

City of Milford



AGENDA

Monthly Council Meeting

December 8, 2014

Joseph Ronnie Rogers Council Chambers, Milford City Hall, 201 South Walnut Street, Milford, Delaware

COUNCIL MEETING

7:00 P.M.

Call to Order - Mayor Bryan Shupe

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition

Monthly Police Report

City Manager Report

Committee & Ward Reports

Communications & Correspondence

Unfinished Business

Adoption/Ordinance 2014-13/New Chapter 190/Smoking Prohibited in City Parks, Building & Facilities

Adoption/Ordinance 2014-14/Chapter 165/Amendment Parks and Recreation

Adoption/Ordinance 2014-16/Chapter 130/Amendment Floodplain Management

Adoption/Ordinance 2014-17/Chapter 88/Amendment Building Construction

Adoption/Resolution 2014-21/Route 1 Overpass Support

New Business

FY 2014-2015 Budget Adjustment/DBF Services/Milford Armory

FY 2014-2015 Budget Adjustment/Bulletproof Vests Purchase/Real Estate Transfer Tax

Alcohol Waiver/Brewgrass Festival Request/Downtown Milford, Incorporated

Executive Session

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation (Union Contract)

Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property (Property Sale)

Police Union Contract

Property Sale

Adjourn

**SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING;
NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.**

Milford Police Department



E. Keith Hudson
Chief of Police



400 N.E. Front Street
Milford, Delaware 19963

TO: Mayor and Members of City Council

FROM: E. Keith Hudson, Chief of Police

DATE: December 8, 2014

RE: Activity Report/November 2014

Monthly Stats:

A total of 695 arrests were made by the Milford Police Department during November 2014. Of these arrests, 164 were for criminal offenses and 531 for traffic violations. Criminal offenses consisted of 30 felonies and 134 misdemeanors. Traffic violations consisted of 155 Special Duty Radar, 6 Drunk-Driving charges, and 370 other.

Police officers investigated 61 accidents during the month (6 personal injury, and 55 property damage) and issued 158 written reprimands. In addition, they responded to 1111 various complaints including city requests and other agency assistance.

Monthly Activities:

With the Help of Avenue United Methodist Church and Allen Harim Foods, we were able to provide Thanksgiving meals for 25 area families. These meals were delivered on the 24th and 25th of November.

Corporal Smith assisted Milford Central Academy staff with a lock down drill. Prior to and following this drill, Corporal Smith assisted with an evaluation of the school's emergency plan.

Corporal Masten was contacted by a Remax Twin Counties representative about a program they want to start called "Heat for the Holidays". Their hope is to raise money from area businesses to pay for home fuel bills for families in need. Remax was put in touch with Avenue United Methodist Church who will be assisting with the administration of the program.

