp.</i>	Bamboo	H	Medium, woody, running bamboo. Do not plant.
<i>Saponaria officinalis</i>	Bouncing Bet	I	Herb. Invasive. Plant where it cannot escape cultivation.
<i>Solanum carolinense</i>	Carolina Horsenettle	I	Herb. Poisonous to humans and livestock. Do not plant.
<i>Sorghum halepense</i>	Johnson Grass	I	Grass. Invasive. Plant where it cannot escape cultivation.
<i>Urtica dioica</i>	Stinging Nettle	I	Herb. Invasive. Histamine-injecting thorns.
<i>Trapa natans</i>	Water Chestnut	I	Herb. Invasive. Plant where it cannot escape cultivation.
<i>Vinca minor</i>	Periwinkle	I	Herb. Invasive. Plant where it cannot escape cultivation.

D. Definitions

Highly Invasive—Plants that are currently invasive, cause serious management concerns or pose a serious threat to the biological diversity of the State of Delaware. Any "highly invasive" plant that is found on-site shall be eradicated as part of a long-term maintenance plan as required by the Department.

Invasive—Plants that are currently invasive, but cause a lesser degree of management concerns or pose a lesser threat to the biological diversity of the State of Delaware. Any invasive plant found on-site shall be controlled to prevent further spread or be removed as part of a long-term maintenance plan as required by the Department.

Invasive Species—A species that is non-native to the local ecosystem and whose introduction causes or is likely to cause economic or environmental harm to human health or the health of native flora and fauna.

Invasive Tendency—General degree to which a plant species has been deemed to be invasive to the State of Delaware by the Delaware Invasive Species Council (DISC), the Delaware Department of Natural Resources and Environmental Control (DNREC), the Delaware Department of Agriculture or

other similar arboricultural or botanical authority. Invasive tendency is apportioned into two tiers. H - Highly Invasive, I - Invasive.

3. Native Plant Species of Special Interest. Plant species listed below in this Section or annotated in Section 1 with an asterisk (*) encountered on site may require additional protections per Articles 5, 10 and 23. They may be considered rare, valued, or endangered species within the State of Delaware or require additional arboricultural and botanical information as requested by the Department.

A. Trees

Botanical Name	Common Name	Notes
<i>Amelanchier arborea</i>	Downy Shadbush	Valued tree species
<i>Amelanchier canadensis</i>	Eastern Shadbush	Valued tree species
<i>Amelanchier laevis</i>	Smooth Shadbush	Valued tree species
<i>Asimina triloba</i>	Common Pawpaw	Edible fruit
<i>Carya cordiformis</i>	Bitternut Hickory	Valued tree species
<i>Carya glabra</i>	Pignut Hickory	Valued tree species
<i>Carya laciniosa</i>	Shellbark Hickory	
<i>Carya ovata</i>	Shagbark Hickory	Valued tree species
<i>Carya pallida</i>	Sand Hickory	Tolerates dry, upland, sandy soils.
<i>Carya tomentosa</i>	Mockernut Hickory	Valued tree species
<i>Diospyros virginiana</i>	Persimmon	Valued tree species
<i>Fagus grandifolia</i>	American Beech	Valued tree species
<i>Fraxinus nigra</i>	Black Ash	
<i>Juglans cinera</i>	Butternut	Found along well-drained stream banks.
<i>Magnolia virginiana</i>	Sweetbay Magnolia	
<i>Malus coronaria</i>	Wild Crabapple	
<i>Nyssa sylvatica</i>	Blackgum	Valued tree species
<i>Pinus taeda</i>	Loblolly Pine	Valued tree species
<i>Prunus serotina</i>	Wild Black Cherry	Valued tree species
<i>Prunus virginiana</i>	Choke Cherry	
<i>Quercus alba</i>	White Oak	Valued tree species
<i>Quercus bicolor</i>	Swamp White Oak	Valued tree species
<i>Quercus coccinea</i>	Scarlet Oak	Valued tree species
<i>Quercus falcata</i>	Southern Red Oak	Valued tree species
<i>Quercus laurifolia</i>	Laurel Oak	
<i>Quercus lyrata</i>	Overcup Oak	Tolerates poorly-drained bottomland soils.
<i>Quercus michauxii</i>	Swamp Chestnut Oak	Valued tree species
<i>Quercus montana</i>	Chestnut Oak	Valued tree species
<i>Quercus phellos</i>	Willow Oak	Valued tree species
<i>Quercus rubra</i>	Northern Red Oak	Valued tree species
<i>Quercus stellata</i>	Post Oak	Tolerates dry, upland, sandy soils.
<i>Quercus velutina</i>	Black Oak	Valued tree species

B. Wood Shrubs, Vines and Groundcovers

Botanical Name	Common Name	Notes
<i>Aralia racemosa</i>	American Spikenard	
<i>Clematis occidentalis</i>	Purple Clematis	
<i>Comptonia peregrina</i>	Sweet Fern	
<i>Corylus cornuta</i>	Beaked Hazelnut	
<i>Diervilla lonicera</i>	Northern Bush Honeysuckle	
<i>Gylussacia brachycera</i>	Box Huckleberry	
<i>Hydrangea arborescens</i>	Wild Smooth Hydrangea	
<i>Kalmia angustifolia</i>	Sheep Laurel	
<i>Lyonia mariana</i>	Staggerbush	
<i>Rhododendron viscosum</i>	Swamp Azalea	

C. Herbaceous Plants and Grasses

Botanical Name	Common Name	Notes
<i>Actea pachypoda</i>	White Baneberry	
<i>Adiantum pedatum</i>	Northern Maidenhair Fern	
<i>Andropogon gerardii</i>	Big Bluestem	
<i>Aqualegia canadensis</i>	Canadian Columbine	
<i>Arisaema dracontium</i>	Green Dragon	
<i>Boltonia asteroides</i>	White Doll's Daisy	
<i>Calamagrostis canadensis</i>	Bluejoint Reedgrass	
<i>Caltha palustris</i>	Marsh Marigold	
<i>Chasmanthum latifolium</i>	Indian Sea Oats	
<i>Coreopsis rosea</i>	Pink Tickseed	
<i>Eupatorium purpureum</i>	Joe-Pye Weed	
<i>Gentiana andrewsii</i>	Bottle Gentian	
<i>Helianthus angustifolius</i>	Swamp Sunflower	
<i>Iris prismatica</i>	Slender Blue-flag Iris	
<i>Liatris spicata</i>	Spike Gay-flower	
<i>Lilium canadense</i>	Canada Lily	
<i>Mertensia virginica</i>	Bluebells	
<i>Monarda fistulosa</i>	Wild Bergamot	
<i>Oenothera fruticosa</i>	Sundrops	
<i>Panax quinquefolius</i>	American Ginseng	
<i>Panax trifolius</i>	Dwarf American Ginseng	
<i>Passiflora incarnata</i>	Purple Passion Flower	
<i>Passiflora lutea</i>	Yellow Passion Flower	
<i>Penstemon hirsutus</i>	Hairy Beardtongue	
<i>Penstemon laevigatus</i>	Smooth Beardtongue	

<i>Phlox maculata</i>	Wild Sweet William	
<i>Poa sylvestris</i>	Woodland Bluegrass	
<i>Polygonatum biflorum</i>	Solomon's Seal	
<i>Tradescantia virginiana</i>	Spiderwort	
<i>Trillium cernuum</i>	Nodding Trillium	
<i>Trillium erectum</i>	Purple Trillium	
<i>Viola labradorica</i>	Blue American Dog Violet	
<i>Viola pedatum</i>	Birdfoot Violet	

4. Street Tree Selection. Supplemental guidance for Article 23 for street tree selection. Street tree species selected should conform to the size categories of Appendix 3 Section 1 as required by the Department or DelDOT, where necessary.

A. Street Tree Selection—Subdivision Streets

Planting Area Width

Street Type	>6'	>8'	>10'	
Type I	Sm*	Sm or Md*	Sm/Md/Lg	
Type II	N/A	Sm or Md*	Sm/Md/Lg	
Type III	N/A	Sm or Md*	Sm/Md/Lg	

* Root barrier protection or other tree planting construction techniques may be required by the Department or DelDOT.

B. Street Tree Selection—Other Streets. Street tree selection and associated planting area width along non-subdivision streets (generally roads with three-digit numbers assigned to them by DelDOT), should generally follow the contextual guidance for subdivision streets in accordance with the street type. However, certain areas, particularly those with urban-style development with on-street parking and pedestrian activity, may require additional professional design judgement regarding tree selection, planting area width, special planting construction techniques and long-term maintenance. Both Department and DelDOT approval shall be required.

c. Definitions.

Planting Area Width—Planting area width is measured from the back of curbing or edge of cartway pavement and edge of sidewalk or pathway. It may also consider the total width of special under-pavement planting structures placed to provide uncompacted soil for tree root dispersal. Street trees should be placed such that the center of the tree trunk is located within the center of the planting area, unless being adjusted for safety, access, utility avoidance, or stormwater conveyance and infiltration. For scenarios where tree pits are utilized, tree grates or the opening to tree pits shall be a minimum of five (5) feet wide. Guidance for clear zones or lateral offsets may also factor in the locations of street trees.

Street Tree Sizes—Sm = Small (15'—30' tall); Md = Medium (30'—50' tall); Lg = Large (>50' tall). Tree heights listed are typically reached at maturity under optimal growing conditions. See Appendix 3 Section 1.

Street Type—Subdivision street types in accordance with DelDOT's Development Coordination Manual: Type I (<500 ADT), Type II (501—3000 ADT), Type III (>3000 ADT).

5. Reforestation Planting—Supplemental guidance for reforestation plantings.

- A.** It is customary to plant trees of a single size for one contiguous reforestation area within a site. In some cases, it may be appropriate to plant a mixture of plant sizes, so long as the planting density is achieved. The following should be considered:
1. Larger initial planting sizes may be more effective than whips and seedlings in areas proximate to high human activity and/or encroachment by mechanized equipment.
 2. Place larger trees around the perimeter in order to protect interior smaller plants.
 3. Use smaller plants for understory species and larger plants for canopy/overstory species.
- B.** It is recommended that a means for delineating reforestation areas with temporary or permanent signage or markers be utilized to prevent accidental removal, cutting or disturbance of reforestation plantings.
- C.** It is recommended that tree whips and seedlings be marked with wooden or bamboo stakes for the duration of the establishment period so that they can be easily identified for maintenance and avoided by equipment.

6. Tree Replacement Calculation. Supplemental guidance for tree replacement located in Subsection 40.23.320.C.

A. Steps to determine new caliper figures for trees to be enlarged:

Step 1—Calculate the sum cross-sectional area of all replacement trees (c): $(\pi r_1^2) \times c = y$

Step 2—Divide (y) by the number trees (g) on the development plant to be enlarged: $y/g = n$

Step 3—Add (n) to the cross-sectional area of each canopy tree to be enlarged: $n + (\pi r_2^2) = f$

Step 4—Determine the new caliper figure of each enlarged tree by solving for (r_3): $f = (\pi r_3^2)$ or $\sqrt{(f/\pi)} = r_3$

Step 5—Multiply r_3 by 2 to determine the new caliper figures for trees to be enlarged: $r_3 \times 2 = t$

B. New caliper figures shall be rounded up to the nearest one-half ($\frac{1}{2}$) inch.

Step 6—Round new caliper figure (t) up to nearest one-half ($\frac{1}{2}$) inch

(Ord. No. 97-172, § 3(ch. 13, app. 3), 12-31-1997; Ord. No. 18-021 , § 56, 7-10-2018; Ord. No. 21-009 , § 14, 12-14-2021)

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APPENDIX 4. NEW CASTLE COUNTY HISTORIC SITES

APPENDIX 4. NEW CASTLE COUNTY HISTORIC SITES

HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0000000000	Mill Creek/Brackenville Rd.	STATE BRIDGE NO. 177	N-00278.000				X	
0000000000	Red Clay Creek/Wooddale Rd.	STATE BRIDGE NO. 137 Wooddale Covered Bridge	N-00296.000		X			
0000000000	Red Clay Creek/Barley Mill Rd.	STATE BRIDGE NO. 118 Ashland Covered Bridge	N-00331.000		X			
0000000000		HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.038		X			
0000000000		HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.039		X			
0000000000		BEARD (DUNCAN) SITE	N-00417.000		X			
0000000000	Red Clay Creek/Mt. Cuba Rd.	STATE BRIDGE NO. 119	N-01069.000				X	
0000000000	Brandywine River/Rising Sun La.	STATE BRIDGE NO. 1	N-01072.000				X	
0000000000		STANTON ARMS HOTEL SITE	N-01555.000				X	
0000000000		BEAVER VALLEY ROCK SHELTER SITE	N-03663.000		X			
0000000000		CLYDE FARM SITE	N-03723.000		X			
0000000000		HELL ISLAND SITE	N-03825.000		X			
0000000000	Red Clay Creek/Yorklyn Rd.	STATE BRIDGE NO. 112	N-04054.000				X	
0000000000	Red Clay Creek/Mt. Cuba Rd.	STATE BRIDGE NO. 120	N-04277.000				X	
0000000000	Christina Creek/Old Baltimore Rd.	STATE BRIDGE NO. 336	N-04288.000				X	
0000000000	waterway/Rd. 408	STATE BRIDGE NO. 337	N-04290.000				X	
0000000000	Christina River/James St.	STATE BRIDGE NO. 159	N-04294.000				X	
0000000000	White Clay Cr./Chambers Rock Rd	STATE BRIDGE NO. 216	N-04296.000				X	
0000000000	waterway/Brecks La.	STATE BRIDGE NO. 66	N-04301.000				X	
0000000000	Wiggins Mill Pond/Rd. 446	STATE BRIDGE NO. 424	N-04303.000				X	
0000000000		DELAWARE PARK SITE	N-05261.000				X	
0000000000		CAZIER (JACOB B.) TENANCY SITE NO. 2 (7NC-F-64)	N-10284.000				X	
0000000000		BRENNAN SITE NO. 1, AREA A (7NC-F-61)	N-10290.000				X	
0000000000		WILLIAMS (THOMAS) SITE, AREA A (7NC-F-130)	N-10900.000				X	
0000000000	waterway/Montchanin Rd.	STATE BRIDGE NO. 76	N-12529.000				X	
0000000000	Red Clay Creek/Snuff Mill Rd.	STATE BRIDGE NO. 88	N-12531.000				X	
0000000000	Husband Run/Rockland Rd.	STATE BRIDGE NO. 20	N-12532.000				X	
0000000000	Brandywine River/Rockland Rd.	STATE BRIDGE NO. 2	N-12533.000				X	
0000000000	waterway/Adams Dam Rd.	STATE BRIDGE NO. 69	N-12534.000				X	
0000000000	mill race/Rockland Rd.	STATE BRIDGE NO. 68	N-12535.000				X	
0000000000	waterway/Old Lancaster Pk.	STATE BRIDGE NO. 617	N-12576.000				X	
0000000000	Mill Creek/Ashland Cut-off	STATE BRIDGE NO. 179A	N-12579.000				X	

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0000000000	Hyde Run/Faulkland Rd.	STATE BRIDGE NO. 182	N-12593.000				X	
0000000000	Little Mill Creek/Kirkwood Hwy.	STATE BRIDGE NO. 153	N-12595.000				X	
0000000000	Cool Run/Marrows Rd.	STATE BRIDGE NO. 330	N-12606.000				X	
0000000000	White Clay Cr./pedestrian way	STATE BRIDGE NO. 246	N-12611.000				X	
0000000000	Shellpot Creek/Carr Rd.	STATE BRIDGE NO. 543	N-12613.000				X	
0000000000	Christina River/SR 7	STATE BRIDGE NO. 257	N-12617.000				X	
0000000000	Little Mill Creek/Maryland Ave.	STATE BRIDGE NO. 160	N-12624.000				X	
0000000000	Red Lion Creek/Porter Sta. Rd.	STATE BRIDGE NO. 300	N-12629.000				X	
0000000000	C&D Canal/US 13	STATE BRIDGE NO. 495 Saint Georges Bridge	N-12632.000				X	
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0000000000	Scotts Run/Rd. 413	STATE BRIDGE NO. 383	N-12636.000				X	
0000000000	Appoquinimink River/Rd. 299	STATE BRIDGE NO. 393	N-12643.000				X	
0000000000	Silverlake Spillway/Rd. 442	STATE BRIDGE NO. 407	N-12644.000				X	
0000000000	Silverlake Spillway/Rd. 442	STATE BRIDGE NO. 504	N-12646.000				X	
0000000000		STATE BRIDGE NO. 430	N-12652.000				X	
0000000000	Sawmill Branch/Rd. 45	STATE BRIDGE NO. 456	N-12653.000				X	
0000000000	Paw Branch/Rd. 483	STATE BRIDGE NO. 476	N-12657.000				X	
0000000000	Blackbird Creek/US 13 NB	STATE BRIDGE NO. 488N	N-12660.001				X	
0000000000	Red Clay Creek/Old Capitol Tr.	STATE BRIDGE NO. 155	N-12663.000				X	
0000000000	Brandywine River/Rt. 141	STATE BRIDGE NO. 587 Tyler McConnell Bridge	N-13591.000				X	
0601000005	00502 BEAVER VALLEY RD	HICKLEN (WILLIAM) HOUSE	N-00567.000		X			
0601400101	00001 ARMSTRONG LA	PYLE (JOSHUA) HOUSE AND WAGON BARN	N-00476.000		X			
0603500240	01301 NAAMANS RD	IVYSIDE FARM	N-00464.000		X			X
0604500033	02201 GRUBB RD	STAR OF BETHEL LODGE NO. 19, I.O.O.F	N-01229.000					X
0604600028	00014 RAVINE RD	CLOUD (ABNER) HOUSE	N-05283.000		X			
0605400044	01813 FOULK RD	TALLEY (WILLIAM) HOUSE	N-01161.000		X			
0605500339	01904 MARSH RD	RAMBO (THOMAS) HOUSE & BARN	N-01196.000					X
0606000010	00001 NAAMANS RD	ROBINSON (THOMAS) HOUSE	N-00450.000		X			
0606800010	01900 MARSH RD	RAMBO (THOMAS) HOUSE & BARN	N-01196.000					X
0606800218	00000 MARSH WOODS LA	RAMBO (THOMAS) HOUSE & BARN	N-01196.000					X
0606800245	01904 MARSH RD	RAMBO (THOMAS) HOUSE & BARN	N-01196.000					X
0607200008	03701 PHILADELPHIA PK	DARLEY HOUSE	N-00448.000		X			X
0607200012	3611 PHILADELPHIA PK	NAAMANS CREEK SCHOOL	N-01227.000		X			
0607200025	03600 PHILADELPHIA PK	ARCHMERE	N-01526.000		X			
0607500001	00000 CREEK RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500002	00003 CREEK RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500003	01201 MT LEBANON RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			

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0607500004	01101 MT LEBANON RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500005	01101 MT LEBANON RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500007	1000 MT LEBANON RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500008	1-24 S ROCKLAND FALLS RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500010	00000 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500011	00025 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500012	00027 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500013	00000 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500014	00649 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500015	00651 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500016	00653 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500017	00655 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500018	00657 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500019	00044 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0607500020	00042 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500021	00040 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500022	00038 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500023	00036 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500024	00034 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500025	00032 MILLRACE LA	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500026	00200 CREEK RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0607500027	00100 CREEK RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700002	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700003	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700004	703 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700005	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700006	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700007	705 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700008	00707 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700009	00707 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700010	00707 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700011	00707 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700012	00711 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700013	00709 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700014	601 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700015	00715 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			

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0608700016	0 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700017	00713 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700019	00700 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700020	00003 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700021	00005 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700022	00007 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700023	00018 ROCKLAND MEADOWS RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700027	00012 ROCKLAND MEADOWS RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700028	8 ROCKLAND MEADOWS RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700029	00004 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700030	00002 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608700031	00000 ROCKLAND RIDGE RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0608800012	00507 BLACK GATES RD	YOUNG (WILLIAM) HOUSE	N-00551.000		X			
0608800013	00507 BLACK GATES RD	YOUNG (WILLIAM) HOUSE	N-00551.000		X			
0608800014	00507 BLACK GATES RD	YOUNG (WILLIAM) HOUSE	N-00551.000		X			
0609600167	02700 GRUBBS LANDING RD	LACKEY MANSION	N-03929.000					X
0609800002	2 BLACK GATES RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0609800002	00001 BLACK GATES RD	LOUVIERS (LOWER) & CHICKEN ALLEY	N-00341.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0609800003	5 ROCKLAND MEADOWS RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0609800004	0 ROCKLAND RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0609800008	0 BLACK GATES RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0610900001	00000 NEW BRIDGE RD	LOUVIERS (UPPER) & BLACK GATES	N-00346.000		X			
0611000034	01611 CONCORD PK	LOMBARDY HALL	N-00491.000	X				
0611000035	1801 ROCKLAND RD	NEMOURS HISTORIC DISTRICT	N-14008.000				X	
0611600044	01503 RIDGE RD	HOLLY OAK	N-12373.000					X
0611700001	00000 BARLEY MILL RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0611800002	1600 ROCKLAND RD	NEMOURS HISTORIC DISTRICT	N-14008.000				X	
0611900001	1931 ROCKLAND RD	NEMOURS HISTORIC DISTRICT / BIRD-HUSBANDS HOUSE	N-14008.000				X	X
0611900007	1914 W PARK DR	NEMOURS HISTORIC DISTRICT / BLUE BALL DAIRY BARN	N-14008.000				X	X

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0612200016	00610 SHIPLEY RD	ROCKWOOD	N-00435.000		X			X
0612200080	00610 SHIPLEY RD	ROCKWOOD	N-00435.000		X			X
0612600001	1 WALKERS MILL RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0612600001	1 WALKERS MILL RD	WALKER'S MILL & BANK	N-00347.000		X			
0613000003	00022 TALLEY CT	TALLEY (THOMAS) FARM	N-01178.000					X
0613000012	00610 SHIPLEY RD	ROCKWOOD	N-00435.000		X			X
0613100001	00619 SHIPLEY RD	LAUREL	N-00571.000		X			X
0613100002	00619 SHIPLEY RD	LAUREL	N-00571.000		X			X
0613900158	00300 PHILADELPHIA PK	WELDIN HOUSE	N-00000.000					X
0614300001	01704 N PARK DR	AUGUSTINE PAPER MILL	N-03645.000		X			
0700500006	02202 OLD KENNETT RD	CLOUD-REESE HOUSE	N-01113.000		X			
0700600040	00002 SELBORNE DR	MOUNT AIRY SCHOOL NO. 27	N-03864.000		X			
0700700005	05826 KENNETT PK	CHANDLER (JOSEPH H.) HOUSE	N-01144.000		X			
0700700009	05810 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.001		X			
0700700009	05810 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.002		X			X
0700700009	05808 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.003		X			X
0700700012	05804 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.004		X			X
0700700013	05802 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.005		X			X
0700700014	05800 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.006		X			X
0700700018	05714 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.010		X			X
0700700024	05620 KENNETT PK	CARPENTER-LIPPINCOTT HOUSE (Mansion)	N-00541.000		X			
0700700028	05718 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.009		X			X
0700700029	05720 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.008		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0700700030	05722 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.007		X			X
0700700033	05801 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.016		X			X
0700700034	05807 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.017		X			X
0700700106	52 TWADDELL MILL RD	CENTREVILLE HISTORIC DISTRICT	N-06186.015		X			X
0700700107	05725 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.014		X			X
0700700108	05721 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.013		X			X
0700700109	05719 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.012		X			
0700700123	00311 CENTER MEETING RD	CENTER MEETING & SCHOOL HOUSE	N-00334.000		X			
0700700126	00108 ADAMS DAM RD	CENTER MEETING & SCHOOL HOUSE	N-00334.000		X			
0700700126	108 ADAMS DAM RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0700700127	00400 CENTER MEETING RD	CENTER MEETING & SCHOOL HOUSE	N-00334.000		X			
0700700144	310 CENTER MEETING RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			