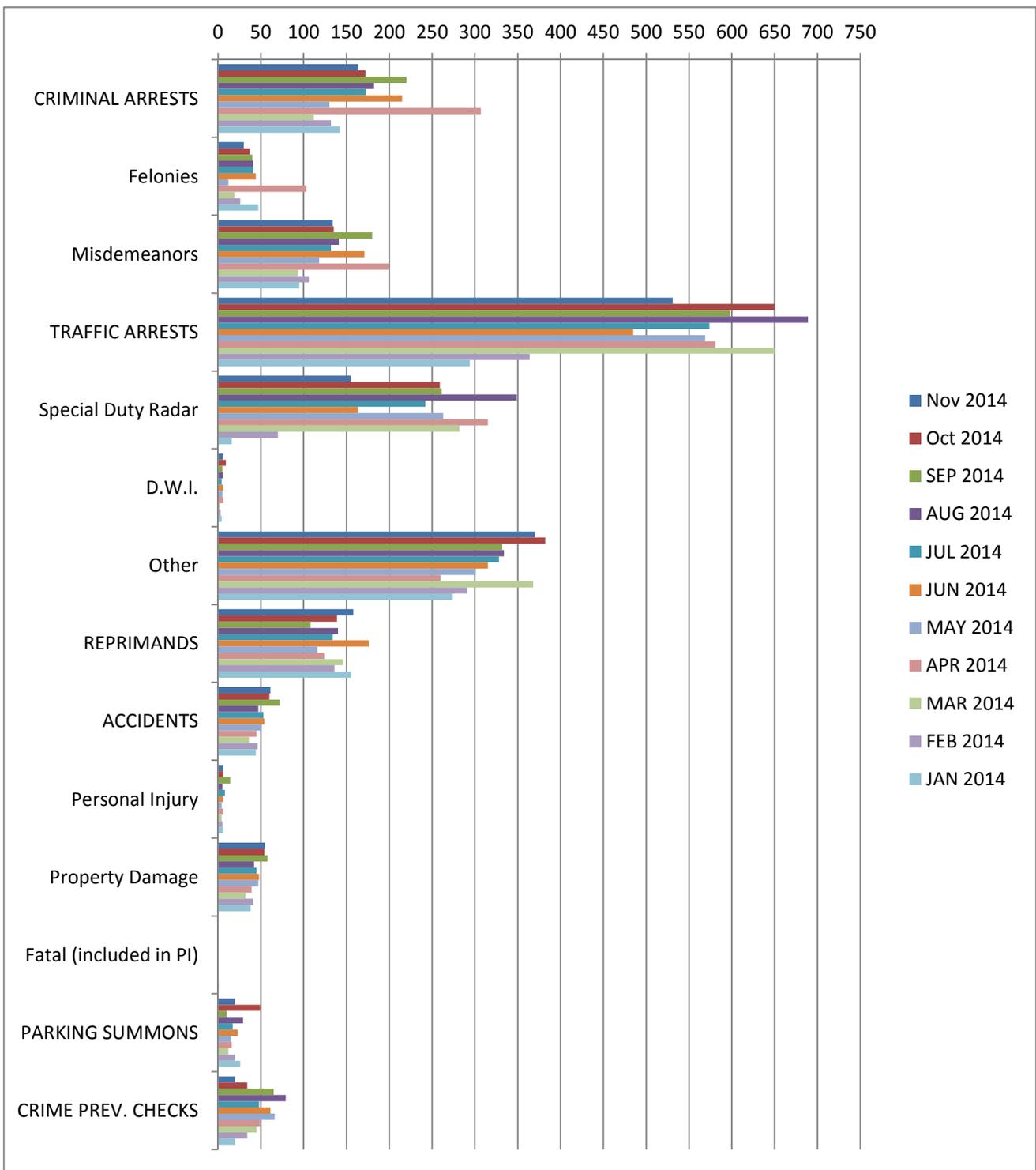
November 2014 K-9 Unit Usage Report

For the month of November the Milford Police Department K-9 Unit:

- *responded to 72 calls for service
- *was utilized on 9 different incidents
- *assisted patrol units with 1 large violent crowd
- *was utilized 2 times as a precautionary presence on suspect(s) known to have fight and/or flight risks
- *conducted 1 assist other police agency (Delaware State Police Troop 7)
- *conducted 1 track on a stolen motor vehicle suspect
- *conducted 1 building search
- *conducted 2 sniffs for CDS
- *had 1 no-bite apprehension on an in-progress domestic-related burglary suspect

NOV 2014 ACTIVITY REPORT

	Nov 2014	TOTAL 2014	NOV 2013	TOTAL 2013
COMPLAINTS	1111	13453	1018	12099
CRIMINAL ARRESTS	164	1949	100	1556
Felonies	30	440	8	292
Misdemeanors	134	1504	92	1210
TRAFFIC ARRESTS	531	5985	393	4281
Special Duty Radar	155	2376	64	941
D.W.I.	6	56	4	35
Other	370	3555	325	3311
REPRIMANDS	158	1532	130	1474
ACCIDENTS	61	569	43	542
Personal Injury	6	70	4	67
Property Damage	55	499	39	475
Fatal (included in PI)	0	1	0	1
PARKING SUMMONS	20	237	7	190
CRIME PREV. CHECKS	20	521	19	397
FINES RECEIVED	\$ 15,133.45	\$ 131,177.40	\$ 12,247.19	\$ 111,903.66



COUNCIL REPORT

DECEMBER 8, 2014

ADMINISTRATION

As announced by Mayor Shupe at our last workshop there will be an open house at the recently acquired Armory. The purpose is allowing any interested persons the opportunity to look inside the building and offer some thoughts for its use. There will have to be funding from some source to provide heat and electric in the building. We did not know at our budgeting process for 2014-2015 that we would acquire ownership of the property. P&R will be allowed to use the basketball court for their winter program. I gave Gary Emory permission to do that as long as no immediate reason arose to make it necessary to use it for something deemed more important.

The new billing office is getting closer to completion. I will not give the date we will be opening because I have had to change the date several times. I am happy with the work and I think the public will be pleased with the location and facility.

STREETS AND SOLID WASTE

Our solid waste crews will be working several holidays during Christmas and New Years. The amount of waste that accumulates for our customers is very difficult to pickup if we allow ourselves too few days to collect. Customers can find the schedule for the holidays at our website and in utility bills and are welcome to call the office.

S.E. Front St. is completed with the exception of the no parking signs. Crews will probably have those installed within the next week. There are a few areas that may require some alterations, but not an abundance of problems. The process of mill and overlay is not the same process as constructing a new street with a new roadbed. There are manholes and water valve boxes up and down City streets. To attempt to make all those perfectly level would be a difficult cost to bear. Therefore there are small depressions and a few slightly raised areas around

some of the valve boxes and manholes, but I think this street is completed and improved greatly for those living and traveling on it. The new sidewalk and curbing also add to the positive appearance of the street.

SEWER AND WATER

We had a main break on Marshall St. and S.E. 2nd St. on Sunday, November 29th and our employees made necessary repairs.

We have continued our hydrant replacement where needed program. Two hydrants were changed out on Seabury Ave. and Marshall St.

Our crews have also been working with Teal Construction on the installation of the new raw water main which runs down Washington St. from our new well located on the City property in the rear of City Hall.

The S.E. tower project is moving along with the site preparation. I gave permission for crews to work on tree removal on Saturday and Sunday the past weekend. Due to the location this activity should had no impact on surrounding areas.

ORDINANCE 2014-13
Chapter 190-Smoking Prohibited in City Parks, Building and Facilities

AN ORDINANCE OF THE CITY OF MILFORD PROHIBITING SMOKING IN CITY PARKS, BUILDINGS AND FACILITIES, SPECIFYING REQUIRED SIGNAGE, PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS THEREOF AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a new chapter in the Code of the City of Milford is being created to prohibit smoking in all City parks, buildings and facilities; and

WHEREAS City parks are intended for the healthy enjoyment of all citizens, including children and youth; and

WHEREAS smoking and tobacco use in parks can result in litter of cigarette butts, cigar butts and other tobacco-related waste which can cause environmental degradation and pose a health risk to children and animals; and

WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and

WHEREAS many parks in the City contain trees and plants that can be combustible, particularly in the dry summer months and pose an increased risk of fire; and

WHEREAS, on September 23, 2014, the Community Affairs Committee and Parks and Recreation Committee recommended a smoking ban in City Parks; and

WHEREAS, City Council has previously taken formal action by voting on a policy which prohibits smoking in City Buildings and Facilities.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 190, to be entitled Smoking Prohibited in City Parks, Buildings and Facilities to read as follows:

Section 2. CHAPTER 190. SMOKING PROHIBITED IN CITY PARKS, BUILDINGS AND FACILITIES.

§ 190-1 Definitions.

§ 190-2 Smoking prohibited.

§ 190-3 Park Conditions.

§ 190-4 Enforcement and Civil Penalties.

§ 190-5 Payment.

§ 190-6. Procedure to Contest a Violation.

§ 190-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Building: Free-standing structure enclosed by a floor, ceiling and walls on all sides that are continuous and solid except for closeable entry and exit doors and windows.

Open-Air Facility: Structure that is not fully enclosed but may be partially enclosed (for example, structures with open sides).

Parks and Recreation Director: City of Milford Parks and Recreation Director and any employee or designee thereof.

~~Smoking: The combustion in any cigar, cigarette, pipe, or any other similar article or any device, of tobacco or other combustible substance.~~

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or tobacco like products in any manner or form.

§ 190-2 Smoking prohibited.

(A) Parks.

(1) Smoking shall be prohibited at all times in all City of Milford public parks and playgrounds, including, without limitation:

- a. Banneker Park
- b. Bicentennial Park
- c. Marshall Pond Park
- d. Marvel Square Park
- e. Memorial Park South
- f. Tony Silicato Memorial Park
- g. Library Square
- h. Milford Library Amphitheater
- I. Goat Island
- j. Mispillion Riverwalk
- k. Milford Dog Park

(B) Smoking is prohibited at all parks and playground areas owned by the city and open to the public.

(1) Exception.

- a. Land owned by the City of Milford and used by Milford Little League.

Policy will be established and enforced by Milford Little League Board of Directors and/or designee.

(C) Smoking is prohibited in a building or ***open-air*** facility owned, leased or operated by the City of Milford.

§ 190-3 Park Conditions.

A. At the entrance(s) of each designated park, there shall be appropriate signage designating the

prohibition.

§ 190-4 Enforcement and Civil Penalties.

(A) The Milford Police Department shall enforce this chapter.

(B) Any person observed violating this chapter who has not been issued a written warning, shall be issued a verbal warning for a first offense.

(C) Any person who has received a written warning and is observed violating this chapter, shall be subject to a civil penalty of \$25 beginning with the second violation and not less than \$50 for each subsequent violation.

(D) Milford Police Officers, City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person observed violating this chapter.

(E) The name of any person issued a verbal warning shall be immediately reported to the Milford Police Department.

§190-5 Payment.

All payments for civil penalties received under this chapter shall be delivered to the Milford Police Department (payable to the City of Milford) within thirty (30) days after receipt.

§190-6 Procedure to Contest a Violation.

Persons who wish to contest the validity of a smoking violation under this chapter may contest the violation by appealing the decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal.

Section 3. Dates.

Introduction: 11/24/2014

Adoption: 12/08/2014 (Projected)

ORDINANCE 2014-14
Chapter 165/Parks and Recreation

WHEREAS, the Council of the City of Milford adopted Ordinance 2014-10, entitled Parks and Recreation, for the purpose of providing necessary regulations, conditions and requirements which shall be uniformly applied to the general use of city parks; and

WHEREAS, the Milford City Council desires to adopt revised rules governing the city parks; and

WHEREAS, the use of alcohol in city parks is currently banned by ordinance; and

WHEREAS, the City Council desires to amend the Parks and Recreation Ordinance to allow the use of alcohol on park property for a special event; and

WHEREAS, recognizing that special events enhance the quality of life for residents and visitors, as well as provide substantial economic benefits, it is deemed to be in the best interest of the City of Milford to allow alcoholic beverages in the parks by requiring the event organizer to comply with specific rules as stated herein; and

WHEREAS, a new Milford Dog Park opened on November 1, 2014 for the further use and enjoyment of the public; and

WHEREAS, the City Council desires to update its established rules regarding permissible and prohibited activities in the City Dog Park.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. An Ordinance to Amend Article II-Parks and Recreational Rental Rules and Regulations-of the Parks and Recreation Code of the City of Milford by adding an exception to the alcohol prohibition.

Section 2. §2.03(d) is hereby amended by adding (1)(a) thru (1)(j) as stated below:

(d) No alcoholic beverages permitted. Refer to Chapter 77 of the City of Milford Code.

(1) Exception and Regulations.