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0700700151	05701 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.011		X			
0700700158	00000 KENNETT PK	CENTREVILLE HISTORIC DISTRICT	N-06186.000		X			
0700700165	05632 KENNETT PK	CARPENTER-LIPPINCOTT HOUSE (subdivided lot)	N-00541.000		X			
0700700166	05628 KENNETT PK	CARPENTER-LIPPINCOTT HOUSE (subdivided lot)	N-00541.000		X			
0700700167	05624 KENNETT PK	CARPENTER-LIPPINCOTT HOUSE (subdivided lot)	N-00541.000		X			
0700900001	03000 CREEK RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.002		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.001		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.003		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.004		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.005		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.006		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.007		X			
0700900002	628 BERGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.008		X			
0700900007	02845 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.003		X			
0700900008	00305 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.004		X			
0700900009	00315 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.005		X			
0700900010	00319 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.006		X			
0700900011	00325 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.007		X			
0700900012	00327 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.007		X			
0700900013	00333 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.008		X			
0700900014	00246 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.012		X			
0700900015	00389 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900017	00447 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.016		X			
0700900018	00435 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.014		X			
0700900025	02858 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900026	02878 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900027	00000 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900034	02851 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.001		X			X
0700900035	00321 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.006		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0700900036	00317 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.005		X			
0700900037	02841 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.003		X			
0700900038	00335 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.008		X			
0700900039	00339 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.009		X			
0700900040	00341 LOWER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.009		X			
0700900044	00445 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.016		X			
0700900045	00441 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.015		X			

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0700900046	00439 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.015		X			
0700900047	00433 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.014		X			
0700900048	00427 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.013		X			
0700900049	00423 UPPER SNUFF MILL ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.013		X			
0700900050	00204 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900067	00307 LOWER SNUFF MILL RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0700900068	00230 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.010		X			
0700900069	00236 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.011		X			
0700900070	00238 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.011		X			
0700900071	00228 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.010		X			
0700900072	00250 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.012		X			
0700900073	00000 STONE ROW	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
0701000003	616-626 NINE GATES RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.017		X			
0701200032	4 PYLES FORD RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0701200037	05013 KENNETT PK	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0701200038	4 CHANDLER FARM RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0701200039	300 ADAMS DAM RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0701200057	5 CHANDLER FARM RD	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0701300036	33 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701600006	647 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.003		X			
0701600006	00647 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.006		X			
0701600006	00647 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.007		X			
0701600006	00647 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.008		X			
0701600016	00808 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.001		X			
0701600016	00810 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.002		X			
0701600017	00005 S PHEASANTS RIDGE DR	GRAVES MILL HISTORIC DISTRICT	N-05005.000		X			
0701700001	00001 S PHEASANTS RIDGE DR	GRAVES MILL HISTORIC DISTRICT	N-05005.000		X			
0701700041	00673 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.005		X			
0701700042	00003 S PHEASANTS RIDGE DR	GRAVES MILL HISTORIC DISTRICT	N-05005.004		X			
0701900005	00020 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900006	00012 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900007	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900008	00009 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900009	00910 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0701900011	611 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900012	00009 MONTCHANIN CT	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			

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0701900013	00007 MONTCHANIN CT	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900014	4 MONTCHANIN CT	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900015	00003 MONTCHANIN CT	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900016	00001 MONTCHANIN CT	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900017	610 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900019	00008 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900029	600 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0701900038	14 ADAMS DAM RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702200018	ROUTE 82 AND OWLS NEST RD	WALNUT GREEN SCHOOL	N-00308.000		X			
0702200026	05803 PYLES FORD RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.001		X			
0702200027	00000 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.009		X			
0702200028	2042 CREEK RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.004		X			
0702200028	00851 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.005		X			
0702200029	819 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.007		X			
0702200032	01631 HILLSIDE MILL RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.000		X			
0702200045	864 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.002		X			
0702200045	864 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.003		X			
0702200045	864 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.008		X			
0702200057	00825 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.006		X			
0702300023	04828 KENNETT PK	WINTERTHUR MUSEUM & GARDENS	N-00348.000		X			
0702400004	00205 W ROCKLAND RD	STRAND MILLAS & ROCK SPRING	N-00436.000		X			
0702400007	411 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400007	411 W ROCKLAND RD	STRAND MILLAS & ROCK SPRING	N-00436.000		X			
0702400008	00400 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400009	300 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400010	204 W ROCKLAND RD	STRAND MILLAS & ROCK SPRING	N-00436.000		X			
0702400013	00100 W ROCKLAND RD	MONTCHANIN HISTORIC DISTRICT	N-01086.004		X			
0702400013	00100 W ROCKLAND RD	MONTCHANIN HISTORIC DISTRICT	N-01086.005		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.011		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.012		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.013		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.014		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.015		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.016		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.017		X			
0702400014	504 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.018		X			
0702400016	00501 MONTCHANIN RD	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702400018	4 W ROCKLAND RD	MONTCHANIN HISTORIC DISTRICT	N-01086.002		X			
0702400018	4 W ROCKLAND RD	MONTCHANIN HISTORIC DISTRICT	N-01086.003		X			

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HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0702400023	457 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400026	00012 KIRK RD	MONTCHANIN HISTORIC DISTRICT	N-01086.019		X			
0702400026	00012 KIRK RD	MONTCHANIN HISTORIC DISTRICT	N-01086.020		X			
0702400026	00012 KIRK RD	MONTCHANIN HISTORIC DISTRICT	N-01086.021		X			
0702400035	500 W ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400042	00209 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400043	00221 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400044	00231 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702400045	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
0702430001	00000 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430002	00118 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.006		X			
0702430003	00122 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.006		X			
0702430005	00128 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.006		X			
0702430007	00132 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.006		X			
0702430008	140 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430009	00145 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430010	00143 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430011	00141 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430012	00000 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430013	00139 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.007		X			
0702430014	00137 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.007		X			
0702430015	00133 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.008		X			
0702430016	00131 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.008		X			
0702430017	00127 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.009		X			
0702430018	00125 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.009		X			
0702430019	00123 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.009		X			
0702430020	00119 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.010		X			
0702430021	00117 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.010		X			
0702430022	00115 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.010		X			
0702430023	00105 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430024	00103 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430025	00101 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430026	00000 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702430027	00000 CARPENTERS ROW	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
0702500010	3901 CENTERVILLE RD	WORTH ESTATE	N-13529.000					X
0702500055	3901 CENTERVILLE RD	WORTH ESTATE						X

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0702700032	00201 CHRIST CHURCH RD	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0702700032	00201 CHRIST CHURCH RD	BRANDYWINE MANUFACTURER'S SUNDAY SCHOOL	N-00345.000		X			
0702700034	00402 DEAN LN	BROOM (JACOB) HOUSE	N-01407.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0702800005	00007 DEVONSHIRE CT	CHANDLER HOUSE	N-12080.000					
0702940066	00935 CENTER RD	LETDOWN	N-12685.000					
0702940099	00933 CENTER RD	LETDOWN	N-12685.000					
0702940101	00000 CENTER RD	LETDOWN	N-12685.000					
0702940102	00000 CENTER RD	LETDOWN	N-12685.000					
0703010001	12 BARLEY MILL RD	SAINT JOSEPH'S ON THE BRANDYWINE	N-01256.000		X			
0703010002	00008 OLD CHURCH RD	SAINT JOSEPH'S ON THE BRANDYWINE	N-01256.000		X			
0703010003	00016 BARLEY MILL RD	SAINT JOSEPH'S ON THE BRANDYWINE	N-01256.000		X			
0703010004	00018 BARLEY MILL RD	SAINT JOSEPH'S ON THE BRANDYWINE	N-01256.000		X			
0703010007	03510 KENNETT PK	BRINDLEY FARM	N-00529.000		X			
0703010016	00183 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.009		X			
0703010016	00010 MONTCHANIN RD	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.010		X			
0703010017	181 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.007		X			
0703010017	00181 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.008		X			
0703010018	00184 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.025		X			
0703010020	00190 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.021		X			
0703010021	00190 1/2 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.020		X			
0703010022	00192 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.019		X			
0703010023	194 1/2 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.018		X			
0703010024	00196 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.017		X			
0703010025	198 1/2 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.016		X			
0703010026	00202 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.015		X			
0703010027	00204 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.014		X			
0703010028	00206 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.013		X			
0703010029	00208 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.012		X			
0703010030	00210 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.011		X			
0703010031	00000 KENNETT PK	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.023		X			
0703020001	162 STONE BLOCK ROW	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.001		X			
0703020001	162 STONE BLOCK ROW	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0703020002	00175 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.005		X			

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0703020002	00175 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.006		X			
0703020002	03128 KENNETT PK	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.048		X			
0703020003	00180 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.026		X			
0703020004	00176 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.027		X			
0703020005	00172 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.028		X			
0703020006	00170 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.029		X			
0703020007	00164 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.030		X			
0703020008	00182 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.024		X			
0703020008	00182 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.031		X			
0703020009	00018 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.032		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0703020010	00012 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.033		X			
0703020011	00006 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.034		X			
0703020011	00006 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.035		X			
0703020013	00002 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.037		X			
0703020014	00002 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.040		X			
0703020016	00000 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.036		X			
0703020017	00101 STONE BLOCK ROW	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.003		X			
0703020017	101 STONE BLOCK ROW	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.004		X			
0703020017	101 STONE BLOCK ROW	BRANDYWINE POWDER MILLS HISTORIC DISTRICT & ELEUTHERIAN MILLS	N-00339.000		X			
0703040006	01915 RISING SUN LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.044		X			
0703030086	03130 KENNETT PK	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.050		X			
0703030087	03124 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.046		X			
0703030087	03124 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.049		X			
0703030118	03112 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.051		X			
0703030119	03110 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.052		X			
0703030119	03110 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.053		X			
0703030120	03108 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.054		X			
0703040001	182 BRECKS LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.047		X			
0703040003	02003 RISING SUN LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.042		X			
0703040005	01919 RISING SUN LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.043		X			
0703040008	03001 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.045		X			
0703040008	03001 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.069		X			
0703040009	03106 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.055		X			
0703040010	03104 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.056		X			
0703040011	3102 PENNSYLVANIA AVE	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.56		X			

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0703040012	02005 RISING SUN LA	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.041		X			
0703100006	00000 CENTERVILLE RD	BREIDABLIK	N-12086.000					
0703120008	04923 LANCASTER PK	SPRINGER (CHARLES) TAVERN - barn	N-00508.000		X			
0703120011	04921 LANCASTER PK	SPRINGER (CHARLES) TAVERN - house	N-00507.000		X			
0703120012	04919 LANCASTER PK	SPRINGER (CHARLES) TAVERN - springhouse	N-00507.000		X			
0703210033	3 COURTNEY RD	ARMOR (JAMES) HOUSE	N-00506.000		X			
0703210042	04810 LANCASTER PK	HIGHFIELD	N-00495.000A				X	
0703210042	04800 LANCASTER PK	MASONIC HOME OF DELAWARE	N-00495.000B				X	
0703210055	04700 LANCASTER PK	LIMERICK	N-00502.000			X		
0703220001	00941 CENTER RD	LETDOWN	N-12685.000					
0703220060	00000 CENTRE RD	LETDOWN	N-12685.000					
0703230010	00963 CENTRE RD	FERRIS REFORM SCHOOL	N-00497.000				X	
0703430074	0 GREENBANK RD	GREENBANK MILL & MILL OWNER'S HOUSE	N-00191.000		X			X
0703510136	01201 CENTRE RD	WOODLAND APARTMENTS	N-14270.000				X	
0703710012		WILMINGTON & WESTERN RAILROAD	N-04091.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0703930462	00006 RACE ST	GLYNRICH & THE BRICK MILL HOUSE	N-00360.000		X			
0703930520	00001 MILL RD	GLYNRICH & THE BRICK MILL HOUSE	N-00360.000		X			
0704110088	03701 KIAMENSI AVE	JOHNSON (WILLIAM JULIUS "JUDY") HOUSE	N-13116.000		X			
0704330035	00102 MIDDLEBORO RD	WOODSTOCK	N-01423.000		X			X
0800400200	00000 BENGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.000		X			
0800640058	6621 LIMESTONE RD	SPRINGER FARM	N-01110.000		X			
0800700025	07503 LANCASTER PK	JACKSON HOUSE	N-00000.000					X
0800700044	01041 VALLEY RD	PUBLIC SCHOOL NO. 29	N-03863.000		X			
0800730130	00669 SOUTHWOOD RD	PIERSON (T.) FARM	N-01104.000		X			
0800740169	1170 OLD LANCASTER PK	GATEWAY	N-05271.000		X			X
0800800076	01501 OLD WILMINGTON RD	HOCKESSIN FRIENDS MEETING	N-00330.000		X			
0800830025	1168 OLD LANCASTER PIKE	GATEWAY	N-05271.000		X			X
0800900051	2272 CREEK RD	MASON (J.) FARM	N-10910.000		X			
0800900052	03120 BARLEY MILL RD	MOUNT CUBA	N-14087.000			X		
0800900061	2270 CREEK RD	DIXON (S.P.) FARM	N-04072.000		X			
0801100011	06464 LIMESTONE RD	McINTYRE (J.) FARM	N-01098.000		X			
0801500008	00101 WINDWARD RD	BISHOP (D.) FARM	N-04076.000					
0801500009	00100 WINDWARD RD	BISHOP (D.) FARM	N-04076.000					
0801640006	01612 YEATMANS MILL RD	MERESTONE	N-00289.000		X			
0801730129	01140 DOE RUN RD	MILL CREEK FRIENDS MEETING	N-00290.000		X			
0801800016	06124 LIMESTONE RD	GUTHERIE (HANNAH) HOUSE & FARMSTEAD	N-09580.000				X	

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0801840150	06067 LIMESTONE RD	GUTHERIE-DENNISON FARMSTEAD	N-01096.000			X		
0802000053	06580 LANCASTER PK	COFFEE RUN MISSION	N-00272.000		X			
0802000057	1701 DESIREE WAY	MILLER (LEWIS) HOUSE COMPLEX	N-04075.000A				X	
0802000112	00000 LANCASTER PK	COFFEE RUN MISSION CEMETERY	N-00272.000		X			
0802000185	00511 OLD WILMINGTON RD	MILLER (LEWIS) HOUSE COMPLEX - barn	N-04075.000B				X	
0802100017	00002 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.001		X			
0802100019	00501 WOODDALE RD	WOODDALE HISTORIC DISTRICT	N-04092.004		X			
0802100020	00505 WOODDALE RD	WOODDALE HISTORIC DISTRICT	N-04092.006		X			
0802100021	00507 WOODDALE RD	WOODDALE HISTORIC DISTRICT	N-04092.007		X			
0802100022	06005 LANCASTER PK	BARKER HOUSE SITE 7NC-B38	N-12082.000					
0802100029	1 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.003		X			
0802100029	00503 WOODDALE RD	WOODDALE HISTORIC DISTRICT	N-04092.005		X			
0802100030	00003 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.000		X			
0802100031	00005 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.000		X			
0802100045	00006 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.000		X			
0802100046	00004 FOXHILL LA	WOODDALE HISTORIC DISTRICT	N-04092.000		X			
0802220070	01610 YEATMANS MILL RD	MERESTONE	N-00289.000		X			
0802300002	821 DOE RUN RD	MORGAN (WILLIAM) FARM	N-00326.000		X			
0802300003	00824 DOE RUN RD	MORGAN (WILLIAM) FARM	N-00326.000		X			
0802300005	00751 CROSSAN RD	GRAHAM (ROBERT) HOUSE	N-00292.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0802310079	00203 PENN MANOR DR	PENN MANOR	N-00306.000			X		
0802400025	05890 LIMESTONE RD	DENNISON (SAMUEL) HOUSE	N-01090.000			X		
0802600019	00500 McKENNANS CHURCH RD	RED CLAY CREEK PRESBYTERIAN CURCH CEMETERY	N-00426.000		X			
0802600055	00500 McKENNANS CHURCH RD	RED CLAY CREEK PRESBYTERIAN CHURCH	N-00426.000		X			
0802630223	00148 BROMLEY DR BRECKENRIDGE	McCORMICK (J.) FARM	N-01613.000		X			
0802900017	1228 PAPER MILL RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0802900018	01196 PAPER MILL RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0802910035	00002 BRISTOL LA, COTSWOLD HILLS	EASTBURN (DAVID) FARM	N-10271.000		X			
0802910037	00008 SOMERSET LA, COTSWOLD HILLS	EASTBURN (DAVID) FARM	N-10271.000		X			
0802910152	00004 SOMERSET LA, COTSWOLD HILLS	EASTBURN (DAVID) FARM	N-10271.000		X			

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0802910153	00006 SOMERSET LA, COTSWOLD HILLS	EASTBURN (DAVID) FARM	N-10271.000		X			
0802910154	00004 BRISTOL LA, COTSWOLD HILLS	EASTBURN (DAVID) FARM	N-10271.000		X			
0802940003	00750 CORNER KETCH RD	STINSEN (J.) FARM	N-00195.000		X			
0802940037	00000 SUNRISE DR	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000002	00112 NORTH STAR RD	McDANIEL'S SAW & GRIST MILL	N-00201.000					X
0803000018	538 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803000019	00561 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803000020	00569 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803000021	00557 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803000022	541 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000023	00535 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803000024	20 GRANVILLE RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000					X
0803000025	00020 GRANVILLE RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000					X
0803000026	00040 GRANVILLE RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000					X
0803000027	00060 GRANVILLE RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000					X
0803000051	00573 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000055	00585 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000060	1300 PAPER MILL RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000064	00540 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			
0803000075	00579 UPPER PIKE CREEK RD	EASTBURN-JEANES LIME KILNS HISTORIC DISTRICT	N-00194.000		X			X
0803010027	00112 CARDIF COURT WEST, MEADOWDALE	McDANIEL (J.) FARM	N-10099.000		X			
0803040008	04900 LIMESTONE RD	MERMAID TAVERN	N-00242.000		X			

HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0803110065	00015 MIDDLETON DR, LIMESTONE HILLS	LINDSAY (J.) BARN	N-00284.000		X			
	FELLS LANE (THE ROAD ITSELF)	FELL HISTORIC DISTRICT	N-06760.000		X			X
0803300002	02323 FELLS LA	FELL HISTORIC DISTRICT	N-06760.001		X			X
0803300003	00000 FAULKLAND RD (VACANT PARCEL)	FELL HISTORIC DISTRICT	N-06760.000		X			X
0803300004	03007 FAULKLAND RD	FELL HISTORIC DISTRICT	N-06760.006		X			X
0803300005	03003 FAULKLAND RD	FELL HISTORIC DISTRICT	N-06760.007		X			X
0803300007	03012 FAULKLAND RD	FELL HISTORIC DISTRICT	N-06760.004		X			X

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0803300008	03300 FAULKLAND RD	BRANDYWINE SPRINGS PARK	N-01627.000					X
0803300011	02321 FELL LA	FELL HISTORIC DISTRICT	N-06760.002		X			X
0803300015	02315 FELL LA	FELL HISTORIC DISTRICT	N-06760.000		X			X
0803300017	03010 FAULKLAND RD	FELL HISTORIC DISTRICT	N-06760.005		X			X
0803300021	3101 FALKLAND RD	FELL HISTORIC DISTRICT	N-06760.003		X			
0803300021	3101 FAULKLAND RD	FELL HISTORIC DISTRICT	N-06760.008		X			
0803330028	02606 NEWPORT GAP PK	JUSTIS-JONES HOUSE	N-00254.000		X			
0803500023	00000 PLEASANT HILL RD	EASTBURN (J.) BARN	N-04011.000		X			
0803620085	03604 RUSTIC LANE, LINDEN KNOLL	WALKER (R.) BARN	N-10266.000		X			
0803700010	04300 LIMESTONE RD	DERRICKSON (AQUILA) HOUSE	N-00211.000				X	
0803700037	03401 LIMESTONE RD	MCKENNAN-KLAIR HOUSE	N-01250.000			X		
0803700042	02900 OLD LIMESTONE RD	MONTGOMERY (WILLIAM) HOUSE	N-00252.000		X			
0803830046	01400 MILLTOWN RD	CHANDLER (ABRAM) HOUSE	N-00250.000			X		
0803830047	2514 LIMESTONE RD	HARLAN MILL	N-00251.000			X		
0803830386	01001 MILLTOWN RD	JUSTIS (THOMAS) HOUSE	N-00257.000		X			
0803910159	02300 NEWPORT GAP PK	GREENBANK MILL & MILL OWNER'S HOUSE	N-00191.000		X			
0803910218	02311 NEWPORT GAP PK, THE CEDARS	SPRING HILL	N-00249.000			X		
0803910222	00501 GREENBANK RD	GREENBANK MILL & MILL OWNER'S HOUSE	N-00191.000		X			
0803910224	00000 GREENBANK RD	GREENBANK MILL & MILL OWNER'S HOUSE	N-00191.000		X			X
0803910263	0 GREENBANK RD	GREENBANK MILL & MILL OWNER'S HOUSE	N-00191.000		X			X
0803930010	02116 DUNCAN RD	HERSEY-DUNCAN HOUSE	N-01244.000		X			
0804200026	00051 FOX DEN RD	BARTLEY-TWEED FARM	N-00258.000		X			
0804200027	00044 FOX DEN RD	BARTLEY-TWEED FARM	N-00258.000		X			
0804430134	02106 ST JAMES CHURCH RD	SAINT JAMES CHURCH	N-00393.000		X			
0804510093	01203 GREENBANK RD	HICKMAN BLACKSMITH SHOP AND HOUSE	N-12991.000		X			
0804510094	01201 GREENBANK RD	HICKMAN BLACKSMITH SHOP AND HOUSE	N-12992.000		X			
0804510195	01105 STANTON RD, MARSHALLTON	MARSHALLTON U.M. CHURCH	N-10916.000		X			
0804510196	01015 STANTON RD, MARSHALLTON	SPRINGER-CRANSTON HOUSE	N-12931.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0804700072	00110 POSSUM HOLLOW RD	VANSANT (JOHN C.) HOUSE	N-00218.000		X			
0804700089	00110 POSSUM HOLLOW RD	VANSANT (JOHN C.) HOUSE	N-00218.000		X			
0805430177	01311 CAPITOL TR	WHITE CLAY CREEK PRESBYTERIAN CHURCH	N-00244.000		X			
0805900018	00801 KIRKWOOD HWY	MEETEER HOUSE	N-00206.000		X			X

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0806000016	00081 RED MILL RD	ENGLAND HOUSE & MILL	N-00248.000		X			
0806000017	00091 RED MILL RD	ENGLAND HOUSE & MILL	N-00248.000		X			
0900200007	00000 CHAMBERS ROCK RD	CHAMBERS (JOSEPH) HOUSE	N-06770.000		X			
0900500069	00839 NEW LONDON RD	WESLEY M.E. CHURCH	N-06758.000		X			
0900540024	00693 NEW LONDON RD	LINDSEY (SAMUEL) HOUSE	N-06759.000		X			
0900900002	00318 OLD HARMONY RD	ROTHERAM MILL HOUSE	N-00247.000		X			
0901100070	00606 STANTON CHRISTIANA RD	HALE-BYRNES HOUSE	N-00246.000		X			
0901300022	01100 CHURCH RD	HEAD OF CHRISTIANA CHURCH	N-01258.000		X			
0901300023	01016 W CHURCH RD	STEEL (JAMES) HOUSE	N-06756.000		X			
0901300048	01100 CHURCH RD	HEAD OF CHRISTIANA CHURCH	N-01258.000		X			
0901500011	1130 OGLETOWN RD	MORROW (JAMES) HOUSE	N-00224.000		X			
0902900038	00605 EAGLE RUN RD	MONTGOMERY (THOMAS) HOUSE	N-01601.000		X			
0903000060	9 PEDDLERS ROW	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903000080	00000 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903000092	00050 N OLD BALTIMORE PK	PUBLIC SCHOOL NO. 111-C	N-05258.000		X			
0903000093	00001 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030003	00021 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030004	00019 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030005	00017 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030006	00013 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030007	00011 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030008	00007 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030009	00005 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030010	00003 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030011	00001 W MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030012	00007 N OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030013	00011 N OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030014	15 N OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030017	37 N OLD BALTIMORE PK	OLD FORT CHURCH	N-05276.000		X			
0903030042	00020 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030043	00020 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030044	00020 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030045	00008 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030046	2 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030047	00029 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030048	00023 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030049	00020 KINGS HWY	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
HISTORIC RESOURCES WORKING LIST								

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Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
0903030050	00012 N OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030051	00008 N OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030052	00001 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030053	00011 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030054	00007 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030055	17-19 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030056	00005 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030057	00007 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030058	00013 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030059	00015 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030060	00017 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030061	00019 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030062	00021 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030063	00018 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030064	00012 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030065	00008 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030066	00008 MAGUIRE ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030067	00014 MAGUIRE ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030068	00017 MAGUIRE ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030069	00013 MAGUIRE ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030070	00011 MAGUIRE ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030072	00006 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030073	00004 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030074	00002 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030075	00020 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030076	00024 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030077	00027 WATER ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030078	00023 WATER ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030080	00019 WATER ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030081	00026 WATER ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030082	28-30 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030083	00000 E MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903030211	00027 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030212	00029 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030213	00000 BIRCHBROOK DR	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903030214	00000 BIRCHBROOK DR	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			X
0903510003	00024 S OLD BALTIMORE PK	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
0903800043	16 BLUE RIDGE CI	ALLEN (CHARLES) HOUSE	N-06755.000		X			

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0904100005	00563 WALTHER RD	STEWART (JAMES), JR. HOUSE	N-04003.000		X			
1001510263	00130 LINSTONE AVE, SWANWYCK ESTATES	SWANWYCK	N-00403.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1002800026	00107 E MAIN ST, CHRISTIANA	LEWDEN (JOHN) HOUSE	N-00197.000		X			
1002800034	00265 BEAR CHRISTIANA RD	SILVER HILL FARMHOUSE	N-01592.000				X	
1003300056	501 BEAR CHRISTIANA RD	SIMMONS (JOHN T.) FARM	N-04039.000				X	
1004000016	00661 S DUPONT PKWY	BUENA VISTA	N-00219.000		X			
1100610076	00274 E CHESTNUT HILL RD	EVERETT C JOHNSON HOUSE	N-00000.000					X
1100900030	00055 WELSH TRACT RD	IRON HILL PARK	N-00000.000					X
1100900032	39 WELSH TRACT RD	WELSH TRACT BAPTIST CHURCH	N-00264.000		X			
1100900056	00000 IRON HILL RD	IRON HILL PARK	N-00000.000					X
1101000009	00961 S OLD BALTIMORE PK	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101200045	1655 OTTS CHAPEL RD	OTT'S CHAPEL	N-06207.000		X			
1101300015	00000 S OLD BALTIMORE PK	IRON HILL PARK	N-00000.000					X
1101300016	01355 OLD BALTIMORE PK	IRON HILL SCHOOL NO 112C	N-13315.000		X			
1101400042	01773 OLD COOCHS BRIDGE RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101400043	02101 SUNSET LAKE RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101400044	00904 OLD BALTIMORE PK	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101400045	02029 SUNSET LAKE RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101400080	02035 SUNSET LAKE RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101400081	00000 DAYETT MILL RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101410001	00000 S OLD BALTIMORE PK	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101410002	01626 OLD COOCHS BRIDGE RD	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
1101900019	00790 SALEM CHURCH RD	MANSFIELD	N-06210.000			X		
1102100007	2190 GLASGOW AVE	DISTRICT SCHOOL NO 56, GLASGOW	N-03881.000				X	
1102200014	2275 SUMMIT BRIDGE RD	HERMITAGE (THE)	N-03881.000				X	
1102600043	2314 GLASGOW AVE	AIKENS TAVERN HISTORIC DISTRICT/MIDDLETON-BROOKS HOUSE	N-03875.000		X			X
1102600062	02417 PULASKI HWY, GLASGOW	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600068	2221 GLASGOW AVE	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600069	2303 GLASGOW AVE	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600070	02250 S COLLEGE AVE, GLASGOW	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600071	2603 GLASGOW AVE	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600072	02315 GLASGOW AVE, GLASGOW	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102600078	02415 SUMMIT BRIDGE RD	LYNCH (EVAN) HOUSE	N-03976.000				X	
1102600117	2317 PULASKI HWY	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			

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1102600169	02467 PULASKI HWY	LaGRANGE	N-00576.000		X			X
1102600134	00000 S COLLEGE AVE, GLASGOW	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
1102700027		NEW CASTLE & FRENCHTOWN RAILROAD RIGHT-OF-WAY	N-00422.000		X			X
1102700144	02275 PULASKI HY	HERMITAGE (THE)	N-03990.000				X	
1102800008	02611 DEL LAWS RD	STEWART (JAMES) HOUSE	N-01089.000		X			
1103200259		NEW CASTLE & FRENCHTOWN RAILROAD RIGHT-OF-WAY	N-00422.000		X			X
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1103210241	0 PAXSON LA	CANN FARMSTEAD	N-03977.000				X	
1103610037	02859 FRAZER RD	BOULDEN (GEORGE W.) HOUSE	N-06202.000					
1103700002	00000 SUMMIT BRIDGE RD	WILLIAMS (ROGER) HOUSE	N-03986.000					
1103910106	1919 RED LION RD	CATHOLIC DIOCESE HOUSE/PETER & ANNABELLE WILLIAMS HOUSE	N-05031.000				X	X
1104220017	00130 MICHAEL LA, CARAVEL WOODS	WHITE HALL	N-03985.000		X			
1104300042	02415 RED LION RD	CANN (RICHARD) STORE	N-05027.000				X	
1104300045	02425 RED LION RD, KIRKWOOD	HASTING (GEORGE) HOUSE	N-05026.000			X		
1104540075	3182 DENNY RD	POPLAR HALL	N-06199.000		X			
1104700005	03109 RED LION RD	LUM'S MILL HOUSE	N-00415.000		X			
1105600007	01377 BETHEL CHURCH RD	CORNUCOPIA	N-06193.000		X			
1105700001	00003 E STONEWALL DR	FAIRVIEW (HARBERT, GEORGE)	N-06194.000		X			
1106100009	01196 CHOPTANK RD	BIGGS (GOVERNOR BENJAMIN T.) FARM	N-05123.000		X			
1200600049	01600 RED LION RD	CASPERSON (W.) HOUSE	N-05054.000		X			
1201000001	00000 PEA PATCH ISLAND	FORT DELAWARE	N-00145.000		X			
1201800001	02290 RED LION RD, KIRKWOOD	OLD CANN MANSION HOUSE	N-00139.000		X			
1201800012	03616 KIRKWOOD ST GEORGES RD, KIRKWOOD	OLD POST OFFICE	N-05035.000		X			
1201800014	02440 RED LION RD	CORRELL'S FARM & LAWN SUPPLY	N-05025.000		X			
1202000003	1423 S DUPONT HWY	STARL HOUSE	N-01492.000		X			
1202500003	02950 RED LION RD	POINT FARM	N-05019.000		X			
1202500043	00337 STARBOARD DR, MARINERS WATCH	DEPUTY FARM	N-00143.000		X			
1202600006	04185 KIRKWOOD ST GEORGES RD	McCOY HOUSE	N-00142.000		X			
1202600011	04320 KIRKWOOD SAINT GEORGES RD	SAINT GEORGES CEMETERY CARETAKER'S HOUSE	N-05041.000		X			

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1202600129	2335 MCCOY RD	DRAGON RUN FARM	N-05038.000		X			
1202700003	00034 N DUPONT PKWY	LINDEN HILL	N-01493.000		X			
1202700005	04663 KIRKWOOD ST GEORGES RD	BLOOMFIELD	N-05042.000		X			
1202700008	01701 S DU PONT PARKWAY	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.018		X			
1202740001	00219 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.072		X			
1202740001	00221 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.073		X			
1202740003	00217 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.071		X			
1202740004	00215 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.070		X			
1202740005	00213 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.069		X			
1202740006	00211 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.068		X			
1202740007	00209 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.067		X			
1202740008	00207 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.066		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1202740009	00205 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.065		X			
1202740010	00203 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.064		X			
1202740011	00200 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.063		X			
1202740013	00113 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.062		X			
1202740014	00111 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.061		X			
1202740015	00109 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.060		X			
1202740016	105-107 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.059		X			
1202740017	105-107 BROAD STREET	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.059		X			
1202740018	00103 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.058		X			
1202740019	00101 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.057		X			
1202740020	00010 DELAWARE ST	SUTTON HOUSE	N-00144.000		X			
1202740020	00008 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.044		X			
1202740020	00010 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.045		X			
1202740021	00104 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.046		X			
1202740022	00106 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.047		X			
1202740022	00108 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.047		X			
1202740023	00110 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.048		X			
1202740024	00112 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.049		X			
1202740025	112 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.049		X			
1202740026	0 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.050		X			
1202740027	00003 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.056		X			
1202740027	00005 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.056		X			
1202740028	00202 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.051		X			

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1202740029	00204 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.052		X			
1202740030	00213 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.022		X			
1202740031	00000 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.053		X			
1202740032	00210 BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.054		X			
1202740033	1700 S DUPONT PKWY	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.019		X			
1202740034	00217 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.020		X			
1202740035	0 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.021		X			
1202740036	00209 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.023		X			
1202740036	00211 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.023		X			
1202740037	0 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.024		X			
1202740038	00203 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.025		X			
1202740038	00205 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.025		X			
1202740039	00002 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.055		X			
1202740040	00201 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.026		X			
1202740041	0 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.027		X			
1202740042	0 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.028		X			
1202740043	00113 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.029		X			
1202740044	00111 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.030		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1202740045	00109 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.031		X			
1202740046	00006 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.043		X			
1202740048	00004 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.042		X			
1202740049	107 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.032		X			
1202740049	00103 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.032		X			
1202740049	00105 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.032		X			
1202740050	NE C N MAIN & DELAWARE STS	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.033		X			
1202740051	00208 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.017		X			
1202740052	00206 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.016		X			
1202740053	00204 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.015		X			
1202740054	00000 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.014		X			
1202740055	00118 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.011		X			
1202740056	00116 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.010		X			
1202740057	00114 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.010		X			
1202740058	00112 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.009		X			
1202740059	00110 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.008		X			
1202740060	00108 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.007		X			
1202740061	00104 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.005		X			

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1202740061	00106 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.006		X			
1202740062	00102 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.004		X			
1202740063	00014 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.003		X			
1202740063	00016 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.003		X			
1202740064	00000 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.002		X			
1202740065	0 N MAINN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.001		X			
1202740067	00001 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.034		X			
1202740068	00003 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.036		X			
1202740069	00000 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.037		X			
1202740070	00000 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.039		X			
1202740071	00009 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.040		X			
1202740072	00011 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.041		X			
1202740073	00105 CLARKS CORNER RD	VERNACULAR FRAME HOUSE	N-05045.000		X			
1202740074	00000 DELAWARE ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.038		X			
1202740076	00200 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.013		X			
1202740076	00200 N MAIN ST	SAINT GEORGES PRESBYTERIAN CHURCH	N-09561.000		X			
1202740077	00120 N MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.012		X			
1202740077	0000 N MAIN ST	SAINT GEORGES PRESBYTERIAN CHURCH	N-09561.000		X			
1202740078	00000 N MAIN ST AT CANAL	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.035		X			
1202740079	00000 OFF BROAD ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.072		X			
1202740080	00011 CHURCH ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.062		X			
1202900006	00701 COX NECK RD	FAIRVIEW	N-05048.000		X			
1300300003	00781 LOREWOOD GROVE RD	FAIRVIEW	N-05193.000		X			

HISTORIC RESOURCES WORKING LIST

Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1300300013	00606 LOREWOOD GROVE RD	McWHORTER HOUSE	N-05197.000		X			
1300300014	01871 S DUPONT PKWY	OLD FORD DAIRY	N-05196.000		X			
1300400001	00000 DUTCH NECK RD	NELSON (JOHN B.) HOUSE	N-03939.000		X			
1300400001	01870 S DUPONT PKWY	IDALIA MANOR	N-03947.000		X			
1300400003	01061 DUTCH NECK RD	WINDSOR	N-12738.000		X			
1300500002	00507 THORNTOWN RD	ASHTON HISTORIC DISTRICT	N-03932.000		X			
1300700078	04353 SUMMIT BRIDGE RD	ELIASON (A.) HOUSE	N-00413.000		X			
1300700089	00669 OLD SUMMIT BRIDGE RD	S.H. ROTHWELL HOUSE	N-05191.000				X	
1300800006	01000 JAMISON CORNER RD	J. HOUSTON HOUSE	N-05195.000				X	
1300800018	02146 S DUPONT PKWY	BIDDLE HOUSE	N-03935.000		X			
1300800021	00350 HYETTS CORNER RD	FAIRVIEW, A.H. DIEHL HOUSE	N-05244.000				X	
1300800027	02256 S DUPONT PKWY	RETIREMENT FARM	N-05201.000		X			
1300900001	00381 PORT PENN RD	MONDAMON FARM	N-05253.000		X			

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1300900003	00405 PORT PENN RD	LISTON RANGE REAR LIGHT	N-01623.000		X			
1300900004	00409 PORT PENN RD	LISTON RANGE REAR LIGHT	N-01623.000		X			
1300900016	00713 PORT PENN RD	CLEAVER HOUSE	N-03944.000		X			
1300900033	01000 PORT PENN RD	GROSE (ROBERT) HOUSE	N-13383.000			X		
1300900387	1920 POLE BRIDGE RD	HAZEL GLEN	N-00148.000		X			
1300900400	00875 PORT PENN RD	DILWORTH HOUSE	N-00147.000		X			
1301000006	00520 THORNTOWN RD	ASHTON HISTORIC DISTRICT	N-03932.000		X			
1301000007	00525 THORNTOWN RD	ASHTON HISTORIC DISTRICT	N-03932.000		X			
1301010005	00002 LIBERTY ST	PORT PENN HISTORIC DISTRICT	N-03928.003		X			
1301010006	00001 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.004		X			
1301010007	00003 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.005		X			
1301010008	00005 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.006		X			
1301010009	00007 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.007		X			
1301010010	00009 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.008		X			
1301010011	00011 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.009		X			
1301010012	0 N STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010013	3 N STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.010		X			
1301010014	00005 N STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.011		X			
1301010015	00007 STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.012		X			
1301010016	00002 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.013		X			
1301010017	00006 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.014		X			
1301010019	00000 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.015		X			
1301010020	0 S STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.016		X			
1301010021	00001 S STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.017		X			
1301010022	00008 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.018		X			
1301010023	00008 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.019		X			
1301010024	00006 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.020		X			
1301010025	00100 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.021		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1301010026	00100 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.022		X			
1301010027	4 S STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.023		X			
1301010028	00000 STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010029	00000 STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010030	00000 STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010031	101 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.024		X			
1301010032	103 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.025		X			
1301010033	103 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			

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1301010034	107 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.026		X			
1301010035	00013 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.027		X			
1301010036	00009 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.028		X			
1301010037	7 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.028		X			
1301010038	00005 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.029		X			
1301010039	00003 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.030		X			
1301010040	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010041	00106 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.031		X			
1301010047	10 N STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.032		X			
1301010048	0 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.033		X			
1301010049	00105 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.034		X			
1301010050	00107 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.035		X			
1301010051	00109 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.036		X			
1301010052	00001 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.037		X			
1301010053	00003 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.038		X			
1301010054	5 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010055	00007 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.039		X			
1301010056	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010057	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.040		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.041		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.042		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.043		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.044		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.045		X			
1301010058	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.073		X			
1301010059	10 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.046		X			
1301010060	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010061	00008 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.047		X			
1301010062	00006 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.048		X			
1301010062	00004 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.049		X			
1301010063	00002 N CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.050		X			
1301010065	200 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.051		X			
1301010066	00002 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.052		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1301010067	00004 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.052		X			
1301010068	00006 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.053		X			
1301010069	8 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.054		X			

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1301010074	00000 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010075	00008 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010079	00004 E MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010082	00001 LIBERTY ST	PORT PENN HISTORIC DISTRICT	N-03928.001		X			
1301010084	2 W MARKET ST	PORT PENN HISTORIC DISTRICT	N-03928.002		X			
1301010091	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301010094	00000 STEWART ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014001	00102 MERCHANT ST	PORT PENN HISTORIC DISTRICT	N-03928.055		X			
1301014002	00118 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.056		X			
1301014003	00101 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.057		X			
1301014004	00103 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.058		X			
1301014005	00105 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.059		X			
1301014006	00107 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.060		X			
1301014007	00111 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.061		X			
1301014008	00113 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.062		X			
1301014009	00115 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.063		X			
1301014010	00117 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.064		X			
1301014011	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014012	00119 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.065		X			
1301014013	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014014	10 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014015	00100 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.066		X			
1301014016	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014017	00000 MAIN ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014018	00104 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.067		X			
1301014019	00106 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.068		X			
1301014020	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014021	00108 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.069		X			
1301014022	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014023	00110 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.070		X			
1301014024	0 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014025	112 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301014026	00114 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.071		X			
1301014027	00116 S CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.072		X			
1301014028	00143 FISHERS WHARF RD	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
1301100022	01358 CHOPTANK RD	WOODSIDE	N-00427.000		X			
1301140045	00121 COLONEL CLAYTON DR	CHOPTANK UPON THE HILL	N-05243.000		X			
1301200022	4566 SUMMIT BRIDGE RD	MT. PLEASANT FARM	N-05242.000				X	
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Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1301200040	04677 SUMMIT BRIDGE RD	WESTON	N-00121.000		X			
1301200045	01405 CEDAR LANE RD	LOVETT FARM	N-05132.000				X	
1301200050	0 SUMMIT BRIDGE RD	MT. PLEASANT FARM	N-05242.000				X	
1301200093	01542 CHOPTANK RD	CHOPTANK	N-00109.000		X			
1301200107	04564 SUMMIT BRIDGE RD	MT. PLEASANT FARM	N-05242.000				X	
1301300006	01309 CEDAR LANE RD	T.J. HOUSTON HOUSE	N-05131.000				X	
1301300038	02496 S DUPONT PKWY	WATKINS (GASSAWAY) STORE & POST OFFICE	N-05187.000				X	
1301300039	02500 S DUPONT PKWY	WATKINS (GASSAWAY) HOUSE	N-05156.000				X	
1301300041	02516 S DUPONT HWY	DALE'S CORNER SCHOOL	N-05207.000				X	
1301300041	02516 S DUPONT PKWY	McDONOUGH'S CORNER FRUIT STAND & SERVICE STATION	N-10950.000				X	
1301300042	00692 BAYVIEW RD	MONTEREY	N-00432.000		X			
1301300066	00915 BOYDS CORNER RD	CLEAVER FARM	N-05186.000				X	
1301300084	02501 S DUPONT PKWY	McDONOUGH (COMMODORE THOMAS) HOUSE	N-00424.000		X			
1301300155	02424 S DUPONT PKWY	ELM GRANGE	N-05181.000		X			
1301320160	1191 BOYDS CORNER RD	SHALLCROSS (S.F.) FARM	N-05248.000		X			
1301343050	855 SHALLCROSS LAKE RD	BELLVIEW	N-05155.000		X			
1301400016	00911 BAYVIEW RD	HIGGINS (S.) FARM	N-05165.000		X			
1301430161	00216 MANCHESTER WAY	MISTY VALE	N-05159.000		X			
1301500003	01919 ST AUGUSTINE RD	AUGUSTINE BEACH HOTEL	N-00150.000		X			
1301700004	02010 CHOPTANK RD	HOLTON (S.) FARM	N-00107.000		X			
1301700028	05187 SUMMIT BRIDGE RD	R.G. HAYES HOUSE	N-05153.000				X	
1301700036	00617 MARL PIT RD	ACHMESTER	N-03930.000		X			
1301700093	02010 CHOPTANK RD	HOLTON (S.) FARM	N-00107.000		X			
1301700137	05036 SUMMIT BRIDGE RD	ARMSTRONG-WALKER HOUSE	N-05146.000		X			
1301800002	01321 SHALLCROSS LAKE RD	OKOLONA	N-05135.000		X			
1301800029	02839 S DUPONT PKWY	OLD DRAWYER'S CHURCH	N-00154.000		X			
1301800134	00833 MARL PIT RD	SHALLCROSS (SRECK) HOUSE	N-00116.000		X			
1301820059	205 MURPHY RD	MOUNT JONES	N-01503.000		X			
1301830038	00993 MARL PIT RD	WILLIAMS HOUSE	N-00120.000		X			
1301900001	00714 VANCE NECK RD	VANDEGRIFT (J.) HOUSE	N-05178.000			X		
1301900002	00000 VANCE NECK RD	HIGH HOOK FARM	N-05177.000		X			
1301900010	01211 SILVER RUN RD	RIVERDALE	N-05170.000		X			
1301932071	0 VANCE NECK RD	GORDON (J.M.) HOUSE	N-05176.000		X			
1302100035	01143 BUNKER HILL RD	ROSEDALE	N-05148.000		X			
1302200001	1023 BUNKER HILL RD	MAPLES (THE)	N-00106.000		X			
1302300007	00557 MIDDLETOWN ODESSA RD	SHALLCROSS (JAMES) HOUSE	N-00115.000		X			
1302600015	00929 MIDDLETOWN WARWICK RD	C. POLK HOUSE ESTATE	N-05221.000				X	