- (a) Alcoholic beverages may be sold and consumed at special events in parks only upon City Council approval of the written request to the City of Milford and receipt of the applicable permit from the State of Delaware Alcoholic Beverage Control Commission.*
- (b) The point of sale and consumption must be within a confined and designated service area with identified entrance/exit and barriers, low fencing, chains and stanchions or similar materials that will serve to define the area and restrict access.*
- (c) No alcohol may be taken outside the confined service area and is strictly prohibited on city streets and sidewalks beyond the boundaries of the designated area as posted*

- by the event organizer.*
- (d) The event organizer is required to provide event identification to those persons twenty-one years of age or older who intend to purchase and consume alcohol at the special event in the park.*
 - (e) Underage persons may be present in the confined service area if accompanied by a responsible adult*
 - (f) The Parks and Recreation Director will conduct an on-site inspection prior to the start of the event to ensure compliance with Article II of this code.*
 - (g) Persons may only possess and consume alcohol made available at the event. No alcoholic beverages may be brought into the event.*
 - (h) For safety reasons, all alcohol beverages must be served and consumed in plastic or paper cups or non-breakable containers.*
 - (i) The event organizer must provide temporary or portable toilets. Such number will be determined by the Parks and Recreation Director whose decision will be based on the proposed number of attendees. Such temporary or portable toilets must be removed from the event site within twenty-four hours after the conclusion of the event for which the permit was granted.*
 - (j) A security deposit, as determined by the Parks and Recreation Director, shall be paid at the time the organizer enters into an agreement for the use of the park. Security deposit will be refunded only if the area is left in good and undamaged condition and free of litter after a determination by the Parks and Recreation Director. Security deposit shall be forfeited for repair or maintenance time to clean up the area. The security deposit is a separate payment than the rental fee. Refer to 2.03(c)*

Section 3. Article IV. Penalty for Violations. Article IV is hereby renumbered as Article V.

Section 4. Article IV. A new Article IV, entitled Milford Dog Park, is adopted as follows:

Article IV. Milford Dog Park

§4.01. There is hereby established within the City of Milford a dog park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of an owner/handler who is competent and knowledgeable relative to the behavior of said dog(s).

§4.02. As a condition of entering the Milford Dog Park, dog owners and handlers must read and agree to be bound by the following rules and regulations:

- (a) Park is open sunrise to sunset only.
- (b) All dogs must be licensed and wear current license and vaccine tags.
- (c) Dog owners/handlers assume all risks for injury or loss of any kind to themselves and their dogs.
- (d) Dog owners/handlers are legally responsible for any damage caused by the dog.
- (e) Dogs must be on a leash and under control at all times outside the fenced area.
- (f) Owners/handlers must carry a leash at all times and closely supervise their dogs. At no time may the owner/handler exit the fenced area without his/her dog(s).
- (g) Only people with dogs are permitted in the fenced area.

- (h) Each owner/handler must be above the age of 13 and shall not supervise more than two dogs while in the park.
- (i) Excessive barking is prohibited; dogs barking excessively must be removed.
- (j) Dogs exhibiting aggressive behavior are to be removed immediately.
- (k) Any waste left by the dog must be picked up immediately and properly disposed of in the containers provided. Owners/handlers may bring use old grocery sacks/bags.
- (l) Owners/custodians must fill any holes created by their dogs and report any observations of gaps or weaknesses in the boundary fencing to the Parks and Recreation Department.
- (m) No human or dog food, including treats, are allowed in the park for any reason.
- (n) Prohibited from entering the park are dogs with sickness, female dogs in heat, puppies under four months of age and all other domestic animals.
- (o) Smoking is strictly prohibited in the park.

§4.03. Infraction of the rules as stated in §4.02 may result in temporary or permanent loss of park privileges. All other state and local laws apply.

Section 5. Dates.

Introduction 11/24/14

Adoption (Projected) 12/08/14

Attached you will find the Final copy of the "Floodplain Ordinance," Chapter 130. This ordinance has been reviewed by Gary Norris, Gregory Williams (DNREC), and Rebecca Quinn, (CFC from RCQuinn Consulting, Inc.) for compliance. After adoption, please send a finalized copy to Rebecca Quinn (*see correspondence below*)

In addition, I must also make two changes to Chapter 88, Building Code. (also attached).

Thank You,

Don Williams

Donald Williams
Building Inspector, City of Milford
dwilliams@milford-de.gov
302.422.6616 Ext 176
302.424-3559 (Fax)

Don,

No comments on the Chapter 88 changes, which modify the building code and residential code to reference Chapter 130 Floodplain Management for FIRMs. Attached is your final draft ready to accept all changes. I've renumbered it for you. Related to your deciding to use BFE + 18" there is a question about Zone AO. Call if my note isn't clear.

This is now ready for adoption. Please let me know your reading dates so DNREC can include them in a status report to FEMA.

Also, after adoption please scan the fully executed ordinance and send it to me. I prepare the approval package for DNREC to send to FEMA.

Rebecca C. Quinn, CFM
RCQuinn Consulting, Inc.
104 4th St NE #2
Charlottesville VA 22902
434-296-1349 (voice)
443-398-5005 (cell)
320-514-3513 (FAX)

Chapter 130
FLOODPLAIN MANAGEMENT

ARTICLE I
General Provisions

- § 130-1. Intent.
- § 130-2. Abrogation and greater restrictions.
- § 130-3. Applicability.
- § 130-4. Definitions.