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1302600020	1130 MIDDLETOWN WARWICK RD	HANSON (B.F.) HOUSE	N-05225.000		X			
1302700011	00772 MIDDLETOWN WARWICK RD	HEDGELAWN	N-00118.000		X			
1400240106	00602 OLD STATE RD	FAIRVIEW (MOORE,JAMES)	N-00214.000		X			
HISTORIC RESOURCES WORKING LIST								
Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1400300013	00484 THOMAS LANDING	GREEN MEADOW	N-06240.000		X			
1400300064	820 OLD CORBIT RD	CORBIT (WILLIAM) FARM	N-00119.000				X	
1400330019	00161 MIDESSA DR	THOMAS (DAVID W.) HOUSE	N-06237.000		X			
1400700001	00427 NOXONTOWN RD	NOXONTOWN	N-00122.000		X			
1400700003	05571 SUMMIT BRIDGE RD	NAUDAIN (ARNOLD S.) HOUSE	N-00123.000		X			
1400700004	03379 DUPONT PKWY	HILL ISLAND FARM	N-05898.000		X			
1401000008	00389 STRAWBERRY LN	HANSON-SHAHAN FARM	N-14388.000				X	
1401100025	00295 GREARS CORNER RD	BROOK RAMBLE	N-00101.000		X			
1401400024	01603 LEVELS RD	MAYFIELD	N-05832.000		X			
1401600130	00205 UNION CHURCH RD	OLD UNION METHODIST CHURCH	N-00423.000		X			
1401601013	00121 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.070		X			
1401601014	00125 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.069		X			
1401601015	00127 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.068		X			
1401601016	00129 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.067		X			
1401601017	00135 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.066		X			
1401601018	00137 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.065		X			
1401601019	00139 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.064		X			
1401601022	587 GINN ST	TOWNSEND HISTORIC DISTRICT	N-10297.072		X			
1401601046	141 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.063		X			
1401601047	OFF GRAY ST	TOWNSEND HISTORIC DISTRICT	N-10297.062		X			
1401700049	00798 TAYLORS BRIDGE RD	HUGUENOT HOUSE	N-00419.000		X			
1401800024	00385 VANDYKE GREENSPRING RD	VANDYKE-HEATH HOUSE	N-05891.000		X			X
1500200002	447 CEDAR SWAMP RD	HART HOUSE	N-00152.000		X			
1500400001	01175 TAYLORS BRIDGE RD	REEDY ISLAND RANGE REAR LIGHT	N-05120.000			X		
1500400002	01171 TAYLORS BRIDGE RD	REEDY ISLAND RANGE REAR LIGHT	N-05120.000			X		
1501000002	00000 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.011				X	
1501000003	04437 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.010				X	
1501000004	00101 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.009				X	
1501000005	00105 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.008				X	
1501000006	00107 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.007				X	
1501000007	00000 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.005				X	
1501000008	119 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.006				X	

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1501000035	04451 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.003				X	
1501000036	122 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.001				X	
1501000051	04436 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.012				X	
1501000051	04436 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.013				X	
1501000052	04456 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.014				X	
1501000055	00181 EAGLES NEST LANDING RD	NAUDAIN (J.W.) FARM	N-06270.000				X	
1501000104	00129 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.004				X	
1501000132	00000 S DUPONT PKWY	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.002				X	

HISTORIC RESOURCES WORKING LIST

Tax Parcel	Address	Historic Name	CRS No.	NHL	NR	NRE	DOE	HZ
1501500032	8 MAIN DR	MOUNT PLEASANT	N-06271.000				X	
1501700009	00992 FLEMINGS LANDING RD	FLEMING HOUSE	N-00153.000		X			
1502200075	01324 PADDOCK RD	SPEAR (J.) FARMSTEAD	N-06315.000				X	
1502200080	1181 SMYRNA LANDING RD	CLEARFIELD FARM	N-00570.000		X			
1502300008	00670 BRICK STORE LANDING	OLD BRICK STORE	N-00135.000		X			
1600400ALL		ARDEN HISTORIC DISTRICT	N-00414.000		X			
District	00000 S OLD BALTIMORE PK	COOCH'S BRIDGE HISTORIC DISTRICT	N-00190.000		X			
District	00000 MAIN ST	HENRY CLAY VILLAGE HISTORIC DISTRICT	N-00333.000		X			
District	00000 ROCKLAND RD	ROCKLAND HISTORIC DISTRICT	N-00343.000		X			
District	00000 ROCKLAND RD	MONTCHANIN HISTORIC DISTRICT	N-01086.000		X			
District	00000 MAIN ST	CHRISTIANA HISTORIC DISTRICT	N-01475.000		X			
District	00000 S COLLEGE AVE, GLASGOW	AIKEN'S TAVERN HISTORIC DISTRICT	N-03875.000		X			
District	00000 CONGRESS ST	PORT PENN HISTORIC DISTRICT	N-03928.000		X			
District	00000 WOODDALE RD	WOODDALE HISTORIC DISTRICT	N-04092.000		X			
District	00000 CREEK RD	GARRETT SNUFF MILL HISTORIC DISTRICT	N-04098.000		X			
District	00000 MOUNT CUBA RD	MOUNT CUBA HISTORIC DISTRICT	N-05001.000		X			
District	00000 MAIN ST	NORTH SAINT GEORGES HISTORIC DISTRICT	N-05002.000		X			
District	00000 BENGE RD	AUBURN MILLS HISTORIC DISTRICT	N-05003.000		X			
District	00000 WAY RD	GRAVES MILL HISTORIC DISTRICT	N-05005.000		X			
District	00000 MAIN ST	TOWNSEND HISTORIC DISTRICT	N-10297.000		X			
District	00000 BLACKBIRD FOREST RD	BLACKBIRD VILLAGE HISTORIC DISTRICT	N-12510.000				X	

Column Headings - CRS No., Cultural Resource Survey Number; NHL, National Historic Landmark; NR, National Register of Historic Places; NRE, National Register Eligible; DOE, Determination of Eligibility for National Register; and HZ, Historic Zone Overlay District

(Ord. No. 97-172, § 3(ch. 13, app. 4), 12-31-1997)

APPENDIX 5. DOCUMENTS

1. Maintenance Corporation Agreement.

MAINTENANCE DECLARATION OF [PLAN NAME] MAINTENANCE CORPORATION

THIS DECLARATION, made this _____ day of _____, ____, by [name of property owner], [a corporation of the State of Delaware], hereinafter referred to as Declarant.

WHEREAS, Declarant is the owner of a certain parcel of land situate in _____ Hundred, New Castle County, State of Delaware, being _____ acres, as shown on the Record Major Land Development of [Plan Name] prepared by [name of engineering firm], dated _____ and revised to _____, ____, which land is designated for the construction of [types of uses] with appurtenant common facilities; and

WHEREAS, Declarant desires to impose upon said lands and to bind itself, its successors, and assigns, who is the owner of said parcel of land, to certain covenants.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That the Declarant does covenant and declare that it shall hold and stand seized of all that certain parcel of land situate in [name of hundred] New Castle County and State of Delaware, as it appears on the Record Major Land Development of [Plan Name] under and subject to the following covenants and agreements which shall be covenants running with the land and which shall be binding upon the Declarant, its successors and assigns, for the benefit of all owners of lots appearing on said Plan of [Plan Name], and for the benefit of New Castle County.

1. In order that the private open spaces and common facilities, as set forth on said Plan, shall be maintained according to the provisions of New Castle County, State and federal law, there shall be organized as provided in Paragraph 2 hereof, a maintenance corporation, hereinafter referred to as "Corporation," whose members shall be the record owners of lots shown on said Plan.
 - (a) The purchaser of any lot of land by the acceptance of a deed to said land, obligates and binds himself or herself, his or her heirs and assigns to become a member of the aforesaid Corporation and to be bound by all of its rules and regulations and to be subject to all of the duties and obligations imposed by membership in said Corporation.
 - (b) Each owner of any lot, by acceptance of a deed therefor, is deemed to covenant and agree to pay to the Corporation, when necessary, annual assessments or charges, such assessments to be fixed, established and collected from time to time as hereinafter provided; provided, that all assessments must be fixed at a uniform rate for all lots. However, such obligation to pay any annual assessment or charge to said Corporation shall not commence until such time that the Board of Directors of said Corporation is comprised of homeowners of [Plan Name]. The owner of any lot agrees, at the time of settlement for the purchase of said lot, to sign a confession of judgment obligating him or her to pay to the maintenance corporation his or her share of the costs associated with the maintenance of the common facilities within the subdivision. The assessments levied by the Corporation shall be used exclusively for the purpose of maintaining said open space and common facilities and any other allowable purpose as stated in the Bylaws of said Corporation.
 - (c) An annual assessment, if necessary, shall be set by a majority vote of the members who are voting in person or by proxy at the annual meeting, and any special assessments shall be set by a majority vote of the members who are voting in person or by proxy at the annual meeting or at a meeting duly called for this purpose.
 - (d) Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the date of delinquency at any rate of [_____] per centum (%) per annum, and the maintenance corporation may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against

the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the open space or common facilities or abandonment of his or her lot.

- (e) It is expressly agreed that the assessments referred to above shall be a lien or encumbrance on the land in respect to which said assessments are made and it is expressly stated that by acceptance of title to any of the land included in said tract the owner (not including mortgagee) from the time of acquiring title thereto shall be held to have covenanted and agreed to pay said assessments to the Corporation, including prior unpaid assessments.
 - (f) By his or her acceptance of title, each owner shall be held to vest in the maintenance corporation the right and power in its own name to take and prosecute all actions or suits, legal, equitable or otherwise, which may be, in the opinion of the Corporation, necessary or advisable for the collection of such assessments.
 - (g) Said assessments shall be subordinate in lien to the lien of any mortgage or mortgages on any property which is subject to such charges regardless of when said mortgage or mortgages were created or when such charges accrued; provided, that such subordination shall apply only to charges that shall have become payable prior to the passing of title under foreclosure, of such mortgage or mortgages, and the transferees shall not be liable for payment of any assessment accruing prior to said foreclosure, but nothing herein shall be held to affect the rights herein given to enforce the collection of such charges accruing after sale under foreclosure of such mortgage or mortgages; and provided, further, that such charges accruing after the sale shall also be subordinate in lien to the lien of any further mortgage or mortgages which are placed on property subject to such charges, with the intent that no such charges shall at any time be prior in lien of any mortgage or mortgages whatsoever on such property.
 - (h) Declarant hereby grants to New Castle County, its successors and assigns, the right, privilege and authority to enter upon said premises and maintain said open space and common facilities at the expense of the owners of said lots. In the event that New Castle County elects to maintain the common facilities as set forth above, all expenses of maintenance shall be assessed pro rata against the owners of each lot, and shall be collectible by New Castle County, as provided in New Castle Code Chapter 40, Article 27, or in the manner set forth above in relation to collection by the Corporation. The provisions of paragraph 1(g) above notwithstanding, any lien for such expenses or maintenance asserted by the County and filed with the Recorder of Deeds in accordance with New Castle County Code shall be a lien from the time of recording and shall have priority in relation to other liens, either general or special, including mortgages and other liens according to the time of recording of such liens in the proper office, as in the said Section provided.
- 2. Declarant shall incorporate under the laws of the State of Delaware, prior to the recordation of the Plan, a nonprofit corporation to be known as a "maintenance corporation" for the benefit of all owners, which maintenance corporation shall be charged with the duty of maintaining said open space and common facilities in the condition required by the New Castle County Code.
 - 3. These covenants and restrictions shall be taken to be real covenants running with the land and binding thereon perpetually.
 - 4. Declarant, for itself, its successors and assigns, grants to the lot owners the free and uninterrupted use of all the common facilities as shown on the said Plan of [Plan Name] in common with others entitled thereto forever. Each lot owner, by acceptance of a deed, grants to all other lot owners, their guests, invitees and licensees the free and uninterrupted use of all the common facilities and grants to the maintenance corporation the right to come upon any lot owner's lot for purposes of maintaining the common facilities.
 - 5. The following definitions are applicable hereto:
-

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- (a) "Corporation" shall mean and refer to the "maintenance corporation," its successors and assigns, and to the proper-named corporate entity to be formed as provided hereunder.
 - (b) "Lot" shall mean and refer to each of the lots as shown on the Record Major Land Development of _____.
 - (c) "Member" shall mean and refer to every person or entity who holds membership in the corporation.
 - (d) "Owner" shall mean and refer to the record owner of a fee simple title to any of the lots as shown on the said Plan of _____.
 - (e) "Declarant" shall mean and refer to _____, [a corporation of the State of Delaware, its successors and assigns.]
 - (f) "Common Facilities" shall mean and refer to all private open space designated on the record plan and also any common areas or common amenities that may be depicted on the record plan including, but not limited to, streets, unless accepted for dedication by DelDOT, curbs, sidewalks, storm water management facilities including recharge systems, parks, recreational facilities, fire hydrants, landscaping, parking areas, rights-of-way, easements, monuments and markers, and all improvements now and hereafter located thereon. **[note that the assigned Planner may want to modify this standard definition depending on your particular plan]**
6. The foregoing covenants may not be modified, amended or altered in whole or in part, except by the consent of [designate percentage] lot owners and of the New Castle County Council. Provided, however, that this Maintenance Declaration may be amended with the consent of New Castle County Council and without the consent of the lot owners where said amendment would expand this declaration to encompass additional lots depicted on a contiguous Record Minor/Major Land Development, or an enlarged or re-subdivided Record Major Land Development of [Plan Name] and where said amendment(s) would be necessary so that the new expanded Maintenance Declaration would fully comply with the then current New Castle County Code.

IN WITNESS WHEREOF, the said [Corporation] a Delaware corporation, has caused its name by _____, its President, to be hereunto set, and the common and corporate seal of said corporation to be hereunto affixed, duly attested by its Secretary the day and year first above written.

SEALED AND DELIVERED

in the presence of:	, Inc.
Witness	By: (Name of Declarant)
	Attest:

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STATE OF DELAWARE	)	
COUNTY OF NEW CASTLE	)	

BE IT REMEMBERED that on this ____ day of _____, ____, personally appeared before me, the Subscriber, a notary public for the State of Delaware, _____, President of _____, a corporation existing under the laws of the State of Delaware, party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his or her act and deed and the act and deed of said corporation, that the signature of the President thereto is in his or her own proper handwriting and seal affixed is the common and corporate seal of said corporation, and that his or her act of sealing, executing and delivering said Indenture was duly authorized by a resolution of the Board of Directors of said corporation.

GIVEN under my hand and seal of office, the day and year aforesaid.

Notary Public	
---------------	--

My Commission Expires: _____

2. Bylaws of Maintenance Corporation.

BYLAWS OF [PLAN NAME] MAINTENANCE CORPORATION

ARTICLE I NAME AND LOCATION

The name of the corporation is [Plan Name] Maintenance Corporation, hereinafter referred to as the "Corporation".

The principal office of the Corporation shall be located at the home of the acting [President or other Director] of the Corporation, but meetings of members and directors may be held at such places within the State of Delaware, County of New Castle, as may be designated by the Board of Directors.

The name and address of the Corporation's registered agent in the State of Delaware is as set forth in the Certificate of Incorporation.

ARTICLE II CORPORATE SEAL

The corporate seal shall have inscribed thereon the name of the corporation and the year of its incorporation.

ARTICLE III MEETING OF MEMBERS

Section 1. First Meeting of the Members. The first meeting of the members shall be called by the initial Board of Directors and shall be for the purpose of nominating a Board of Directors consisting of homeowners of the [Plan Name]. The initial Board of Directors shall send each homeowner notice of the meeting at least thirty (30) days before the meeting. The notice shall specify the place, day, and hour of the meeting and shall state that the purpose of the meeting is to nominate a new Board of Directors. The notice shall list each office and describe the duties associated with such office. Nominations shall be accepted by proxy received by the initial Board of Directors prior to the end of the first meeting. In addition to nominations received by proxy, nominations may be made at the meeting. A list of nominations, including the offices that the nominee is interested, shall be prepared by the initial Board of Directors. Within ten (10) business days of the first meeting, the initial Board of Directors shall notice a second meeting for the purpose of electing a Board of Directors. The minutes of the first meeting, the list of nominees, and notice of the second meeting, including the place, day, and hour of the second meeting, shall be mailed, postage prepaid, to each member entitled to vote at such meeting. The second meeting shall be held within twenty (20) business days from the date noticing such meeting. The initial Board of Directors shall oversee the election and shall remain in office until another Board is duly elected. Elections shall be by ballot, by plurality vote. Notwithstanding any contrary provision in the governing documents, quorum requirements for nomination and election of the first Board of Directors consisting of homeowners shall be duly satisfied if the meetings are properly noticed in conformance with this section.

Section 2. Annual meetings. After the first Board of Directors comprised of homeowners is elected, each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year following the first election meeting, at which meeting they shall elect by ballot, by plurality vote, a Board of Directors and may transact such other business as may come before the meeting. If the day for the annual meeting of the members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 3. Special meetings. Special meetings of the members may be called at any time by the President and must be called on the request, in writing or by the vote of the majority, of the Directors, or at the request in writing of five (5) or more members of the Corporation.

Section 4. Notice of meetings. Except as otherwise noted herein, written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, at least fifteen (15) days before the meeting to each member entitled to vote at the meeting, addressed to the member's address last appearing on the books of the Corporation, or supplied by the member to the Corporation for the purpose of notice. The notice shall specify the place, day and hour of the meeting

and, in the case of a special meeting, the purpose of the meeting. No change in the time or place of a meeting for the election of Directors, as fixed by these Bylaws, shall be made within ten (10) next before the day on which such election is to be held. In case of any change in such time or place for such election of Directors, notice thereof shall be given to each member entitled to vote in person, or mailed to his or her last known post office address, at least ten (10) days before the election is held.

Section 5. List of members. A complete list of members entitled to vote, arranged in alphabetical order, shall be prepared by the Secretary and shall be open to the examination of any member at the principal office of the Corporation and the place of election, for ten (10) days prior thereto, and during the whole term of the election.

Section 6. Proxies. Each member entitled to vote shall, at every meeting of the members, be entitled to vote in person or by proxy, in writing and signed by him or her, but no proxy shall be voted after one (1) year from its date, unless it provides for a longer period. Every proxy shall be revocable and shall automatically cease upon conveyance of the lot. Such right to vote shall be subject to the right of the Board of Directors to close the transfer books or to fix a record date for voting members as hereinafter provided and if the Directors shall not have exercised such right, no vote shall be cast at any election for Directors by anyone who shall have accepted membership in the Corporation within ten (10) days of such election. Only one (1) vote shall be cast with respect to each lot in the [Plan Name]. In the event that members who hold title to any lot either by the entirety, or as joint tenants, or as tenants in common, attempt to cast the vote for such lot in conflicting ways, such vote shall be recorded as a fractional vote.

Section 7. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, thirty (30) percent of the total members entitled to vote shall constitute a quorum (counting one (1) member for each lot regardless of the number of persons holding title to such lot) for any action except as otherwise provided in the Articles of Incorporation, the Maintenance Declaration, or these Bylaws. If, however, a quorum shall not be present at any meeting, the members entitled to vote there shall have the power to adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present.

ARTICLE IV BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

Section 1. Number. The property and business of the Corporation shall be managed and controlled by its Board of Directors, consisting of two (2) or more Directors, not to exceed eight (8). Directors must be members of the Corporation.

Section 2. Election. At the second meeting of the Corporation, the members shall elect the Directors for a one-year term. The Directors shall hold office until the next annual election and until their successors are elected and qualify.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Corporation. In the event of death, resignation or removal of a Director, a successor shall be selected by the remaining members of the Board, though less than a quorum, by majority vote, and shall serve for the unexpired term of his or her predecessor.

Section 4. Compensation. No Director shall receive compensation for any service rendered to the Corporation. However, any Director may be reimbursed for actual expenses incurred in the performance of his or her duties.

Section 5. Action taken without a meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE V MEETING OF DIRECTORS

Section 1. Regular meetings. After each annual election of Directors, the newly elected Directors may meet for the purpose of organization, the election of officers, and the transaction of other business, at such place and time as shall be fixed by the members at the annual meeting, and if a majority of the Directors be present at such place

and time, no prior notice of such meeting shall be required to be given to the Directors. The place and time of such meeting may also be fixed by written consent of the Directors.

Section 2. Special meetings. Meetings of the Directors may be called by the President on five (5) days' notice in writing or on two (2) days' notice by telephone to each Director and shall be called by the President in like manner on the written request of two (2) Directors. A majority of the Directors shall constitute a quorum, but a smaller number may adjourn from time to time, without further notice, until a quorum is secured.

ARTICLE VI POWERS AND DUTIES OF THE BOARD

Section 1. Powers. The Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the common properties and facilities, and the personal conduct of the members and their guests, and to establish penalties for infractions;
- (b) Exercise for the Corporation all powers, duties and authority vested in or delegated to this Corporation and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Maintenance Declaration;
- (c) Declare the office of a member of the Board of Directors to be vacant in the event the member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (d) Employ a manager, an independent contractor, or other employees as they deem necessary, and to prescribe their duties.
- (e) Close the membership rolls of the Corporation for a period not exceeding ten (10) days preceding the date of any meeting of members.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all of its acts and corporate affairs and to present a statement of its acts and corporate affairs to the members at the annual meeting of the members or at any special meeting when the statement is requested in writing by five (5) or more members of the Corporation;
- (b) Supervise all officers, agents and employees of this Corporation, and to see that their duties are properly performed;
- (c) As more fully provided here, and in the Maintenance Declaration, to:
 - (1) determine the amount of the annual assessment against each lot for approval by majority vote of Corporation's members at least thirty (30) days in advance of each annual assessment period; and
 - (2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period.
- (d) Issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge, not to exceed [five dollars (\$5.00)], may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Corporation;
- (f) Cause all officers, employees or independent contractors having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (g) Cause all open space and common facilities to be maintained as required.

ARTICLE VII COMMITTEES

The Board of Directors may, by resolution or resolutions passed by a majority of the whole Board, designate such committees as it deems necessary or desirable, each such committee to consist of two (2) or more of the Directors of the Corporation. Such committees shall meet at stated times or on notice to all by any of their own number. They shall fix their own rules of procedure. A majority shall constitute a quorum, but the affirmative vote of a majority of the whole committee shall be necessary in every case. Such committees shall have and may exercise the powers of the Board of Directors to the extent as provided in such resolution or resolutions.

ARTICLE VIII OFFICERS OF THE CORPORATION

The officers of the Corporation shall be a President, one (1) or more Vice-Presidents, Secretary, Treasurer, and such other officers as may from time to time by [be] chosen by the Board of Directors. The President and Vice-Presidents shall be chosen from among the Directors. The officers of the Corporation shall hold office until their successors are chosen and qualify in their stead. Any officer chosen or appointed by the Board of Directors may be removed with or without cause at any time by the affirmative vote of a majority of the whole Board of Directors. If the office of any officer or officers becomes vacant for any reason, the vacancy shall be filled by the affirmative vote of a majority of the whole Board of Directors.

Section 1. Duties of the President. The President shall be the chief executive officer of the Corporation. It shall be his duty to provide at all meetings of the members and Directors; to have general and active management of the business and the Corporation; to see that all orders and resolutions of the Board of Directors are carried into effect; to execute all agreements and other instruments in the name of the Corporation, and to affix the corporate seal thereto when authorized by the Board of Directors.

He shall have the general supervision and direction of the other officers of the Corporation and shall see that their duties are properly performed.

He shall submit a report of the operations of the Corporation for the year to the Directors at their meeting next preceding the annual meeting of the members and to the members at their annual meeting.

He shall be ex-officio a member of all committees and shall have the general duties and powers of supervision and management usually vested in the office of the President of a corporation.

Section 2. Vice-President. The Vice-President or Vice-Presidents, in the order designated by the Board of Directors, shall be vested with all powers and required to perform all the duties of the President in his absence or disability and shall perform such other duties as may be prescribed by the Board of Directors.

Section 3. President Pro Tem. In the absence or disability of the President and the Vice-Presidents, the Board may appoint from their own number a president pro tem.

Section 4. Secretary. The Secretary shall attend all meetings of the Corporation, the Board of Directors, and any committee meetings. He shall act as clerk thereof and shall record all of the proceedings of such meetings in a book kept for that purpose. He shall give proper notice of meetings of members and Directors and shall perform such other duties as shall be assigned to him by the President or the Board of Directors.

Section 5. Treasurer. The Treasurer shall have custody of the funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all monies and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.

He shall disburse the funds of the Corporation as may be ordered by the Board or President, taking proper vouchers for such disbursements, and shall render to the President and Directors, whenever they may require it, an account of all his transactions as Treasurer, and of the financial condition of the Corporation, and at the regular meeting of the Board next preceding the annual members' meeting, a like report for the preceding year.

He shall keep an account of the members of record in such manner and subject to such regulations as the Board of Directors may prescribe.

He shall give the Corporation a bond, if required by the Board of Directors, in sum and in form and with corporate security satisfactory to the Board of Directors for the faithful performance of the duties of his office and the restoration to the Corporation, in case of his death, resignation or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession, belonging to the Corporation. Such bond and security shall, if required, be provided at the Corporation's expense. He shall perform such other duties as the Board of Directors may from time to time prescribe or require.

Section 6. Delegation of duties. In case of the absence or disability of any officer of the Corporation or for any other reason deemed sufficient by the majority of the Board, the Board of Directors may delegate his powers or duties to any other officer or to any Director for the time being.

ARTICLE IX ASSESSMENTS

Section 1. Creation of the lien and personal obligation of assessments. By the Declaration, each member is deemed to covenant and agrees to pay to the Corporation:

- (a) Annual assessments or charges; and
- (b) Special assessments for capital improvements.

The annual and special assessments, together with interest and costs of collection, as provided below, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of the property at the time when the assessment fell due and shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of assessments. The assessments levied by the Corporation shall be used for the purpose of maintaining the private open spaces and common facilities in the [Plan Name], and all improvements located thereon, including, but not limited to, any storm water management facilities, common landscaping features, and any of the other purposes as set forth in these Bylaws, the Certificate of Incorporation or Maintenance Declaration.

Section 3. Annual assessment. An annual assessment shall be set by a majority vote of the members who are voting in person or by proxy at the annual meeting.

Section 4. Special assessment for capital improvements. In addition to the annual assessments authorized above, the corporation may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement involving the open space or common facilities. A special assessment, if necessary, shall be set by a majority vote of the members who are voting in person or by proxy at the annual meeting or at a meeting duly called for this purpose.

Section 5. Uniform rate. Both annual and special assessments must be fixed at a uniform rate for all lots.

Section 6. Remedies for non-payment of assessments. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of [] per centum (%) per annum, and the Corporation may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common area or abandonment of his or her lot.

ARTICLE X BOOKS AND RECORDS

The books, records and papers of the Corporation shall at all times, during reasonable business hours, be subject to inspection by any member. The Maintenance Declaration, the Articles of Incorporation and the Bylaws of the Corporation shall be available for inspection by any member at the principal office of the Corporation, where copies may be purchased at reasonable cost not to exceed [five dollars (\$5.00)] for all three (3) documents.

**ARTICLE XI
CORPORATION PAYMENTS**

All checks, drafts or orders for the payment of money shall be signed by the President and the Treasurer or by such other officer or officers as the members of the Corporation may approve.

**ARTICLE XII
MEMBERS OF RECORD**

The Corporation shall be entitled to treat the title holder or holders of record of any lot in the [Plan Name] as members in fact of the Corporation, and accordingly shall not be bound to recognize any equitable or other claim to or interest in such lot or memberships on the part of any other person, whether or not it shall have express or other notice thereof, save as expressly provided by the laws of Delaware.

**ARTICLE XIII
FISCAL YEAR**

The fiscal year of the Corporation shall begin on the first day of January of each year.

**ARTICLE XIV
AMENDMENT**

Section 1. Amendment. These Bylaws may be amended, altered, repealed or added to at any regular meeting of the members or at any special meeting called for that purpose, by affirmative vote of seventy-five percent (75%) of the members of the Corporation at any time after the first meeting of the members of the Corporation following the election of a Board of Directors comprised of homeowners.

Section 2. Expanded duties. By vote of seventy-five percent (75%) of the members of the Corporation, the Corporation may provide for services in addition to the maintenance of private open space and common facilities. However, adoption of any such provision in these Bylaws shall place no duty or obligation on New Castle County to enforce any such additional provision.

**ARTICLE XV
DEFINITIONS**

The following definitions are applicable hereto:

1. "Corporation" shall mean and refer to the "Maintenance Corporation," its successors and assigns, and to the proper-named corporate entity to be formed as provided hereunder.
2. "Lot" shall mean and refer to each lot as shown on the Record Major Land Development of _____.
3. "Member" shall mean and refer to every person or entity who holds membership in the Corporation.
4. "Owner" shall mean and refer to the record owner of a fee simple title to a lot as shown on the said Plan of _____.
5. "Declarant" shall mean and refer to _____, a corporation of the State of Delaware, its successors and assigns.
6. "Common facilities" shall mean and refer to all private open space designated on the record plan and also any common areas or common amenities that may be depicted on the record plan including, but not limited to, streets, unless accepted for dedication by DelDOT, curbs, sidewalks, storm water management facilities including recharge systems, parks, recreational facilities, fire hydrants, landscaping, parking areas, rights-of-way, easements, monuments and markers, and all improvements now and hereafter located thereon. **[note that the assigned Planner may want to modify this standard definition depending on your particular plan]**

**ARTICLE XVI
INCORPORATED BY REFERENCE**

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APPENDIX 5. DOCUMENTS

All of the terms, conditions, matters and information contained and more fully set forth in the Certificate of Incorporation and Maintenance Declaration are incorporated by reference.

IN WITNESS WHEREOF, we, being all the Directors of the Corporation, have hereunto set our hands this ____ day of _____, ____.

STATE OF DELAWARE	)	
	)	SS:
COUNTY OF NEW CASTLE	)	

BE IT REMEMBERED that on this ____ day of _____, ____, personally appeared before me, the Subscriber, a Notary Public for the State of Delaware, the Directors of the _____ Corporation, a corporation existing under the laws of the State of Delaware, known to me personally to be such, and acknowledged the foregoing Bylaws.

SWORN AND SUBSCRIBED before me the day and year aforesaid.

	NOTARY PUBLIC
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CERTIFICATION

I, the undersigned, do hereby certify that I am the duly elected and acting secretary of the _____ Corporation, a Delaware corporation, and that the foregoing Bylaws constitute the original Bylaws of said Corporation, as duly adopted at a meeting of the Board of Directors thereof, held on the ____ day of _____, ____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Corporation this ____ day of _____, ____.

	SECRETARY
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3. Articles of Incorporation of Maintenance Corporation.

**ARTICLES OF INCORPORATION
OF
[PLAN NAME] MAINTENANCE CORPORATION**

ARTICLE I

The name of this Corporation is [Plan Name] Maintenance Corporation.

ARTICLE II

The Corporation's registered office is located at [Delaware address of registered agent]. The name of the initial registered agent of the Corporation is [name of registered agent].

**ARTICLE III
PURPOSE AND POWERS OF THE CORPORATION**

The purpose for which the Corporation is formed is to provide that all private open space and common facilities within that certain parcel of land described as [legal description], shall be maintained according to the provisions of Chapter 40, Article 27 of the New Castle County Code, and to perform all other duties allowed by law as provided for the Corporation under a Maintenance Declaration by _____ (the "Declarant"), recorded _____, in the Office of the Recorder of Deeds in and for New Castle County, State of Delaware, in Deed Book _____, Page _____, and the Bylaws of the [Plan Name] Maintenance Corporation, recorded _____, in Deed Book _____, Page _____. The Corporation shall have no power or authority to sell, lease or otherwise encumber land held in the [Plan Name] Maintenance Corporation's name without the written consent of the New Castle County Legal Department and Department of Land Use.

**ARTICLE IV
STOCK ISSUANCE**

The said Corporation shall not have the authority to issue capital stock.

**ARTICLE V
MEMBERSHIP**

The said Corporation is not a corporation organized for profit, and it shall have no capital stock. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Corporation shall be a member of the Corporation. This is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Corporation. Ownership of the lot shall be the sole qualification for membership.

**ARTICLE VI
VOTING RIGHTS**

At all meetings of the Corporation, the owners of each lot shall be entitled to cast such vote or votes as provided for in the Bylaws, which vote or votes may be cast in person or by proxy. The Corporation shall have one (1) class of voting membership, Class A. Class A members shall be all owners of subdivided lots and any other person or entity which acquires title to all or a substantial portion of the subdivision for the purpose of developing thereon a residential community. Class A members shall be entitled to one (1) vote for each lot in which they hold the interest required for membership. When more than one (1) person holds such interest or interests in any lot all such persons shall be members, and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) total vote be cast with respect to any such lot.

**ARTICLE VII
BOARD OF DIRECTORS**

The affairs of this Corporation shall be managed by a Board of Directors, consisting of two (2) or more directors, not to exceed eight (8). Directors must be members of the Corporation with the exception of the initial board. The names and addresses of the persons who are to act in the capacity of Directors of the initial board until the selection of their successors are:

NAME	ADDRESS

**ARTICLE VIII
LIABILITIES OF MEMBERS**

If employees or agents of New Castle County enter upon property that is owned and titled in the name of [Plan Name] Maintenance Corporation for the purpose of bringing such property into compliance with New Castle County Code, State, or federal law, Members of the Corporation shall be personally liable for debts of the Corporation caused by such corrective action and assessed against said Corporation.

**ARTICLE IX
LIABILITY OF DIRECTORS**

A Director shall not be personally liable for monetary damages for a breach of a fiduciary duty as a Director unless: (i) such breach constitutes a breach of the duty of loyalty to the Corporation or its members; (ii) the act or omission was not in good faith or otherwise involved intentional misconduct or a knowing violation of law; or (iii) for any transaction from which the Director derived an improper personal benefit. A Director shall not be liable for a breach of the duty of loyalty for a self-interested transaction if the provisions of 8 *Del. C.* § 144 are satisfied.

**ARTICLE X
ASSESSMENT RIGHTS**

Nothing herein shall authorize the Corporation to determine assessments except for a proper corporate purpose as set forth in these Articles of Incorporation, the Bylaws, or the Maintenance Declaration.

**ARTICLE XI
INCORPORATOR**

The name and address of the Incorporator is as follows: [_____].

The powers of the Incorporator shall terminate upon the filing of these Articles of Incorporation. The Incorporator shall designate the persons who are to serve as the initial Board of Directors of the Corporation until their successors are elected and qualified in accordance with the Bylaws.

**ARTICLE XII
AMENDMENTS**

The Bylaws may be amended, altered or added to at any regular meeting of the members or at any special meeting called for that purpose, by affirmative vote of seventy-five percent (75%) of the members of the Corporation at any time after the first meeting of the members of the Corporation following the transfer of control of said Corporation from the initial Board of Directors to a Board of Directors comprised of homeowners. These Articles of Incorporation may not be amended except by the affirmative vote of seventy-five percent (75%) of the members of the Corporation any time after the first regular meeting of the members of the Corporation following the transfer of control of said Corporation from the initial Board of Directors to a Board of Directors comprised of homeowners.

**ARTICLE XIII
FULL MEMBERSHIP VOTING**

The Board of Directors must bring all matters relating to membership fees and land use to all members of the Corporation for voting thereon.

**ARTICLE XIV
DURATION**

The Corporation shall exist perpetually.

THE UNDERSIGNED, being the Incorporator for the purpose of forming a corporation in pursuance of Title 8, Chapter 1, of the Delaware Code entitled "General Corporation Law", and the acts amendatory thereto and supplemental thereto, if any, makes and files these Articles of Incorporation, hereby declaring and ratifying that the facts herein are true, and accordingly, has set his or her hand and seal the ____ day of _____, ____.

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APPENDIX 5. DOCUMENTS

	Incorporator
--	--------------

STATE OF DELAWARE	)	
	)	ss.
COUNTY OF NEW CASTLE	)	

The foregoing instrument was acknowledged before me this ____ day of _____, ___, by [Incorporator].

	Notary Public
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(Ord. No. 97-172, § 3(ch. 13, app. 5), 12-31-1997)

APPENDIX 6. MISCELLANEOUS ITEMS

1. Technical Advisory Committee.

One (1) representative from each of the following:

New Castle County

Department of Land Use

Licensing Division, Engineering Section

Planning Division, Historic Preservation Section

Department of Public Works

Department of Police

New Castle Conservation District

Delaware Geological Survey

State of Delaware

Division of Public Health

Division of State Police (Planning Section, Troop 1, Troop 6, Troop 9)

Office of the State Fire Marshal

DelDOT, State Highway Department, Subdivision Manager

DelDOT, Division of Highways

DNREC, Office of the Secretary

State Planning Coordinator

Department of Agriculture, Urban Forester

Bureau of Archeology and Historic Preservation

Delaware Transit Corporation

Water Resources Agency of New Castle County

Public Service Commission

Public Water Company (City of Newark, United Water Delaware, City of Wilmington, Artesian, Tidewater Utilities, Town of Middletown)

Delaware Farm Bureau

2. Resource Protection Area Technical Advisory Committee.

One (1) representative from each of the following:

Chemical Industry

Consulting Engineers' Council

DNREC

Delaware Geologic Survey

The County Chamber of Commerce

The County Department of Land Use

The County Department of Public Works
Water Company Representative
Water Resources Agency of New Castle County
University of Delaware Water Resources Agency
Environmental Advocacy Group Representative
Private Sector Representative
New Castle Conservation District
Private Sector Environmental Professional

The members shall be appointed by the County Executive for a four (4) year term. The members may be reappointed, and each member shall serve until a successor is appointed. The chairman shall be designated by the County Executive.

3. Department of Land Use Distribution of Approved Plans.

Upon recordation, the Department shall notify in writing and forward copies of the plan to the following:

The owner of the property in question, one (1) paper print.

The subdivider, one (1) paper print.

The person or firm responsible for preparing the plan, one (1) paper print.

County Division of Assessment, three (3) paper prints.

Recorder of Deeds, three (3) paper prints.

State Highway Division, one (1) reproducible copy.

School district, one (1) paper print.

Fire company, one (1) paper print.

Post office, one (1) paper print.

Department of Elections, one (1) paper print.

Adjacent incorporated town or city, one (1) paper print.

Department of Public Works, one (1) paper print.

All other applicable persons and agencies as determined by the Department.

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4. Source of Data for Establishing Resource Protection Levels (supplement to Table 40.05.420).

Natural Resource	Contact
Floodplain/floodway	FEMA mapping - Dept. of Land Use
Wetlands	Wetlands delineator
Riparian Buffer	Applicant's engineer
Drainageways	Applicant's engineer
Water Resource Protection Areas	Water Resources Agency of NCC
Cockeysville Formation - WRPA	Water Resources Agency of NCC
Sinkhole - WRPA	Water Resources Agency of NCC
Wellhead Class A, B and C - WRPA	Water Resources Agency of NCC
Recharge Areas - WRPA	Water Resources Agency of NCC
Steep Slopes	Applicant's engineer
Critical Natural Areas (CNA)	DNREC
Rare and Endangered Species (CNA)	DNREC
Forests	Applicant's forester
Historic Structures or Areas	Department of Land Use, Historic Preservation Section

Department of Land Use (302) 395-5400

Department of Natural Resources and Environmental Control (DNREC) (302) 739-4504

Water Resources Agency of NCC (302) 831-4925

(Ord. No. 97-172, § 3(ch. 13, app. 6), 12-31-1997; Ord. No. 03-045, § 1(Exh. A), 7-8-2003; Ord. No. 18-031 , § 81, 4-24-2018)

APPENDIX 7. GUIDING PRINCIPLES FOR DEVELOPMENT

1. Purpose and Applicability.

- A. This Appendix establishes general design principles and expectations for land development projects in New Castle County to encourage sustainable development. It establishes guidelines for building design, site design, and amenities. These guidelines serve as an advisory supplement to the Unified Development Code (UDC) and do not supersede or negate those laws. The Guiding Principles do not alter or replace the elements of the UDC, but offer a more detailed explanation of design when applying the UDC standards and regulations.
- B. The Comprehensive Development Plan is a policy document that establishes the vision for growth and identifies long term goals, objectives, and strategies for accommodating and managing that growth. The UDC builds on the Comprehensive Development Plan by establishing standards, procedures, and minimum requirements that regulate and control the planning, subdivision, use, design, and development of land according to the strategies adopted in the Comprehensive Development Plan.
- C. Additionally, Delaware's *Strategies for State Policies and Spending* ("State Strategies") delineate the strategy for infrastructure and service improvements and support development in a manner that makes the best use of natural and fiscal resources.
- D. The Guiding Principles fully support the design policies in the Comprehensive Development Plan and the provisions in the State Strategies that promote healthy communities with a sense of place and site design that respects neighborhood context.
- E. The Guiding Principles will apply to land development projects located in the "character areas" defined below. Some properties within the County are not located in defined character areas and, therefore, will not be subject to these guidelines.
- F. All applications subject to *New Castle County Code* section 40.31.113 should consult the Guiding Principles to assist in developing plans consistent with the County's existing community character and the adopted Comprehensive Development Plan. All applications required to be reviewed for consistency with the Comprehensive Development Plan would also be reviewed by the Department for implementation of the Guiding Principles.
- G. The guidelines should be reviewed early in the applicant's site design process and inform the discussion of site design throughout the County's land development review process. Applicants who define the community's expectations in advance of the County's project review will have the advantage of devoting their resources toward refining an acceptable design rather than responding to concerns and criticisms throughout the process.
- H. Applicants are strongly encouraged to meet with the surrounding community and civic organizations early in the design process to discuss incorporating provisions of the Guiding Principles and to assist in developing a plan that is sensitive to the character of the neighborhood.
- I. Community members are encouraged to use the Guiding Principles when communicating with applicants to help foster development that is consistent with the character of their community. The Guiding Principles are a framework to assist applicants and the community in plan design.
- J. Any changes to Appendix 7 Guiding Principles will be required to comply with *New Castle County Code* section 40.31.120.

2. Character Areas.

- A. The Comprehensive Development Plan recognizes the importance of preserving the County's unique character, encourages development that creates jobs, is sensitive to the neighboring communities' character, provides quality design with ample amenities and minimizes development's impact on the natural environment.
- B. The Guiding Principles achieve the foregoing through dividing the County into six (6) Character Areas, consistent with the future land use designations and policies in the Comprehensive Development Plan. For

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additional clarity, the relationship between zoning districts, future land use categories, and their corresponding character area designations, are shown below:

Table 1
Character Area Relationships

Zoning Districts	Strategies for State Policies and Spending Areas	Comprehensive Development Plan Future Land Use Categories	General Description	Guiding Principles Character Areas
S, ST, TN	Levels 1 & 2	Hamlets & Villages/ Residential Developed/ Residential Developed	Moderate to High Density/Mix of Dwelling Unit Types/Neighborhood Scale Commercial and Office Uses Areas providing walkable, transit-supportive, community centers that transition to surrounding suburban areas	Traditional Community Development
S	Levels 1 & 2	Residential/Residential Developed	Low to Moderate Density Residential/Mix of Dwelling Unit Types	Suburban Community Development
S, SE, SR, NC	Levels 1,2,3, & 4	Residential/Residential Developed	Very Low to Moderate Density Residential/Mix of Dwelling Unit Types	Residential Neighborhood
All	Levels 1,2,3, & 4	Resource Preservation	Discourage New Development/Protect natural resources and preserve green fields	Resource Preservation
CN, CR, ON, OR, BP, I, applicable NC Districts	Levels 1 & 2	Type 1 (Commercial Corridor Development)/Type 2 (Employment-based Corridor Development)/Community Development Areas	•Higher densities •Redevelopment or mixed-use centers •Transit supportive	Corridor
CN, CR, ON, OR, BP, I, and HI	Levels 1 & 2	Business Flex and Manufacturing	•High intensity commercial and employment-based uses permitting integrated residential •Redevelopment or mixed-use centers •Transit supportive	Commercial and Employment Centers
CN, CR, ON, OR, BP	Levels 1 & 2	New Community Development Area	• Density goal 3-5 dwelling units per acre • Areas providing walkable, transit-supportive, community centers that transition to	New Community Development

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			surrounding suburban areas	
SE, SR	Levels 2, 3 & 4	Resource & Rural Preservation	• Minimize new development • Protect natural resources and preserve green fields	<i>Not addressed - regulated by existing UDC standards</i>

- C. The Comprehensive Development Plan has general policies for each of these future land use categories and calls for "smart growth" policies that emphasize community design, infrastructure management, and resource preservation. These are integrated with the future land use categories in Table 1.
- D. The discussion below describes the Guiding Principles. The section for each future land use category includes the following elements:
1. *Vision.* The community's vision for each development area consistent with the Comprehensive Development Plan. This statement describes the purpose of the category, and can be used to interpret and apply the Guiding Principles.
 2. *Building Design.* The design and orientation of buildings, consistent with the quality and character of development envisioned for the category.
 3. *Site Design.* The relationship between buildings, infrastructure, and site elements such as landscaping and civic spaces.
 4. *Amenities.* Amenities that add value to the development and surrounding areas, such as civic spaces, recreational areas, and natural resource preservation.