ARTICLE II
Establishment of Floodplain Area

- § 130-5. Identification.
- § 130-6. Description.
- § 130-7. Changes in delineation of area.
- § 130-8. Boundary disputes.

ARTICLE III
Utilization of Floodplain Area

- § 130-9. Permitted uses.
- § 130-10. Encroachments.
- § 130-11. Alteration or relocation of watercourse.

ARTICLE IV
Criteria for Building and Site Plan Approval

- § 130-12. Building permit required.
- § 130-13. Basic permit format.

- § 130-14. Elevation and floodproofing information.
- § 130-15. Site plan criteria.

ARTICLE V
Specific Requirements

- § 130-16. Design and construction standards.

ARTICLE VI
Administration

- § 130-17. Permit and site plan approval required.
- § 130-18. Approval of permits and plans; records.
- § 130-19. Application procedures.
- § 130-20. Consent required for changes.
- § 130-21. Placards.
- § 130-22. Start of construction.
- § 130-23. Inspections; revocation of permit.
- § 130-24. Fees.

ARTICLE VII
Appeals and Penalties

- § 130-25. Appeals.
- § 130-26. Appeal review criteria.
- § 130-27. Violations and penalties.

[HISTORY: Adopted by the City Council of the City of Milford 9-14-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 88.
Subdivision of land — See Ch. 200.

Zoning — See Ch. 230.

ARTICLE I
General Provisions

§ 130-1. Intent.

The intent of this chapter is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health and safety by protecting water supply, sanitary sewage disposal and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units and its residents by preventing the unwise design and construction of development in areas subject to flooding.

§ 130-2. Abrogation and greater restrictions.

This chapter supersedes any ordinances currently in effect in flood-prone areas. However, any ordinance shall remain in full force and effect to the extent that its provisions are more restrictive.

§ 130-3. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken any development or the new construction, substantial improvement, placement or relocation of any structure (including manufactured homes) within the floodplain area unless a permit has been obtained from the Code Official. Additionally, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Code Official prior to any such development.
- B. Provisions of all other codes, ordinances and regulations shall be applicable insofar as they are consistent with the provisions of this chapter and the community's need to minimize the hazards and damage resulting from flooding.

§ 130-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BASE FLOOD — The flood which has been selected to serve as the basis upon which the floodplain management provisions of this chapter and other ordinances have been prepared; for purposes of this chapter, the one-hundred-year flood.

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed before the effective date of this chapter.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

FLOOD — A general and temporary inundation of normally dry land areas.

FLOODPLAIN:

- A. A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation.
- B. An area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

HISTORIC STRUCTURE — Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior; or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

MANUFACTURED HOME — 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.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — Structures for which the start of construction, as herein defined, commenced on or after September 14, 1992, and includes any subsequent improvements to such structures. [**Amended 6-12-1995**]

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) is completed on or after September 14, 1992. [**Amended 6-12-1995**]

ONE-HUNDRED-YEAR FLOOD — A flood that has one chance in 100 or a one-percent chance of being equaled or exceeded in any given year.

PERSON — Any individual or group of individuals, corporation, partnership, association or other entity, including state and local governments and agencies.

PRINCIPALLY ABOVE GROUND — Where at least 51% of the actual cash value of a structure, less land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is built on a single chassis, 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 as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

START OF CONSTRUCTION — For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub. Law 97-348, includes substantial improvements and means the date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date.

- A. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pipes, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include

the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure.

- B. 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.

STRUCTURE — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- B. Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

ARTICLE II

Establishment of Floodplain Area

§ 130-5. Identification.

The identified floodplain area shall be those areas of the City of Milford which are subject to the one-hundred-year flood, as shown on the Floodway Map or Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the City of Milford by the Federal Emergency Management Agency (FEMA) dated July 14, 1978, or the most recent revision thereof.

§ 130-6. Description.

The identified floodplain area shall consist of the following three specific areas:

- A. The floodway area shall be those areas identified as such in the FIS and as shown on the Floodway Map or FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in Subsection C below.
- B. The floodway fringe area shall be those areas for which specific one-hundred-year-flood elevations have been provided in the FIS but which lie beyond the floodway area. These areas are shown on the Floodway Map or FIRM.

- C. The approximated area shall be those areas identified as an A Zone on the Floodway Map or FIRM included in the FIS prepared by FEMA and for which no one-hundred-year-flood elevations have been provided. For these areas, elevation and floodway information from other federal, state or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The City of Milford may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the City of Milford.

§ 130-7. Changes in delineation of area.

The delineation of the identified floodplain area may be revised by the City of Milford where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the United States Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

§ 130-8. Boundary disputes.

Should a dispute concerning any district boundary arise, an initial determination shall be made by the permit officer, and any party aggrieved by this decision may appeal to the Board of Appeals. The burden of proof shall be on the appellant.

ARTICLE III
Utilization of Floodplain Area

§ 130-9. Permitted uses.

In the floodplain area any development and/or use of land may be permitted, provided that all such uses, activities and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

§ 130-10. Encroachments.

Within any floodway area, no encroachments, including fill, new construction, substantial improvements or other development, shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the base flood elevation.