3. Guiding Principles and Character Areas.

- A. This Appendix provides specific guidance on four (4) of the six (6) character areas; Residential Neighborhood. This Appendix does not address Resource Preservation category since land use policy set by the Comprehensive Development Plan is to encourage preservation efforts in Resource Preservation Areas. Design standards for Traditional Community Development are in Article 25 Design.
- B. The following table summarizes the Guiding Principles for each character area:

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APPENDIX 7. GUIDING PRINCIPLES FOR DEVELOPMENT

Table 2
Summary of Design Principles

	Residential Neighborhood	Suburban Community Development	Corridor	Commercial and Employment Centers	Traditional Community Development
Vision	Very Low to Moderate Density Residential/Mix of Dwelling Unit Types	Low to Moderate Density Residential/Mix of Dwelling Unit Types	Mix of commercial and employment-based uses with supportive residential, higher densities, redevelopment, or mixed-use centers, transit supportive	High intensity commercial and employment-based uses, permitting integrated residential, redevelopment, or mixed-use centers, transit supportive	Mix of residential and institutional uses may include supportive commercial or employment-based uses.
Building:					
Facade Design	No special considerations except in Home Town or Neighborhood Preservation districts	Highly articulated facade with a high level of transparency	Highly articulated facade with a high level of transparency, with more flexible standards away from the corridor	Moderately to highly articulated facade with a high level of transparency, with flexible standards for designated "B" streets	Moderately articulated facade with transparency, with flexible standards for designated "B" streets
Orientation	No special considerations except in Home Town or Neighborhood Preservation districts	Front-facing entry element (porch, stoop, etc.)	High level of ground floor pedestrian interest and transparency with front-facing entries (canopy, courtyard, etc.)	High level of ground floor pedestrian interest and transparency with front-facing entries (canopy, courtyard, etc.)	Accessible by vehicles with ground floor pedestrian interest and transparency internal to the development
Transition Adjacent to Single-Family	No special considerations	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods	Lower scale adjacent to Residential Neighborhoods
Site:					
Building Placement	Buildings located to allow for front and rear yards	Buildings located near the sidewalk edge or set back	Buildings located near the sidewalk edge	Buildings set back from the sidewalk edge or along sidewalks at exterior	Buildings set back from the sidewalk edge or along sidewalks at exterior
Parking	No special considerations	Parking dispersed in small modules	Parking located to the rear or side of buildings in small modules	Parking located to the rear of buildings in small modules or set back from the sidewalk edge in landscaped lots	Parking set back from the sidewalk edge in landscaped lots/Sufficient quantity

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Pedestrian & Bicycle Circulation	Sidewalks and paths provide multi-modal connections	Sidewalks and paths provide multi-modal connections	Buildings are connected to the street & transit/sidewalks, bike lanes and multi-modal paths connect to greenways and neighborhoods	Buildings are connected to the street & transit/sidewalks, bike lanes and multi-modal; paths connect to greenways & neighborhoods	Multi-modal paths and sidewalks connect buildings and parking
Vehicular Circulation	Streets provide sufficient connectivity/narrow drive lanes for new subdivisions	Narrow drive lanes/street provide sufficient connectivity	Narrow drive lanes/limited curb cuts/off-street connections between parcels	Narrow drive lanes/limited curb cuts/off-street connections between parcels	Narrow drive lanes/limited curb cuts/off-street connections between parcels
Stormwater Management	Stormwater management practices should be integrated into site features such as rooftops, landscape islands, and paved areas, to intercept and retain rainfall runoff throughout the site in order to mimic pre-developed hydrology and reduce overall development costs associated with high land value.				
Amenities:					
Open/Civic Spaces	High level of passive open space oriented around natural features	Open space primarily provided as patios and courtyards limited urban landscaping to promote pedestrian orientation and reduce visual impacts of parking	Some open space provided as patios and courtyards/significant landscaping to reduce visual impacts of parking and enhance community image	Significant perimeter landscaping to enhance community image or transition in scale where adjoining other uses	Significant perimeter landscaping or transition in scale where adjoining other uses

4. Residential Neighborhood.

A. *Vision.*

1. The Residential Neighborhood designation applies to areas primarily identified as Residential Developed in the Comprehensive Development Plan.
2. The vision is to protect the residential neighborhoods from encroaching commercial uses and incompatible development that would compromise the quality of life and character of these areas. This directs incompatible development away from the neighborhoods to Corridor and Center character areas providing a broad array of neighborhood conservation measures to control the pace and type of change within existing residential areas.
3. At an appropriate scale and design, neighborhood-serving retail, service, and institutional uses may be located close to these neighborhoods.

B. *Building Design.* Height and maximum allowable density are as set out in the UDC for the Suburban (S), Suburban Estate (SE), Suburban Reserve (SR) and applicable Neighborhood Conservation (NC) and Suburban Transition (ST) districts. Building design generally is not regulated in these districts unless specifically mentioned in the UDC.

C. *Site Design.*

1. Site design is regulated by the UDC.

2. *Connectivity.*

- a. The street network for new subdivisions should meet or exceed the DelDOT connectivity standards.
- b. For traffic mitigation, applicants should prioritize connectivity, pedestrian, bicycle and transit improvements over widening streets (see "General Concepts -Transportation & Connectivity").
- c. Pedestrian and bicycle infrastructure improvements should connect neighborhoods with compatible retail, services, institutional uses, and other neighborhoods.

D. *Amenities.* Amenity Types: See Table 3. Menu of Amenities.

5. Suburban Community Development.

A. *Vision.*

1. The Suburban Community Development applies to undeveloped areas primarily identified as Residential in the Comprehensive Development Plan and are primarily located north of the Canal. The Comprehensive Development Plan encourages a diverse range of housing near; employment and commercial areas, transit services, and affordable housing.
2. This designation is applied primarily to areas with a mix of housing types, including multi-family housing. It is intended to preserve and protect the existing character and state of the residential neighborhood.
3. New development should transition in mass and scale to adjacent residential neighborhoods to protect the neighborhood's aesthetic quality and livability while providing open space or recreational amenities for residents.
4. The development may include both "A" and "B" streets to offer design flexibility while ensuring that the development provides high design quality along streets with both vehicular and pedestrian traffic.

B. *Building Design.*

1. Buildings should vary in height, color, setbacks, materials, texture, landscaping, trim and roof shape.
2. *Orientation.*
 - a. The building should be oriented to the public street with a prominent entrance and clear connection to the public sidewalk. The primary entrance of the building should be located on the facade facing the street.
 - b. When physical site limitations such as topography, existing trees or other natural features prevent the main entrance from being located on the street-facing facade, the building may be oriented to a courtyard with a prominent pedestrian entrance and clear connection to the public sidewalk.
 - c. For multifamily buildings under 4 stories in height, dwelling units facing public or internal streets should include balconies with a minimum dimension of 30 square feet and a minimum depth of 6 feet.
 - d. Multifamily buildings exceeding 4 stories may be located only on a corridor with a ground floor commercial use, or in a Center within ¼ mile of a transit stop.
 - e. Vertical integration of uses is encouraged only in TN-zoned parcels. Where retail uses are established, they should be placed at street level. Office and residential uses should occupy the rear or upper stories.
3. *Mass.*
 - a. Overall height of structure(s) should be similar to the predominant height of other buildings in the neighborhood.
 - b. Arrange buildings in a cohesive and planned manner through at least 1 of the following methods:
 - i. Avoid box-like forms with large, unvaried roofs by using a variety of building forms and roof shapes. This may be accomplished by creating clusters of units, variations in height, setback,

- and roof shape. Divide large multi-building developments into several smaller usable areas, each with individually designed open space, children's play areas, internal circulation, and parking.
- ii. Break up the facade of horizontal buildings into smaller components by using vertical adjacent structures.
 - c. Configure several buildings around a courtyard.
 - d. In a development with 1 building, consider configuring the building around a courtyard or creating several smaller civic spaces or areas of open space each near a separate entry.
 - e. Relate size and bulk of project so that it is consistent with buildings in the immediate neighborhood. Reduce the apparent size of new buildings and create visual interest through architectural form and detailing.
 - f. Building facades should be articulated with architectural elements that break up long blank walls, add visual interest, and enhance the character of the neighborhood. Vertical articulation should occur at intervals of no more than forty (40) feet.
4. Articulation/Modulation.
- a. Relate first floor to the street and insure that it is consistent with the first floors in neighboring buildings. If close to the street, raise level of first floor slightly to maintain privacy.
 - b. Avoid blank walls facing the street on buildings. If blank walls are unavoidable, decorate with artwork, display cases, vines, and good quality durable materials. Artwork may include a variety of items and/or structures that provide visual relief.
 - c. Three (3) or more of the following methods of articulation should be used such that the combination of features project a residential character:
 - i. Balcony, bay window, porch, patio, deck, or clearly defined entry for each interval of up to 40 feet.
 - ii. Lighting fixture, trellis, canopy or prominent ornamental tree (at least 15 feet high at maturity) or other landscape feature within each interval.
 - iii. Architectural features ("modulations") such as setbacks, indentations, overhangs, projections, cornices, bays, canopies, or awnings. Building modulations should be a minimum of two (2) feet in depth and two (2) feet in width. The sum of the modulation depth and modulation width should be no less than eight (8) feet.
 - iv. Use of material variations such as contrasting colors, brick or metal banding, or textural changes.
 - v. Artwork or building ornamentation, such as mosaics, murals, decorative masonry or metal patterns or grillwork, sculptures, or similar items that provide visual relief.
 - d. Buildings greater than 160 feet in length should incorporate a prominent central feature, such as a courtyard.
 - e. Front facades incorporating a variation in building setback should include within the setback such architectural elements as covered or recessed building entries, plazas or courtyards, or seating and planting areas.
 - f. Roof lines should be varied through dormers, architectural focal points (such as peaks, towers, gables, domes, barrel vaults or roof line trellis structures), variations or steps in roof height or detail (such as cornices, parapets, pitched roofs or full mansards, terraced roofs (with balconies, roof gardens, or patios).
5. Windows and Entryways.
- a. Provide entryway elements such as porches, stoops, or courtyards that are oriented to public or private streets. Rear entries should be oriented to rear yards or common open space, and not to public streets.
-

- b. Windows should provide relief, detail and variation on the facade through the use of visible trim and architectural styling that lends human scale to the facade.
- c. Enhance views, provide natural surveillance, and make spaces feel larger by maximizing the number of windows that face the street.

C. Frontage

		"A" Streets	"B" Streets
Awning/Canopy	Use of an awning or canopy above transparent glass windows or other ground floor pedestrian interest areas.	■	■
Balcony	An unenclosed platform that projects from the wall of a building a minimum of 6' and is surrounded by a railing, balustrade, or parapet.	■	■
Courtyard	A court, patio or other indentation in the building facade at least 6' deep – building entry doors may face onto the patio from any direction.	■	■
Gallery/Arcade	Roofed (or partially roofed), arcade, gallery, veranda or pergola elements that are not enclosed on more than two sides.	■	■
Front porch	A roofed but unenclosed entry element with a minimum depth of 8'.	■	■
Stoop	A raised and unenclosed (may be roofed) landing and stairway.	■	■
Projected entry	An entry that extends exterior from the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance.		■
Recessed entry	An entry that recesses into the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance. A Recessed Entry can be integrated with the building's roof plane.		■

D. Site Design.

1. Where possible, buildings should locate near, and provide a continuous pedestrian connection to, shops and schools and within ¼ mile of a bus or transit stop and/or within ½ mile of commuter rail stations.
2. Building - Street relationships.

- a. Buildings should form a street edge along all interior streets, and either a street edge or buffer along public streets.
 - i. The buffer may include common open space or civic spaces as described below.
 - ii. The development should not include high fences.
 - b. Maintain existing setback patterns. Except for corner lots or where prohibited by the UDC, buildings should not project in front or behind the average setback line of the block.
 - c. The rear of buildings should not face public streets unless unique topography or some other unavoidable situation requires this orientation, and a visual buffer is provided along the public street.
 - d. Provide a central location for common facilities, such as open space, community rooms and laundries.
3. Parking.
- a. Place parking lots at rear or side of the site to allow a majority of dwelling units to front on the street.
 - b. Build multiple small parking lots instead of one large lot.
 - c. Place parking lot(s) in proximity to dwelling units.
 - d. Separate bicycle and pedestrian paths from vehicular traffic.
4. Connectivity.
- a. The street network for new subdivisions should meet or exceed the DelDOT connectivity standards.
 - b. For traffic mitigation, applicants should prioritize connectivity, pedestrian and transit improvements over widening streets.
 - c. Provide pedestrian and bicycle access to adjacent uses with pedestrian walkways or crossings and bicycle infrastructure.
 - d. Accessory structures and uses. Permitted accessory structures and uses should not be placed within 50 feet of the Street Zone, excluding stormwater management and other environmental amenities.

D. *Amenities.*

- 1. Amenity Space Required.
 - a. Total usable amenity space on a site having five or more dwelling units should include at least 200 square feet per dwelling unit. This may be met by any combination of private outdoor building space and common open space.
 - b. Private outdoor building space. To satisfy the outdoor building space requirement, private open space should be on a patio or porch with a minimum depth of 8 feet or balcony with a minimum depth of 6 feet.
- 2. Amenity Types: See Table 3 Menu of Amenities.

6. Corridor.

A. *Vision.*

- 1. The Corridor designation applies to land identified as Type 1 (Commercial Corridor Development), Type 2 (Employment-based Corridor Development) and Community Development Areas in the Comprehensive Development Plan.
- 2. Corridors link neighborhoods, communities and commercial uses together. Character Areas designated as Corridor will transform from underutilized and auto-oriented streets into diverse and attractive pedestrian-friendly streets that support local-serving retail, public spaces and a diversity of housing types. Streets with a variety of uses provide an environment to step down new development in height and mass adjacent to residential neighborhoods, while accommodating a variety of uses and amenities. The Corridor designation

is applied to areas of streets ("Corridor Roadways") that are envisioned to transition from general commercial into higher-intensity development areas. The Corridor designation preserves areas for uses that provide a job base within office, industrial and manufacturing business sectors that form a center of economic activity for the County.

3. The Corridor designations define the activity along the existing corridors of the County. New development will require community amenities (such as open space) and neighborhood-compatible uses, such as appropriately scaled office uses.
4. There are two types of Corridor developments: Commercial and Employment-based. In order to provide design flexibility, all Corridor developments should include "A" and "B" streets. An "A" Street is a street with frontage that is restricted to building types and uses that promote pedestrian activity, and which benefit from pedestrian and/or transit uses, this includes retail, office, residential and institutional uses as permitted by zoning. Buildings along "A" streets are aligned to the sidewalk and include a high-level of design quality. A "B" Street is a street that permits front-loaded surface parking, retail and service uses, and single-story buildings. A "B" designation may include large format retail or similar uses that anchor the overall development as permitted by zoning.
5. Employment-based Corridor developments may include business campus environments that are built as traditional suburban business campuses. These areas provide space for continued employment activities to ensure a robust economy essential for the County to continue to provide the high-level of public services that the community expects. The Guiding Principles land use designations allow for the continuation of existing employment activities and encourage new office and employment-based development where appropriate.
6. Community Development Areas should utilize elements from Commercial and Employment based Corridors to achieve site design and built form consistent with their community plans identified in the Comprehensive Development Plan.

B. Building Design.

1. Orientation.
 - a. Buildings should be oriented to the Corridor Roadway. Interior to the development, buildings along "A" streets should be oriented to a public street, private street or drive, or to a civic space as defined in Table 3 Menu of Amenities.
 - b. New buildings on property adjacent to the Corridor Roadway, or entry streets perpendicular to the Corridor Roadway, should have a minimum facade height to ensure the visual definition of the street space.
2. Frontage - Entry elements are as follows:

Entry Element	Definition	Commercial Corridor Development		Employment-based Corridor Development
		"A" Streets	"B" Streets	
Awning/ Canopy	Use of an awning or canopy above transparent glass windows or other ground floor pedestrian interest areas.	■	■	■
Balcony	An unenclosed platform that projects from the wall of a building a minimum of 6' and is surrounded by a railing, balustrade, or parapet.	■	■	■

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Courtyard	A court, patio or other indentation in the building facade with a minimum depth of 6'- building entry doors may face onto the patio from any direction.	■	■	■
Gallery/Arcade	Roofed (or partially roofed), arcade, gallery, veranda or pergola elements that are not enclosed on more than two sides.	■	■	■
Front porch	A roofed but unenclosed entry element with a minimum depth of 8'.	■	■	
Stoop	A raised and unenclosed (may be roofed) landing and stairway.	■	■	
Projected entry	An exterior entry that extends from the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance.		■	■
Recessed entry	An entry that recesses into the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance. A Recessed Entry can be integrated with the building's roof plane.		■	■

3. Mass. Development should maximize human-scale elements and community benefits while providing a transition between these uses and surrounding neighborhoods.
4. Articulation.
 - a. Avoid blank walls facing the street on buildings.
 - b. Along "A" streets in Corridor developments, building facades facing a street that are longer than fifty-feet (50') should change visibly in height, wall plane projection or setback (minimum of 12-inch setback) and materials or color a maximum of every forty-feet (40') along the axis facing the street.
5. Windows and Entryways. Along "A" Streets in Corridor developments, the ground floor should include between 65 to 90% glazing and entryways.

C. Site Design.

1. A Corridor is configured around a Corridor Roadway and an interior street network where lots have sufficient depth, with high quality development concentrated along the entryway to the development.
2. A Corridor is divided into 3 subareas:
 - a. The Corridor Zone is generally located within 50 feet of the existing or planned primary access right-of-way.
 - b. The Street Zone includes all areas outside of the Corridor Zone generally located within 50 feet of any other public street other than the primary access right away.
 - c. The Interior Zone includes all remaining areas outside of the Corridor Zone and Street Zone.
3. Building - Street relationships.
 - a. The aggregate length of "B" Streets on an application should not constitute the majority of the total length of all streets within a proposed Corridor project.
 - b. Buildings should form a street edge along the Corridor Zone and "A" streets in the Street Zone. The applicant should identify minimum and maximum setbacks along all "A" streets in accordance with UDC dimensional standards.

- c. Maximum setbacks should generally place buildings along sidewalks or courtyards or other civic spaces that have a direct connection to sidewalks.
 - d. The project plan should identify a "frontage build-out" (the area within the maximum setback that is occupied by a building frontage) of 60% to 80% along "A" streets and the Corridor Zone to ensure that building walls occupy the area within the maximum setback.
- 4. Parking.
 - a. Parking lots should be located outside of the Corridor Zone.
 - b. In the Interior Zone and along "A" streets, parking lots should be located principally to the rear of buildings, interior to a block, or within parking structures.
 - c. Along "A" streets, parking structures should include storefronts or other active space at the street level.
 - d. Along "A" streets and in Employment-based Corridor projects, build multiple small parking lots instead of one large lot.
 - e. Separate bicycle and pedestrian paths from vehicular traffic.
- 5. Connectivity.
 - a. In Commercial Corridor projects:
 - i. Streets should meet or exceed the DelDOT connectivity standards. For traffic mitigation, applicants should prioritize connectivity, pedestrian and transit improvements over widening streets.
 - ii. Street, pathway or sidewalk stubs within public right-of-way or public access easements on properties that abut the proposed development parcel should be connected to the proposed development parcel in-kind.
 - iii. Blocks should have sides greater than 240 feet and less than 600 feet with a total perimeter generally not to exceed 1,800 feet.
 - b. In Employment-based Corridor projects:
 - i. The applicant should provide a transportation management plan that includes methods to minimize traffic during peak travel hours.
 - ii. Street, pathway or sidewalk stubs within public right-of-way or public access easements on properties that abut the proposed development parcel should be connected to the proposed development parcel.
- 6. Accessory Structures and Uses.
 - a. Permitted accessory structures and uses should not be placed within 50 feet of the Street Zone excluding stormwater management and other environmental amenities.
 - b. In the Interior or Street Zones of a Commercial Corridor project, gas pumps or drive-through facilities are allowed only on lots with frontage on "B" streets.
 - c. Along "A" streets, drive-through facilities are allowed only in mid-block locations with a minimum separation of 500 feet in all directions from another drive-through facility or, for uses sharing a common parcel boundary, lease line etc., via an integrated and interconnected common drive-through facility with cross-access easements and sharing of cartway access as necessary.
 - d. All drive-throughs should be well-screened from the "A" street and placed toward the rear of buildings.
 - e. Dumpsters should be located in the rear yard and placed inside enclosures with building materials that match the principal structure.

D. *Amenities.* Amenity Types: See Table 3 Menu of Amenities.

7. Commercial and Employment Centers.

A. *Vision.*

1. Commercial and Employment Centers offer access to retail, employment and services, civic and public benefit uses such as schools, churches and post offices, and, in some cases, residential options. The Center designation allows for the creation of a critical mass of retail services, multi-family housing, and public spaces at strategic locations, such as arterial street intersections and/or areas served by high-frequency transit lines. Areas designated as Centers transform into highly-walkable areas with broad, pedestrian-friendly sidewalks, trees, landscaping and local-serving uses. New development will incorporate community amenities, such as open space, and neighborhood-compatible uses, such as appropriately scaled office uses.
2. Commercial Centers range in character and intensity. Some are small-scale, draw from the surrounding neighborhoods, and have limited amounts of housing as well as some office. Others have a more urban character with a greater intensity and include more opportunities for housing. As with Corridors, the development in the Center should include both "A" and "B" streets to offer design flexibility while ensuring that the development provides high design quality along streets with both vehicular and pedestrian traffic.
3. Employment Centers may include business campus environments that are built in a more urban style than a traditional business campus. They are home to corporate, technology, institutional and other providers of high quality employment, typically in a single building or multi-structure office campus environment. These Centers provide critical space essential to a robust and growing economy in the County. The Guiding Principles land use designations support the continuation of existing employment activities and encourage new office employment-based development where feasible and appropriate.

B. *Building Design.*

1. Orientation.
 - a. Buildings should be oriented to a public or private street, or to a civic space as defined in Table 3 - Menu of Amenities.
 - b. New buildings on property adjacent to an existing public street should have a minimum facade height to ensure the visual definition of the street space as defined in the UDC.
2. Frontage. Entry elements:

		Commercial Center Development		Employment-based Center Development
Entry Element	Definition	"A" Streets	"B" Streets	
Awning/Canopy	Use of an awning or canopy above transparent glass windows or other ground floor pedestrian interest areas.	■	■	■
Balcony	An unenclosed platform that projects from the wall of a building a minimum of 6' and is surrounded by a railing, balustrade, or parapet.	■	■	■
Courtyard	A court, patio or other indentation in the building facade with a minimum depth of 6' - building entry doors may face onto the patio from any direction.	■	■	■
Gallery/Arcade	Roofed (or partially roofed), arcade, gallery, veranda or pergola elements that are not enclosed on more than two sides.	■	■	■

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Front porch	A roofed but unenclosed entry element with a minimum depth of 8'.	■	■	
Stoop	A raised and unenclosed (may be roofed) landing and stairway.	■	■	
Projected entry	An entry that extends exterior from the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance.		■	■
Recessed entry	An entry that recesses into the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance. A Recessed Entry can be integrated with the building's roof plane.		■	■

3. Mass.

- a. New buildings should step down in relationship to the scale and character of adjacent neighborhoods and include a diversity of uses and housing types designed to complement and serve the existing residential neighborhoods.
- b. A ground floor along an "A" Street in a Center development should include a minimum eleven (11) foot clear height for retail and service uses and nine (9) foot clear height for residential and office/research and development uses. In order to ensure that a useable amount of floor area is included under the clear height, this height should be maintained for minimum depth of twenty (20) feet from the front facade.

4. Articulation.

- a. Avoid blank walls facing the street on buildings.
- b. Along "A" streets in Center developments, building facades facing a street that are longer than fifty (50) feet should change visibly in height, wall plane projection or setback (minimum of twelve (12) inch setback) and materials or colors a maximum of every forty (40) feet along the axis facing the street.

5. Windows and Entryways. Along "A" Streets in Center developments, the ground floor should include between 65% to 90% glazing (i.e., transparent glass) and entryways.

C. *Site Design.*

1. A Center should be configured around a street network, with high quality development concentrated along the entryway to the development or a designated "A" Street.
2. A Center should be divided into 2 sub-areas:
 - a. The Street Zone includes all areas generally located within 50 feet of any public street that provides access to the development.
 - b. The Interior Zone includes all remaining areas outside of the Street Zone.
3. Building - Street relationships.
 - a. The aggregate length of "B" Streets on an application should not exceed 40% of the total length of all streets within a proposed Center development.
 - b. Buildings should form a street edge along all public and interior "A" streets.
 - c. The applicant should identify minimum and maximum setbacks along all "A" streets.