§ 130-11. Alteration or relocation of watercourse.

Whenever a developer intends to alter or relocate a watercourse within the floodplain area, the developer shall notify, in writing, by certified mail, all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure the City of Milford, in writing, that the flood-carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

ARTICLE IV

Criteria for Building and Site Plan Approval**§ 130-12. Building permit required.**

Building permits are required in order to determine whether all new construction or substantial improvements are:

- A. Designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Constructed with materials and utility equipment resistant to flood damage.
- C. Constructed by methods and practices that minimize flood damage.
- D. Constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

§ 130-13. Basic permit format.

The basic format of the building permit shall include the following:

- A. Name and address of the applicant.
- B. Name and address of the owner of the land on which proposed construction is to occur.
- C. Name and address of the contractor.
- D. Site location.
- E. A brief description of the proposed work and estimated cost.
- F. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

§ 130-14. Elevation and floodproofing information.

Depending on the type of structure involved, the following information shall also be included with the application for development within the floodplain area:

- A. For structures to be elevated to the base flood elevation:

- (1) A plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
 - (2) A determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a registered professional engineer, surveyor or architect.
 - (3) Plans showing the method of elevating the proposed structure, which includes details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the permit officer, these plans shall be prepared by a registered professional engineer or architect.
 - (4) Plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the base flood elevation at the building site.
- B. For structures to be floodproofed to the base flood elevation (nonresidential structures only):
- (1) Plans showing details of all floodproofing measures, prepared by a registered professional engineer or architect and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
 - (2) A determination of elevations of existing ground, proposed finished ground, lowest floor and floodproofing limits, certified by a registered professional engineer, surveyor or architect.
 - (3) A certificate prepared by the registered professional engineer or architect who prepared the plans in Subsection B(1) above that the structure in question, together with attendant utility and sanitary facilities, is designed so that:
 - (a) Below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water.
 - (b) The structure will withstand the hydrostatic, hydrodynamic, buoyant, impact and other forces resulting from the flood depths, velocities, pressures and other factors associated with the base flood.

§ 130-15. Site plan criteria.

The owner or developer of any proposed subdivision, manufactured home park or subdivision or other development shall submit a site plan to the permit officer which includes the following information:

- A. Name of engineer, surveyor or other qualified person responsible for providing the information required in this section.
- B. A map showing the location of the proposed subdivision and/or development with respect to the municipality's floodplain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five acres, whichever is the lesser, shall include base flood elevation data.

- C. Where the subdivision and/or development lies partially or completely in the floodplain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two feet or five feet, depending upon the slope of the land, and identify accurately the boundaries of the floodplain areas.

ARTICLE V
Specific Requirements

§ 130-16. Design and construction standards.

In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks and new construction and to construction of substantial improvements to existing structures occurring in the floodplain area.

A. Basements and lowest floors.

- (1) All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated one foot above the base flood elevation.
- (2) All new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is floodproofed in accordance with § 130-14B.
- (3) For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (b) The bottom of all openings shall be no higher than one foot above grade.
 - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Manufactured home placement.

- (1) Manufactured homes to be placed or substantially improved within any floodplain area on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or in an existing manufactured home park or subdivision in which a

manufactured home has incurred substantial damage, as defined herein, as the result of a flood shall:

- (a) Be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated one foot above the base flood elevation; and
 - (b) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (2) Manufactured homes to be placed or substantially improved within any floodplain area in an existing manufactured home park or subdivision and not subject to the provisions of Subsection B(1) shall be elevated so that either:
- (a) The lowest floor of the manufactured home is at or above the base flood elevation; or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored concrete foundation system to resist flotation, collapse and lateral movement.
- C. Recreational vehicle placement. Recreational vehicles to be placed within any floodplain area shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use or meet the provisions of Subsection B(1) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions. All recreational vehicles shall be utilized only within an approved state park area.
- D. Fill. If fill is used to raise the finished surface of the lowest floor to the base flood elevation:
- (1) Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally 15 feet beyond the building line from all points. For nonresidential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally 15 feet beyond the building line, shall be provided to a minimum of 25% of the perimeter of a nonresidential structure.
 - (2) Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted.
 - (3) Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.
 - (4) Fill slopes shall be no steeper than one vertical on two horizontal, unless substantiating data justifying steeper slopes is submitted to and approved by the permit officer.
 - (5) Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

- E. Placement of buildings. All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of floodwater.
- F. Anchoring.
- (1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse. All such anchoring shall be designed by an architect certified by the State of Delaware.
 - (2) All air ducts, large pipes and storage tanks located at or below the base flood elevation shall be firmly anchored to resist flotation.
 - (3) All manufactured homes shall be anchored to resist flotation, collapse or lateral movement.
 - (a) Methods of anchoring may include but are not limited to over-the-top and frame ties to ground anchors, such as the following:
 - [1] Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side, which shall be located at the midpoint of the unit's length.
 - [2] Frame ties shall be provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - [3] All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - [4] Any additions to a manufactured home shall be similarly anchored. Determination of said anchoring shall be by the Code Official.
 - (b) This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- G. Storage. No materials that are buoyant, flammable, explosive or in times of flooding could be injurious to human, animal or plant life shall be stored below base flood elevation.
- H. Utility and facility requirements.
- (1) All new or replacement water systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
 - (2) All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
 - (3) All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

I. Drainage. Adequate drainage shall be provided to reduce exposure to flood hazard.

ARTICLE VI Administration

§ 130-17. Permit and site plan approval required.

It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken any development or the new construction, substantial improvement, placement or relocation of any structure (including manufactured homes) within the floodplain area unless a permit has been obtained from the Code Official. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to and approved by the Code Official prior to any such development.

§ 130-18. Approval of permits and plans; records.

- A. All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the state and all other applicable codes and ordinances.
- B. The Code Official shall require copies of all necessary permits from those governmental agencies from which approval is required by federal or state law.
- C. A record of all information supplied to the Code Official shall be kept on file by the Code Official.

§ 130-19. Application procedures.

Application for building permit and site plan approvals shall be made, in writing, to the Code Official and shall include all information stipulated under Article IV of this chapter.

§ 130-20. Consent required for changes.

After the issuance of a building permit or site plan approval by the Code Official, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Code Official.

§ 130-21. Placards.

In addition to the building permit, the Code Official shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit and the date of its issuance and be signed by the Code Official.

§ 130-22. Start of construction.

Work on the proposed construction shall begin within six months after the date of issuance of the building permit or the permit shall expire, unless a time extension is granted, in writing, by the Code Official.

§ 130-23. Inspections; revocation of permit.

During the construction period, the Code Official or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event that the Code Official discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Code Official shall revoke the building permit and report such fact to the City of Milford for whatever action it considers necessary.

§ 130-24. Fees.

Application for a building permit shall be accompanied by a fee, payable to the City of Milford, as per the fee structure set forth by the City of Milford Building Code (1987 BOCA Building Code, adopted February 13, 1989).¹ Said fees shall, from time to time, be changed by action of the Milford City Council.

ARTICLE VII
Appeals and Penalties

§ 130-25. Appeals.

Whenever any person is aggrieved by a decision of the Code Official regarding the provision(s) of this chapter, it is the right of that person to appeal to the Board of Appeals (also referred to as the "appeals authority"). Such appeal must be filed, in writing, within 30 days after the determination of the Code Official. Said application shall also be accompanied by a filing fee of \$100, payable to the City of Milford. Upon receipt of said appeal, the appeals authority shall set a time and place for such hearing of not less than 21 nor more than 40 days from the date of application. Notice of dates and location of said meeting shall be given to all parties, at which time they may appear and be heard. The determination of the appeals authority shall be final in all cases.

§ 130-26. Appeal review criteria.

All appeals contesting only the permit fee established by the Code Official may be handled at the discretion of the appeals authority. All decisions on appeals to all other provisions of this chapter shall adhere to the following criteria:

¹ Editor's Note: The provisions of the 1987 BOCA Building Code have been replaced by those of the 1993 BOCA Building Code. See Ch. 88, Building Construction, of this Code.

- A. Affirmative decisions shall only be issued by the appeals authority upon a showing of good and sufficient cause, a determination that failure to grant the appeal would result in exceptional hardship to the applicant and a determination that the granting of an appeal will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- B. An affirmative decision shall be issued only upon a determination that it is the minimum necessary, considering the flood hazard, to afford relief.
- C. An affirmative decision may be issued for the repair or rehabilitation of historic structures only upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. The appeals authority shall notify the applicant, in writing, over the signature of a community official, that the issuance of a decision to allow construction of a structure below the base flood elevation will result in increased premium rates for flood insurance and such construction below the base flood elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in Subsection E of this section.
- E. The appeals authority shall maintain a record of all decisions, including justification for their issuance, and report such decisions issued in its biennial report submitted to the Federal Insurance Administration.
- F. An affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the base flood elevation.

§ 130-27. Violations and penalties.²

Any person who fails to comply with any or all of the requirements or provisions of this chapter or direction of the Code Official or any other authorized employee of the community shall be guilty of an offense and, upon conviction, shall pay a fine of not less than \$50 nor more than \$500 plus cost of prosecution. Each day during which any violation of this chapter continues shall constitute a separate offense. In addition to the above penalties, all other actions are reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or noncompliance with this chapter or permit it to continue, and all such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter may be declared by the City of Milford to be a public nuisance and abatable as such.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



FEMA

DEC 01 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Carmean
Milford City Manager
201 South Walnut Street
Milford, Delaware 19963

Dear Mr. Carmean:

I commend you for the efforts that have been put forth in implementing the floodplain management measures for the City of Milford, Delaware, to participate in the National Flood Insurance Program (NFIP). As you implement these measures, I want to emphasize the following:

- a Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been completed for your community;
- the FIS and FIRM will become effective on March 16, 2015; and
- by the FIS and FIRM effective date, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office is required to approve the legally enforceable floodplain management measures your community adopts in accordance with Title 44 Code of Federal Regulations Section 60.3(d).

As noted in FEMA's letter dated September 16, 2014, no significant changes have been made to the flood hazard data on the Preliminary and/or revised Preliminary copies of the FIRM for Sussex County. Therefore, the City of Milford should use the Preliminary and/or revised Preliminary copies of the FIRM as the basis for adopting the required floodplain management measures. Final printed copies of the FIRM for the City of Milford will be sent to you within the next few months.