- d. Maximum setbacks should generally place buildings along sidewalks or courtyards or other civic spaces that have a direct connection to sidewalks.
 - e. The project should identify a "frontage build-out" of 60 to 80% along "A" streets to ensure that building walls occupy the area within the maximum setback.
4. Parking.
- a. Parking lots should be located outside of the Street Zone. In the Interior Zone and along "A" streets, parking lots should be located principally to the rear of buildings, interior to a block, or within parking structures. Along "A" streets, parking structures should include storefronts or other active space at the street level.
 - b. Along "A" streets and in employment based centers, build multiple small parking lots instead of one large lot.
 - c. Separate bicycle and pedestrian paths from vehicular traffic.
 - d. Designate "vehicle free areas" for bicycle and pedestrian safety and enjoyment.
5. Connectivity.
- a. In Commercial Center projects:
 - i. Streets should meet or exceed the DelDOT connectivity standards.
 - ii. For traffic mitigation, applicants should prioritize connectivity, pedestrian and transit improvements over widening streets
 - iii. Street, pathway or sidewalk stubs within public ROW or public access easements on properties that abut the proposed development parcel should be connected to the proposed development parcel in-kind.
 - iv. Blocks should have sides greater than 240 feet and less than 600 feet with a total perimeter generally not to exceed 1,800 feet.
 - b. In Employment-based Center projects:
 - i. The applicant should provide a transportation management plan that includes ways to minimize traffic during peak travel hours.
 - ii. Street, pathway or sidewalk stubs within public ROW or public access easements on properties that abut the proposed development parcel should be connected to the proposed development parcel in-kind.
6. Accessory Structures and Uses.
- a. Permitted accessory structures and uses should not be placed within 50 feet of the Street Zone; excluding stormwater management and other environmental amenities.
 - b. In the Interior zone of a Commercial Center, gas pumps or drive-through facilities should only be located on lots with frontage on "B" streets.
 - c. Along "A" streets, drive-through facilities only be located in mid-block locations with a minimum separation of 500 feet in all directions from another drive-through facility or, for uses sharing a common parcel boundary, lease line etc., via an integrated and interconnected common drive-through facility with cross-access easements and sharing of cartway access as necessary.
 - d. All drive-throughs should be well-screened from the "A" street and placed toward the rear of buildings.
 - e. Dumpsters should be located in the rear yard and placed inside enclosures with building materials that match the principal structure.

D. *Amenities.* Amenity Types: See Table 3 Menu of Amenities.

8. Traditional Community Development.

A. *Vision.*

1. Traditional Community Development is the character area that includes areas currently served by sewer and designated by the Future Land Use Map as either Residential or Hamlets & Villages and developed as either an Affordable Housing Planned Development, Hamlet or Village. Directing growth to these areas avoids land consumption and provides a fiscally responsible, compact development pattern. Accommodating development in a smaller geographic area reduces the size of the area that must be served by infrastructure, thereby decreasing development expenditures that are reflected in the cost of living for residents.
2. The development may include both "A" and "B" streets to offer design flexibility while ensuring that the development provides high design quality along streets with both vehicular and pedestrian traffic.

B. *Building Design.*

1. Orientation.
 - a. Buildings should be oriented to a public or private street, or to a civic space as defined in Table 3 - Menu of Amenities.
 - b. New buildings on property adjacent to an existing public street should have a minimum facade height to ensure the visual definition of the street space.
2. Frontage - Entry elements are as follows:

		"A" Streets	"B" Streets
Awning/Canopy	Use of an awning or canopy above transparent glass windows or other ground floor pedestrian interest areas.	■	■
Balcony	An unenclosed platform that projects from the wall of a building a minimum of 6' and is surrounded by a railing, balustrade, or parapet.	■	■
Courtyard	A court, patio or other indentation in the building facade at least 6' deep - building entry doors may face onto the patio from any direction.	■	■
Gallery/Arcade	Roofed (or partially roofed), arcade, gallery, veranda or pergola elements that are not enclosed on more than two sides.	■	■
Front porch	A roofed but unenclosed entry element with a minimum depth of 8'.	■	■
Stoop	A raised and unenclosed (may be roofed) landing and stairway.	■	■
Projected entry	An entry that extends exterior from the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance.		■
Recessed entry	An entry that recesses into the front of the building plane, and has a height and width in scale to the dimensions of the building, such that its presence clearly indicates a primary entrance. A Recessed Entry can be integrated with the building's roof plane.		■

3. Mass. New buildings should step down in relationship to the scale and character of neighborhoods and agricultural lands and include a diversity of uses and housing types designed to complement and serve existing neighborhoods.
4. Articulation.
 - a. Avoid blank walls facing the street on buildings.
 - b. Along "A" streets, building facades facing a street that are longer than fifty (50) feet should change visibly in height, wall plane projection or setback (minimum of 12 inch setback) and materials or color a maximum of every forty (40) feet along the axis facing the street.
5. Windows and Entryways. Along "A" Streets in New Community Development, the ground floor should include between 65% to 90% glazing and entryways.

C. *Site Design.*

1. A new development in this Character Area is configured around a street network, with high-quality development concentrated along the entryway to the development or an "A" street. A New Community is divided into 2 sub-areas:
 - a. The Street Zone includes all areas located generally within 50 feet of any public street that provides access to the development.
 - b. The Interior Zone is all areas outside of the Street Zone.
2. Stormwater management practices should be integrated into site features such as rooftops, landscape islands, and paved areas, to intercept and retain rainfall runoff throughout the site in order to mimic pre-developed hydrology and reduce overall development costs associated with high land value.
3. Building - Street relationships.
 - a. The aggregate length of "B" Streets on an application should not constitute the majority all streets within a proposed Future Community Development.
 - b. Buildings should form a street edge along all public and interior "A" streets.
 - c. The applicant should identify minimum and maximum setbacks along all "A" streets.
 - d. Maximum setbacks should generally place buildings along sidewalks or courtyards or other civic spaces that have a direct connection to sidewalks.
 - e. The project should identify a "frontage build-out" (the area within the maximum setback that is occupied by a building frontage) of 60 to 80% along "A" streets to ensure that building walls occupy the area within the maximum setback.
4. Parking.
 - a. Parking lots should be located outside of the street zone.
 - b. In the Interior zone and along "A" streets, parking lots should be located principally to the rear of buildings, interior to a block, or within parking structures.
 - c. Along "A" streets, parking structures should include storefronts or other active space at the street level.
 - d. Along "A" streets and in employment based centers, build multiple small parking lots instead of one large lot.
 - e. Separate bicycle and pedestrian paths from vehicular traffic.
5. Connectivity.
 - a. Streets should meet or exceed the DelDOT connectivity standards.

- b. For traffic mitigation, applicants should prioritize connectivity, pedestrian and transit improvements over widening streets.
- c. Blocks should have sides greater than 240 feet and less than 600 feet with a total perimeter generally not to exceed 1,800 feet.

6. Accessory Structures and Uses.

- a. Permitted accessory structures and uses should not be placed within 50 feet of the Street Zone; excluding stormwater management and other environmental amenities.
- b. In the Interior zone, gas pumps or drive-through facilities are allowed only on lots with frontage on "B" streets.
- c. Along "A" streets, drive-through facilities are allowed only in mid - block locations with a minimum separation of 500 feet in all directions from another drive-through facility or, for uses sharing a common parcel boundary, lease line etc., via an integrated and interconnected common drive-through facility with cross-access easements and sharing of cartway access as necessary.
- d. All drive-throughs should be well-screened from the "A" street and placed toward the rear of buildings.
- e. Dumpsters should be located in the rear yard and placed inside enclosures with building materials that match the principal structure.

D. *Amenities.* Amenity Types: See Table 3 Menu of Amenities.

9. General Concepts.

A. *Transportation and connectivity.*

- 1. Transportation infrastructure provides mobility and shapes urban form. These Guiding Principles recognize the relationship between the County's transportation network and its relationship to land development patterns.
- 2. One important aspect of this relationship is the connectivity ratio, which measures street connectivity by dividing the number of street links by the number of nodes (see *DelDOT Development Coordination Manual*). The result is a performance standard that measures the relative connectivity of a street network.
- 3. A traditional grid provides the highest connectivity ratio and, therefore, a generally more efficient distribution of traffic.

B. *Protect natural habitat.* The County encourages development practices that preserve forests, limit forest fragmentation, maintain or expand buffers along wetlands and streams, protect critical natural habitat, and provide public access to surrounding natural habitats.

C. *Safeguard water quality.* Site and building design should encourage increased infiltration and vegetated surfaces, and reduced impervious area. To provide effective urban runoff and contamination migration, the County encourages Low Impact Development (LID) designs for stormwater management.

D. *Reduce greenhouse gas (GHG) emissions and improve air quality.* In order to reduce GHG emissions associated with development, the County encourages energy efficiency improvements in the built environment and infrastructure, along with renewable energy resources in buildings, infrastructure, and transportation.

E. *Conserve existing neighborhoods.* The Guiding Principles protect the character of the County's residential neighborhoods and their local serving commercial areas.

F. *Promote healthy communities.* The Guiding Principles encourage compact, mixed-use, and efficient development patterns that promote walking and biking in an effort to reduce automobile trips.

G. *Expand housing choices.* The Guiding Principles encourage varied housing types throughout the County in a way that enhances sustainability, creates complete neighborhoods with diverse, mixed income, and affordable housing along transit corridors, while accommodating a mix of compatible uses.

- H. *Support a sustainable economy.* The Guiding Principles support economically sound and sustainable growth. The continued support and expansion of these uses at locations adjacent to transit will serve to ensure accessibility, maximize efficiency of urban infrastructure and services, and decrease reliance on automobile use.
- I. *Stormwater management.*
1. Existing site characteristics, such as land cover, topography, and soil types should be the focus of determining the design of new development. Also, as the fundamental initiative of stormwater management, volume reduction through infiltration is best accomplished when runoff is treated near its source.
 2. Stormwater management practices should be integrated into site features such as rooftops, landscape islands, and paved areas, to intercept and retain rainfall runoff throughout the site in order to mimic pre-developed hydrology and reduce overall development costs associated with high land value.

10. Amenities.

- A. The following amenities are defined for purposes of the Guiding Principles for each Character Area. The amenity requirements for each Character Area define which amenities are counted, and the ratio by which they are counted.
- B. Amenities must be adequately sized for their use and accessible to all community residents. They should also be located within a reasonable walking distance of most of the lots in the community (a typical walking distance of ¼ mile).

Table 3
Menu of Amenities

Category	Description/Standards
Porches, Balconies, or Patios	An exterior extension or projection from a residential building or residential floor of a mixed-use building that is open on at least one side, but does not allow public access.
Stormwater Management, Low-Impact Design	Stormwater management practices should be integrated into site features such as rooftops, landscape islands, and paved areas, to intercept and retain rainfall runoff throughout the site in order to mimic pre-developed hydrology and reduce overall development costs associated with high land value.
Protected Resource Land	Natural resource areas included in the calculation of the "Calculation For Total Protected Land" (See New Castle County Code section 40.05.420).
Greenway	A series of connected natural areas (including areas protected by state or federal law) such as ravines, creeks, streams, woodlands, floodplains, or protected tree canopy (see New Castle County Code chapter 40, Article 10, Environmental Standards) that connect buildings or gathering spaces with trail systems, or that buffer the site from streets or neighboring areas.
Agricultural Preserve	An area designated for active farming in the form of crop cultivation, the keeping of livestock, farm stands, or equestrian facilities. Agricultural Preserves protect areas of agricultural and rural heritage and promote compatible active agricultural operations.
Community Garden	A site operated and maintained by an organization or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for personal use, consumption, donation or off-site sale of items grown on the site.

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Park	Open space areas improved with lawns and trees, playground equipment or other active open space improvements, and that are primarily open to the sky. These may be surrounded by street frontages and building frontages, but this is not required.
Green	Common open space available for unstructured recreational use with landscaping consisting of grassy areas, trees, shrubs, and other landscaping.
Water Bodies	Lakes, ponds, streams, or creeks, including stormwater retention basins that are designed so that at least 20% percent of the abutting shoreline is accessible for the common use of the development. The accessible shoreline must have at least 300 feet of frontage on a street.
School sites	School sites, including library sites, and outside hard surface recreational areas ancillary to the school, excluding the area devoted to buildings.
Historical/Cultural sites	An existing building or structure that has historical or cultural significance may be located in a common open space and open to the public.
Plaza	An open area with seating that is adjacent to, or part of, a building. A Plaza may be combined with the Courtyard. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as vendors and display stands. A plaza requires a minimum depth and width of 10 feet and a minimum total area of 300 sq. feet.
Square	Areas that are improved with a combination of lawn, landscaping and seating areas, and that are accessible to the public or the project's tenants or customers. A Square should be:
	• Bounded by streets on at least one side and pedestrian walkways on at least 2 sides, or
	• Not bounded by streets, but accessible to the public.
Courtyard	A courtyard is a contiguous open area allowing public access that is:
	• Surrounded on at least two sides by building walls with entryways, and
	• At relatively even grade with respect to the surrounding topography.
Pedestrian Pathway	A walkway and/or easily identifiable building or lot pass-through that contains window displays intended for general public access. Pedestrian pathways can connect between public or private streets.
Boulevard Pathways	A unique style of pathway that is either integrated into the median of a boulevard-style street or is located along either side of a boulevard-style street with a significant amount of green (per definition above). The entire median and/or landscaped pathway area along each side of the street is counted as open space, except for curb or parking areas.
Active Recreation	A recreational facility that is not dependent upon a specific environmental or natural resource, which is developed with recreation and support facilities that can be provided anywhere for the convenience of the user. Activity-based recreation areas include, but are not limited to pathways, bicycle trails, baseball or softball fields, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, jogging courses, and tennis courts. This does not include commercial fitness centers or gyms.

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APPENDIX 7. GUIDING PRINCIPLES FOR DEVELOPMENT

Golf Course	A golf course that is open to the public. This does not include uses solely dedicated to driving ranges, miniature golf courses, or similar commercial enterprises.
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(Ord. No. [16-068](#), § 1(Exh. A), 1-10-2017; Ord. No. [23-104](#), § 10, 1-9-2024)

From: athomas townoffelton.com <athomas@townoffelton.com>
Sent: Wednesday, July 29, 2026 9:15 AM
To: Jamie Burk
Cc: Townsend TM
Subject: RE: CMAD- All Call Buffers



External (athomas@townoffelton.com)



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This message originated from outside the organization

Good morning,

The Town of Felton requires a 25ft buffer from all residential districts, this can consist of a landscape screen or a 7ft privacy fence. This is determined by the Planning and Zoning Committee.

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

Zoning	<i>R-4</i>		<i>C-1</i>		<i>C-2</i>	<i>LI</i>
	<i>Planned Residential Community</i>		<i>Community Commercial</i>		<i>Highway Commercial</i>	<i>Light Industrial</i>
Use	Residential	Commercial	Residential	All Other Uses		

Minimum Lot Area	Same As R-3	7,500	Same as R-1	5,000	10,000	21,780 SF
Street Frontage (feet)		50		40	60	75
Lot Width at Front Building Line (feet)		75		50	75	100
Lot Depth (feet)		100		100	100	150
Setbacks (feet)						
Front		15		15	30	40
Side						
One		20		10	20	20
Sum of Both		40		20	40	40
Rear						
Adjoining Residential Zone		25		25	30	50
Adjoining Non- Residential Zone		20		20	25	30
Maximum Building Height						
Stories		2 ½		2 ½	2 ½	2 ½
Feet		35		35	35	35
Maximum Building Coverage (% of Lot)		50%		50%	50%	50%
Landscape Screen		NA		7' Privacy Fence	Required *	Required*
Green Area (% of Lot)		15%		15%	15%	15%

*Landscape screen or 7 foot high privacy fence required where rear or side lot line adjoin Residential District. Buffer and Landscaping Requirement – once it is established. Once the landscaping/screen fence is established, the property owner shall be responsible for all present and future maintenance. Notwithstanding any other provision of this Article, there shall be a 25-foot buffer from all Residential Districts. The Planning and Zoning Commissioners will determine whether a fence and/or a landscape screen are appropriate for the site.

Amy Thomas

Town Manager
TOWN OF FELTON
PO Box 329
Felton DE 19943
(302) 284-9365
(302) 284-3449 fax

From: Jamie Burk
Sent: Monday, July 27, 2026 12:51 PM
Cc: Townsend TM <jgoodyear@townsend.delaware.gov>
Subject: FW: CMAD- All Call Buffers

Good morning,

Sorry for the delay but I was on vacation last week. Please see the below All Call.

Thanks,

Jamie Burk
Town Manager
Town of Millsboro
322 Wilson Highway
Millsboro, Delaware 19966
(302)934-8171
jamieb@millsboro.org
www.millsboro.org



Named the 2026 Friendliest Town in Delaware by [Nextdoor.com](https://www.nextdoor.com)

From: Julie Goodyear <jgoodyear@townsend.delaware.gov>

Sent: Tuesday, July 21, 2026 12:34 PM

To: Jamie Burk <jamieb@millsboro.org>

Subject: CMAD- All Call Buffers

Good Afternoon Jamie,

Can you send to the group, thank you!

Good Morning All,

I'm reaching out to see if anyone has language in their municipality's code that addresses buffer requirements where residential zoning meets commercial or industrial zoning.

Currently, the Town of Townsend requires a 25-foot vegetative buffer when residential properties adjoin commercially zoned properties. We are evaluating potential amendments to this requirement, including allowing fencing as an alternative or supplemental option, as the current vegetation requirement can significantly impact the developable area of some properties, particularly those bordered by commercial zoning on multiple sides.

If your municipality has a similar code section addressing buffers, screening, landscaping, fencing, or transitions between residential and commercial/industrial uses, would you mind sharing it with me? A hyperlink to your municipal code or even

a screenshot of the applicable section would be greatly appreciated and would be extremely helpful as we research potential revisions to our code.

Thank you all in advance for your time and assistance. I truly appreciate any information you're willing to share.

Best Regards,

Julie M. Goodyear
Town Manager
Phone: 302-378-8082
Fax: 1-302-378-7099
jgoodyear@townsend.delaware.gov

"Ah coffee. The sweet balm by which we shall accomplish today's tasks." - Holly Black



P.O Box 223 | 141 Main Street | Townsend, Delaware 19734 |
www.Townsend.Delaware.Gov

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From: Bethany DeBussy <bdebussy@townofbridgevillede.us>
Sent: Wednesday, July 29, 2026 6:39 AM
To: Jamie Burk
Cc: Townsend TM
Subject: Re: FW: CMAD- All Call Buffers



External (bdebussy@townofbridgevillede.us)



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This message originated from outside the organization

The section from our code is here - <https://ecode360.com/8862227>

Ours is 15 feet and states fencing and/or green vegetation. We have had requests to reduce it up to even five feet in some areas, and those went through BOA hearings. They were exceptional cases related to redevelopment of small lots in the downtown area. I think reductions in areas where there is more space to work with would be highly controversial here - we've had large public resistance to even residential on residential without massive screening requirements (townhouses) - let alone non-residential vs. residential.

We also have a large industrial parcel that we have had persistent interest in rezoning for residential use, and I know this will be a point of conversation.

Bethany DeBussy

Town Manager
Town of Bridgeville
Phone: (302) 337-7135
Cell: (302) 670-1265
Fax: (302) 337-7817
101 N. Main Street
Bridgeville, DE 19933

bridgeville.delaware.gov

On Mon, Jul 27, 2026 at 12:51 PM Jamie Burk <jamieb@millsboro.org> wrote:

Good morning,

Sorry for the delay but I was on vacation last week. Please see the below All Call.

Thanks,

Jamie Burk
Town Manager
Town of Millsboro
322 Wilson Highway

Millsboro, Delaware 19966
(302)934-8171
jamieb@millsboro.org
www.millsboro.org



Named the 2026 Friendliest Town in Delaware by [Nextdoor.com](https://www.nextdoor.com)

From: Julie Goodyear <jgoodyear@townsend.delaware.gov>
Sent: Tuesday, July 21, 2026 12:34 PM
To: Jamie Burk <jamieb@millsboro.org>
Subject: CMAD- All Call Buffers

Good Afternoon Jamie,

Can you send to the group, thank you!

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If your municipality has a similar code section addressing buffers, screening, landscaping, fencing, or transitions between residential and commercial/industrial uses, would you mind sharing it with me? A hyperlink to your municipal code or even a screenshot of the applicable section would be greatly appreciated and would be extremely helpful as we research potential revisions to our code.

Thank you all in advance for your time and assistance. I truly appreciate any information you're willing to share.

Best Regards,

Julie M. Goodyear

Town Manager

Phone: 302-378-8082

Fax: 1-302-378-7099

jgoodyear@townsend.delaware.gov

"Ah coffee. The sweet balm by which we shall accomplish today's tasks." - Holly Black



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www.Townsend.Delaware.Gov

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BUFFERYARD REQUIREMENTS

Intent

To eliminate or minimize potential nuisances, or impacts both visual and physical between different land uses and zoning districts by providing adequate vegetative buffering and screening.

Standards

Required:

BUFFERYARD REQUIREMENTS

- Landscaping is required as a buffer between land uses of different intensity within the same zoning district or adjacent zoning district, as a buffer between a proposed land use and adjacent vacant land, or as a buffer between adjacent roads. In addition, a vegetative groundcover must be established on the remaining portions of the site not covered by building and other structures, parking areas, or bufferyards. The landscaping and bufferyard standards are indicated in Table 1 and 2 below, however based on the individual characteristics of a proposed use, the Planning Commission may require additional buffering and screening using the range of alternatives identified in Table 1.
- A bufferyard is a combination of a setback and a visual buffer or barrier, and is a yard or area together with the planting and/or structure required thereon. Both the amount of land and the type and amount of planting specified for each bufferyard requirements are designed to ameliorate nuisances between certain adjacent land uses, such as a single-family residence and a retail business.
- Bufferyards shall be required to separate functions and land uses to eliminate or minimize potential nuisances such as increased traffic congestion, reduced open space, litter, noise, glare of spacing to reduce adverse impacts of noise, odor, or danger from fires or explosions.
- Adjacent land use categories have been designated a required bufferyard plant unit alternative that separates the uses based on the degree of "nuisance" or negative impact they are likely to impose on land uses adjacent to them. In order to minimize any negative effects that a more intense use will impose on it's neighbors, bufferyards will be required. See Table 1.
- All bufferyard requirements are indicated by Standard Plant Alternatives which identifies the number of standard plant units required per 100 feet.
- Buffer yards shall be included meeting the open space requirement that is stipulated in other portions of this document.

**TABLE 1
BUFFERYARD
ILLUSTRATIONS**

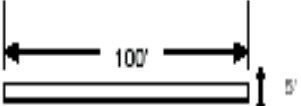
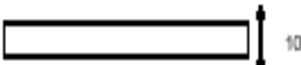
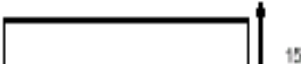
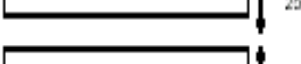
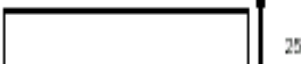
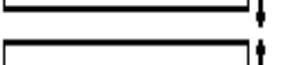
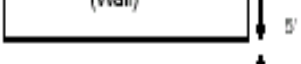
	<u>Space Required</u>	<u>Plants Required</u>
Bufferyard 1		5 trees or 3 trees & 6 shrubs or 12 shrubs or 6' fence (wood-solid)
Bufferyard 2		10 trees or 6 trees & 12 shrubs or 24 shrubs or 6' fence
Bufferyard 3		15 trees or 8 trees & 24 shrubs or 48 shrubs or 6' fence & 20 shrubs or trees
Bufferyard 4		25 trees & 30 shrubs or 12 trees & 60 shrubs or 6' fence & 10 trees or shrubs
Bufferyard 5A		30 trees & 40 shrubs or 20 trees & 80 shrubs or 6' fence & 25 trees or shrubs
Bufferyard 5B		6' masonry wall & 25 trees or shrubs
Bufferyard 5C		6' masonry wall
Bufferyard 6B		6' masonry wall & 25 trees or shrubs
Bufferyard 6A		6' fence & 45 trees & 80 shrubs or 6' fence & 30 trees & 120 shrubs

Table 2
Bufferyard Requirements

					<i>Use</i>			
Proposed Use			<i>Single</i>	<i>Multi</i>	<i>Office</i>		<i>Highway</i>	
		<i>Agriculture</i>	<i>Family</i>	<i>Family</i>	<i>Institutional</i>	<i>Commercial</i>	<i>Commercial</i>	<i>Industrial</i>
Agriculture		<i>none</i>	<i>2</i>	<i>2</i>	<i>1</i>	<i>2</i>	<i>2</i>	<i>2</i>
Single Family residential		<i>2</i>	<i>none</i>	<i>2</i>	<i>none</i>	<i>3</i>	<i>3</i>	<i>4</i>
multi-family residential		<i>2</i>	<i>none</i>	<i>none</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
Office/Institutional		<i>1</i>	<i>2</i>	<i>3</i>	<i>2</i>	<i>2</i>	<i>2</i>	<i>4</i>
Commercial		<i>2</i>	<i>3</i>	<i>3</i>	<i>2</i>	<i>none</i>	<i>2</i>	<i>4</i>
Highway Commercial		<i>2</i>	<i>4</i>	<i>4</i>	<i>3</i>	<i>2</i>	<i>none</i>	<i>3</i>
Industrial		<i>2</i>	<i>5A</i>	<i>5A</i>	<i>3</i>	<i>3</i>	<i>3</i>	<i>none</i>

RESPONSIBILITY FOR INSTALLATION OF BUFFERYARDS

- Bufferyards shall be installed on the subject property at the time of its development. Suitable existing plant material which will be preserved on the subject property following the completion of development may be counted as contributing to the required bufferyard.
- Bufferyard installation responsibilities are influenced by the nature of the parcel abutting the subject property. Two potential situations exist. The first involves the subject (developing) property abutting a vacant or developing parcel. The second involves the subject (developing) property abutting a previously developed parcel. The requirements for bufferyard installation differ between these situations:

Abutting a Vacant or Developing Parcel

- (a) When a proposed use adjoins a vacant parcel for which a bufferyard is required, the proposed use shall provide the required level of screening as presented in Table 2 based on the current zoning of the of the vacant parcel.

Abutting a Previously Developed Parcel

- (a) If the adjoining use had developed without a bufferyard, the proposed use shall be responsible for installing the total required bufferyard. Existing vegetation and/or land located on the previously development may be counted as contributing to the total bufferyard required between it and the second or subsequent (adjacent) land use to develop.

BUFFERYARD STANDARDS

- Bufferyard standards are based on a required screening percentage. A variety of combinations of bufferyard width, planting fences or berms) may be selected to reach the required screening percentage.

General Requirements

- (a) All bufferyard areas shall be seeded with lawn, native/naturalized groundcover unless such vegetation is already fully established, or mulched.
- (b) Plantings shall be clustered at strategic locations in order to achieve maximum buffering effect. The exact placement decision of each user, except that the following requirements shall be met:

Where a combination of plant materials and fencing is used in a peripheral bufferyard, the fence shall be located to the interior or toward the more intensive use and the plant material shall be located toward the less intensive use.

Landscape plantings shall be installed in such a manner as to provide clear sight distance triangles at all road and driveway intersections.

Developer or landowner may establish, through a written and recorded agreement, that the property owner(s) immediately adjacent to his property agree to allow a portion of all of the required bufferyard on immediately adjacent portions of their land.

Calculation of Required Plant Materials

1. Bufferyard plant material requirements are calculated using the standards listed in this Section and specified in Table 1.
2. Bufferyard standards listed in Table 1 are for every one hundred (100) linear feet of required bufferyard on a given lot.
3. In instances where the bufferyard boundary does not equal one hundred (100) feet, the required bufferyard planting shall be based on the percentage of one hundred (100) feet that is present along the bufferyard boundaries.
4. For bufferyards in excess of 100 feet, calculate the number of plant units required per 100 feet. Divide the proposed bufferyard length by 100 to determine the bufferyard length multiplier.
5. Multiply the bufferyard length multiplier by the number of required trees and shrubs per one hundred (100) feet calculated in (4) above. These numbers represent the total required plant materials for the selected bufferyard option. All calculated numbers shall be rounded up to the next whole number.

BUFFERYARD USE

- A bufferyard may be used for passive recreation. It may contain pedestrian, bike, or equestrian trails provided that:
 1. Adequate plant material is retained as necessary to achieve the buffer effect;
 2. The total width of the bufferyard is maintained; and
 3. All other regulations of the Section are met.
- In no event shall swimming pools, tennis courts, sports fields, golf courses or other such uses be permitted in bufferyards.

BUFFERYARD MAINTENANCE

Property owners are responsible to maintain required bufferyards. Dead plant materials must be replaced within one (1) year of their original planting. Bufferyards shall be kept free of noxious weeds and trash. Where natural plant growth changes the actual buffer effect over time, the Zoning Administrator may require supplementary plantings to achieve the intent and purposes of this Section.

From: Mike Bailey <MBailey@seafordde.com>
Sent: Monday, July 27, 2026 3:35 PM
To: jgoodyear@townsend.delaware.gov
Subject: FW: CMAD- All Call Buffers



Caution: External (m Bailey@seafordde.com)

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This message originated from outside the organization

Good Afternoon,

Here is what the City of Seaford requires when commercial property is adjacent to residential property.

Buffer planting strip - a strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in this Chapter, which is landscaped for the full width, and on which is placed a screen of sufficient density not to be seen through, and of sufficient height to constitute an effective screen and give maximum protection and immediate visual screening to an abutting property or district. The required screen shall be permanently maintained and shall constitute a planting of dense evergreens or a compact evergreen hedge or when approved by City Council, an appropriate wall, fence, suitable planting or combination thereof.



Mike Bailey, Building Official

m Bailey@seafordde.com * www.seafordde.com

PO Box 1100, 414 High Street, Seaford, DE 19973

OFFICE: (302) 629-9173 **FAX:** (302) 629-9307

MOBILE: (302) 236-8901

Find us on   

From: Scott Lobdell <Slobdell@townsend.delaware.gov>
Sent: Friday, July 17, 2026 4:44 PM
To: Lisa Hatfield; Julie Goodyear
Cc: Matthew Chapman; Syed Sharif
Subject: Re: Clarification on Buffer Requirements for 646 Wiggins Mill Property



Internal (slobdell@townsend.delaware.gov)



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We added that 25' requirement to protect the residential lots from the commercial uses.

Most other jurisdictions have a few options to choose from regarding the buffer. One of them is always a smaller width in exchange for the fence.

We could look at expanding our options in the code. That would be the easiest option.

Look at the below link and scroll to page 287z. That's NCC landscape stuff to look at beforehand.

<https://www.newcastlede.gov/DocumentCenter/View/63366/UDC-Revision-03102026>

Scott Lobdell, P.E.
Mayor

P:302.378.8082 | C:302-824-5942 |
Fax: 302.378.7099
slobdell@townsend.delaware.gov

Town of Townsend
P.O. Box 223 | 141 Main Street
Townsend, Delaware 19734

www.townsend.delaware.gov

From: Lisa Hatfield <lhathfield@connollygallagher.com>
Sent: Friday, 17 July 2026 16:25:42
To: Julie Goodyear <jgoodyear@townsend.delaware.gov>
Cc: Scott Lobdell <Slobdell@townsend.delaware.gov>; Matthew Chapman <mchapman@townsend.delaware.gov>; Syed Sharif <ssharif@townsend.delaware.gov>
Subject: RE: Clarification on Buffer Requirements for 646 Wiggins Mill Property

This message originated from outside the organization

Julie,

There is no work around for the 25 foot buffer other than the Town applying for an area variance or changing the code.

Honestly, it might be a good idea to change the code to allow fences as well. Perhaps a conversation to be had by the code review committee.

In the meantime, the property is currently zoned residential (R-1A) which does allow for a community center and also may be used for "public utility" uses.

I share this because I know you plan to put a community center on another lot (not sure which one) but wanted to let you know to leave that lot as Residential and you will not

have the 25 foot buffer for the community center.

Wiggins Mill, I would suggest applying for a variance and/or changing the code to allow for a fence.

Have a great weekend all!

Lisa

Lisa R. Hatfield

PARTNER

lhathfield@connollygallagher.com



CONNOLLY
GALLAGHER

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Newark, DE 19711

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From: Julie Goodyear <jgoodyear@townsend.delaware.gov>

Sent: Monday, July 13, 2026 9:30 AM

To: Lisa Hatfield <lhathfield@connollygallagher.com>

Cc: Scott Lobdell <Slobdell@townsend.delaware.gov>; Matthew Chapman <mchapman@townsend.delaware.gov>; Syed Sharif <ssharif@townsend.delaware.gov>

Subject: Clarification on Buffer Requirements for 646 Wiggins Mill Property

Good Morning Lisa,

I wanted to reach out regarding the property 646 Wiggins Mill and get your guidance on the landscaping requirements.

In reviewing [Section 24.12.070](#) of the Town Code, it appears that the commercial property would be required to provide a minimum 25-foot planted buffer along each property line. Based on the dimensions of the parcel, complying with this requirement would effectively reduce the developable area by approximately one-third, which could significantly impact the intended use and feasibility of the site.



I wanted to ask for some clarification on a few items:

- Is there any flexibility within the Code to allow a solid fence or other screening method in lieu of the full 25-foot planted buffer?
- If not, would requesting a reduction or alternative to the planted buffer constitute a variance, waiver, or some other form of relief?
- Have you encountered similar situations with constrained commercial parcels, and if so, what solutions have been successful while still meeting the intent of the Code?
- Are there any alternative landscaping designs or combinations of fencing and plantings that you would recommend the Town consider?

Our goal is to maintain appropriate buffering between uses while also ensuring the property remains reasonably developable. I would appreciate any recommendations or guidance you can provide on how best to approach this situation.

Thank you, and I look forward to hearing your thoughts.

Best Regards,

Julie M. Goodyear
Town Manager
Phone: 302-378-8082
Fax: 1-302-378-7099
jgoodyear@townsend.delaware.gov

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§ 234-91. Screening and landscaping.

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.
 - (a) When a lot is occupied by a multifamily development or a manufactured home park.
 - (b) When any nonresidential use abuts a residential district.
 - (c) 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 chapter, and where the parking area is not entirely screened visually from such lot by an intervening building or structure.
 - (d) For any loading area consisting of one or more loading spaces, loading docks or vehicular lanes leading to loading spaces or loading docks.
- (2) Location: Along the lot border separating it from the residentially zoned or used lot.
- (3) Screen materials: The screen shall consist of a visual barrier composed of fencing and/or green plants and trees arranged to form both a high and a low level screen.
 - (a) High level: The high level portion of the screen shall consist of either:
 - [1] A six-foot solid wall or fence; or
 - [2] A compact evergreen hedge or foliage, at least four feet high when planted, that achieves the same visual impact as a solid wall or fence.
 - (b) Low level: The low level portion of the screen shall consist of evergreen shrubs planted at an initial height of not less than two feet and spaced at intervals of not more than five feet on center.
- (4) Width of screen: 15 feet.

C. Interior parking area landscaping.

- (1) Applicability. Interior parking lot landscaping provisions apply to large-scale, nonresidential development in the C-1 (Commercial) Zone.
- (2) Intent: reduce the visual impact of large, expansive parking areas.
- (3) Requirements.
 - (a) One landscaped island shall be required once 25 single or 25 double spaces have

been exceeded.

- (b) Collector drives shall be separated from parking drives by landscaped islands. Interior parking lot landscaping shall be in addition to required landscaped buffers.
- (c) Landscaping materials may consist of either grass, ornamental landscaping, or shade trees and shall be designed and maintained for safe pedestrian access and movement.

From: Sheldon Hudson <shudson@frankford.delaware.gov>
Sent: Friday, August 7, 2026 1:49 PM
To: Julie Goodyear
Subject: FW: CMAD- All Call Buffers



External (shudson@frankford.delaware.gov)



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This message originated from outside the organization

Sheldon P. Hudson, ICMA-CM

Town Manager

Town of Frankford

9 Main Street, PO Box 550, Frankford, Delaware 19945

(302) 841-0189

shudson@frankford.delaware.gov



From: Mendelson, Amy <amy.mendelson@aecom.com>
Sent: Wednesday, August 5, 2026 5:08 PM
To: Sheldon Hudson <shudson@frankford.delaware.gov>
Cc: Gulbronson, Kyle <kyle.gulbronson@aecom.com>
Subject: RE: CMAD- All Call Buffers

Hi Sheldon,

This is the only reference to screening in Frankford's Code.

§ 105-12-5Screening.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town Council may, through the development review process, require the reasonable provision of screening in order to shield neighboring properties from the adverse effects of a development. Screening may consist of landscaping, berms, fences, or a combination of these elements.

Please let me know if you need anything else.

Thanks,
Amy

From: Sheldon Hudson <shudson@frankford.delaware.gov>
Sent: Wednesday, August 5, 2026 12:42 PM
To: Mendelson, Amy <amy.mendelson@aecom.com>
Cc: Gulbranson, Kyle <kyle.gulbranson@aecom.com>
Subject: FW: CMAD- All Call Buffers

Would you let me know?

Sheldon P. Hudson, ICMA-CM

Town Manager
Town of Frankford
9 Main Street, PO Box 550, Frankford, Delaware 19945
(302) 841-0189
shudson@frankford.delaware.gov



From: Jamie Burk <jamieb@millsboro.org>
Cc: Townsend TM <jgoodyear@townsend.delaware.gov>
Subject: FW: CMAD- All Call Buffers

Good morning,

Sorry for the delay but I was on vacation last week. Please see the below All Call.

Thanks,

Jamie Burk
Town Manager
Town of Millsboro
322 Wilson Highway
Millsboro, Delaware 19966
(302)934-8171
jamieb@millsboro.org
www.millsboro.org



Named the 2026 Friendliest Town in Delaware by [Nextdoor.com](https://www.nextdoor.com)

From: Julie Goodyear <jgoodyear@townsend.delaware.gov>

To: Jamie Burk <jamieb@millsboro.org>

Subject: CMAD- All Call Buffers

Good Afternoon Jamie,

Can you send to the group, thank you!

Good Morning All,

I'm reaching out to see if anyone has language in their municipality's code that addresses buffer requirements where residential zoning meets commercial or industrial zoning.

Currently, the Town of Townsend requires a 25-foot vegetative buffer when residential properties adjoin commercially zoned properties. We are evaluating potential amendments to this requirement, including allowing fencing as an alternative or supplemental option, as the current vegetation requirement can significantly impact the developable area of some properties, particularly those bordered by commercial zoning on multiple sides.

If your municipality has a similar code section addressing buffers, screening, landscaping, fencing, or transitions between residential and commercial/industrial uses, would you mind sharing it with me? A hyperlink to your municipal code or even a screenshot of the applicable section would be greatly appreciated and would be extremely helpful as we research potential revisions to our code.

Thank you all in advance for your time and assistance. I truly appreciate any information you're willing to share.

Best Regards,

Julie M. Goodyear
Town Manager
Phone: 302-378-8082
Fax: 1-302-378-7099
jgoodyear@townsend.delaware.gov

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*Town of Ocean View, DE
Monday, July 27, 2026*

Chapter 140. Land Use and Development

Article XI. Recreation; Open Space; Screening; Shade

§ 140-71. Recreation and open space required.

- A. Applicability. The provisions in this section shall apply to all residential subdivisions and development plans except those in the planned community districts.
- B. Requirement.
 - (1) For every development or subdivision, 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; or
 - (b) A cash payment in lieu of land dedication shall be deposited with the Town.
 - (2) The land or fees received in accordance with this requirement shall be used to provide open space, park, and recreational facilities.
- C. Small developments.
 - (1) A development plan resulting in the creation five or fewer residential lots shall not be required to dedicate land or make a cash payment in lieu of dedication.
 - (2) A development plan resulting in the creation of five or more lots but fewer than 10 lots shall be required to make only a cash payment to be determined as specified in Article **XI**, § **140-71E**.
- D. Land dedications.
 - (1) Each dedication shall be usable open space that is of suitable size, dimension, topography, and general character. Land is considered usable open space if it meets the following criteria:
 - (a) It is not encumbered with any substantial structure;
 - (b) It is not devoted to use as a roadway, parking area, or sidewalk; and
 - (c) It is left in one of the following states at the time of development:
 - [1] If wooded, it is left in its natural, undisturbed state, except for the cutting of trails for walking, jogging, or biking;
 - [2] If not wooded, it is landscaped for ball fields, picnic areas, or similar facilities, or is properly vetted and landscaped with the objective of creating a wooded area. Landscaping materials shall be native plantings, examples of which can be found in Native Plants for Delaware Landscapes published by the University of Delaware, College of Agriculture and Natural Resources;
 - [3] It is capable of being used and enjoyed for purposes of active and passive recreation;

[4] It is legally and practically accessible to the residents of the development out of which the required open space is taken; and

[5] No more than 25% of the land lies within a floodplain or floodway.

(2) The dedicated area shall be shown and marked on the record plat "Dedicated for Park and Recreation Purposes."

(3) Land dedication shall be determined as follows.

(a) Three hundred square feet per dwelling unit or 1/2 acre of land, whichever is greater.

(b) In no case shall the Town require that more than 10% of the gross area of the subdivision or land development be so dedicated or reserved.

E. 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 or recreation uses, a cash payment shall 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 recreation and open space shall be equivalent to the appraised pre-improvement value of the land area required; and

(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 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 funds collected pursuant to this subsection shall be placed in a separate account earmarked for recreation and open space development.

F. 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.

§ 140-72. Maintenance of recreation and open space.

A. Not to be dedicated to Town.

(1) The recreation facilities and open space to be provided 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 entity.

B. Homeowners' associations. Before any lot in a development is sold, provision shall be made for the establishment of a homeowners' association or similar legal entity that meets at least the following criteria:

(1) Clear legal authority to maintain and exercise control over common areas and recreational facilities;

- (2) 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; and
 - (3) Provision for start-up funding.
- C. When a development plan includes the establishment of a homeowners' association, the applicant shall submit documents pertaining to the establishment and maintenance of the homeowners' association as well as its bylaws, fee schedule, and start-up funds.

§ 140-73. Screening.

- A. Purposes for screening requirements. The purposes for screening are to:
 - (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.
 - (a) When a lot is occupied by a multifamily development or a manufactured home park.
 - (b) For all nonresidential uses.
 - (c) When an off-street parking area for 10 or more automobiles is located closer than 50 feet from a lot in a residential district or from any lot upon which there is a dwelling as a permitted use under this chapter, and where the parking area is not entirely screened visually from such lot by an intervening building or structure.
 - (d) For any loading area consisting of one or more loading spaces, loading docks or vehicular lanes leading to loading spaces or loading docks.
 - (2) Location: along the lot border separating the subject lot from an adjacent lot.
 - (3) Screen materials.
 - (a) The screen shall consist of a continuous visual barrier composed of 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 a compact evergreen hedge or foliage, at least four 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 two feet and spaced at intervals of not more than five feet on center.
 - (b) Width of screen: 15 feet.
 - (4) The Planning and Zoning Commission may approve an alternative landscape, provided that it meets the intent and purposes for screening and landscaping.
- C. Dumpsters, mechanical equipment, propane and similar equipment. These shall be enclosed by a solid fence as determined by the Planning and Zoning Commission during development plan review.

§ 140-74. Landscaping.

A. Residential developments.

- (1) Intent: provide landscaping, screening, and shade in residential developments.
- (2) When required: for all residential development plans.
- (3) Standards.
 - (a) Design should be simple, and plant materials should be easy to maintain and shall consist of a combination of hardy canopy trees, low evergreen shrubs, and turf grass. Ornamental and evergreen tree plantings may be incorporated in the design but shall not be the predominant plant types on the site or on any individual lot.
 - (b) Protection and retention of large trees.
 - [1] Large tree defined: an existing tree having a diameter of 18 inches or more.
 - [2] Intent. It is intended that large trees shall be retained to the greatest extent possible. It is not intended that dead trees, diseased trees, and trees not native to the area be retained.
 - [3] No excavation or subsurface disturbance may be undertaken within the dripline 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 "dripline" 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] Replacement. Each tree that is not retained shall be replaced in accordance with the standards of this subsection.
 - (c) Planting rate. Trees shall be planted at a rate of one tree per 3,000 square feet of land area developed.
 - (d) Types of plantings.
 - [1] Deciduous trees. Deciduous trees shall be of a high-canopy variety and shall be limbed to a minimum height of 12 feet above grade at maturity.
 - [2] Evergreen trees. Evergreen tree plantings shall be at least four feet in height at the time of planting.
 - [3] Shrubbery. Shrubbery shall be of a low, evergreen variety and shall be limited to use as foundation plantings and for screening purposes.
 - [4] Ground cover. Ground cover shall be limited to turf and ornamental grasses and ornamental evergreen ground cover plantings. Alternative ground covers, such as wildflowers and meadow grasses, may also be considered.
 - (e) 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.
 - (f) Performance bond. The Town may require applicants to provide a performance bond or other guarantee for the cost of required landscaping.
- (4) The Planning and Zoning Commission 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 large, expansive parking areas.
- (2) Perimeter-parking-area landscaping: subject to screening requirements in § **140-73**.

(3) Interior-parking-area landscaping.

- (a) Applicability: interior-parking-lot landscaping provisions apply to commercial developments.
- (b) Requirements.
 - [1] One landscaped island shall be required once 10 single or 25 double spaces have been exceeded.
 - [2] Collector drives shall be separated from parking drives by landscaped islands. Interior-parking-lot landscaping shall be in addition to required landscaped buffers.
 - [3] Landscaping materials may consist of grass, ornamental landscaping, or shade trees and shall be designed and maintained for safe pedestrian access and movement as determined necessary by the Planning and Zoning Commission.
 - [4] The Planning and Zoning Commission may approve an alternative landscape, provided that it meets the intents and purposes for screening and landscaping.

C. Commercial developments.

- (1) Existing vegetated areas shall be retained to the maximum extent possible.
- (2) Screening of service yards and other places that tend to be unsightly, such as trash receptacles or mechanical equipment, shall be accomplished by the use of walls, fencing, planting, or combinations of these.
- (3) Screening shall be effective in winter and summer.
- (4) In areas where vegetation does not exist, additional landscaping shall be provided, utilizing earth mounds or plant material, or both.
- (5) Landscape plantings should be indigenous to local areas and should provide a soft visual buffer between the roadway and the commercial use.

§ 140-75. Shade.

A. Trees along dedicated streets.

- (1) Municipal streets. On streets to be maintained by the Town, the developer shall plant or retain sufficient trees along the paved portion of the street.
 - (a) One 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 those that can generally be expected to thrive in the area.
 - (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 streetlights.
- (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.