If you encounter difficulties in enacting the measures, I recommend you contact the Delaware Department of Natural Resources. You may contact Michael Powell, CFM, or Greg Williams, CFM, the NFIP State Coordinators, by telephone at (302) 739-9921, in writing at 89 Kings Highway, Dover, Delaware 19901, or by electronic mail at michael.powell@state.de.us or gregory.williams@state.de.us.

The FEMA Regional staff in Philadelphia, Pennsylvania, is also available to provide technical assistance and guidance in the development of floodplain management measures. The adoption of compliant floodplain management measures will provide protection for the City of Milford and will ensure its participation in the NFIP. The Regional Office may be contacted by telephone at (215) 931-5500 or in writing. Please send your written inquiries to the Director, Federal Insurance

Richard Carmean

DEC 01 2014

Page 2

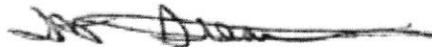
and Mitigation Division, FEMA Region III, at 615 Chestnut Street, One Independence Mall, Sixth Floor, Philadelphia, Pennsylvania 19106-4404.

The NFIP State Coordinating Office for your State has verified that Delaware communities may include language in their floodplain management measures that automatically adopt the most recently available flood elevation data provided by FEMA. Your community's floodplain management measures may already be sufficient if the measures include suitable automatic adoption language and are otherwise in accordance with the minimum requirements of the NFIP. The NFIP State Coordinator can assist you further in clarifying questions you may have about automatic adoption.

You may have already contacted the NFIP State Coordinator and/or the FEMA Regional Office, and may be in the final adoption process or recently adopted the appropriate measures. However, in the event your community has not adopted the appropriate measures, this letter is FEMA's official notification that you only have until March 16, 2015, to adopt and/or submit a floodplain management ordinance that meets or exceeds the minimum NFIP requirements, and request approval from the FEMA Regional Office by the effective date. Your community's adopted measures will be reviewed upon receipt and the FEMA Regional Office will notify you when the measures are approved.

I appreciate your cooperation to ensure that your community's floodplain management measures are approved by the FEMA Regional Office by March 16, 2015. Your compliance with these mandatory program requirements will enable your community to avoid suspension from the NFIP.

Sincerely,



David H. Stearrett, CFM, Chief
Floodplain Management Branch
Federal Insurance and Mitigation Administration

cc: MaryAnn Tierney, Regional Administrator, FEMA Region III
Michael Powell, CFM, and Greg Williams, CFM, NFIP State Coordinators, Delaware
Department of Natural Resources
Christine Crouch, Executive Assistant and Deputy City Clerk, City of Milford

FLOODPLAIN MANAGEMENT ORDINANCE
CHAPTER 130/ORDINANCE NO. 2014-16

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AMENDING THE CITY OF MILFORD CODE OF ORDINANCES TO REPEAL CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT A NEW CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT ADMINISTRATIVE PROCEDURES, AND TO ADOPT CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO PROVIDE FOR APPLICABILITY; REPEALER; AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Milford has the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Milford and such areas may be 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, and

WHEREAS, the City of Milford was accepted for participation in the National Flood Insurance Program on June 1, 1977 and the City Council of the City of Milford desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Milford, Delaware, that the following floodplain management regulations are hereby adopted.

SECTION 1. Chapter 130 of the Code of the City of Milford is hereby repealed.

SECTION 2. The City of the City of Milford is hereby amended by adding a new Chapter 130 entitled Floodplain Management to read as follows:

ARTICLE I - GENERAL PROVISIONS

§ 130-1. Findings.

The Federal Emergency Management Agency (FEMA) has identified special flood hazard areas within the boundaries of the City of Milford. 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 the flood loss.

The City of Milford, by resolution, agreed to meet the requirements of the National Flood Insurance Program and was accepted for participation in the program on June 1, 1977. Subsequent to that date or the initial effective date of the City of Milford Flood Insurance Rate Map, all development and new construction as defined herein, are to be compliant with the City of Milford'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.

§ 130-2. Statement of Purpose.

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

- (A) Protect human life, health and welfare;
- (B) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;
- (C) Minimize flooding of water supply and sanitary sewage disposal systems;
- (D) Maintain natural drainage;
- (E) 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;
- (F) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (G) Minimize prolonged business interruptions;
- (H) Minimize damage to public facilities and other utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
- (I) Reinforce that those who build in and occupy special flood hazard areas should assume responsibility for their actions;
- (J) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (K) Provide that the flood storage and conveyance functions of the floodplain are maintained;
- (L) Minimize the impact of development on the natural and beneficial functions of the floodplain;
- (M) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (N) 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.

§ 130-3. Areas to Which These Regulations Apply.

These regulations shall apply to all special flood hazard areas within the jurisdiction of the City of Milford, as identified in § 130-4.

§ 130-4. Basis for Establishing Special Flood Hazard Areas.

For the purposes of these regulations, 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 Sussex County, Delaware and Incorporated Areas dated March 16, 2015 and all subsequent amendments and/or the most recent revision thereof.
- (B) The FEMA Flood Insurance Rate Map for Sussex County, Delaware and Incorporated Areas dated March 16, 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 100-year floodplains, floodways or other areas of special flood hazard.
- (D) The City of Milford 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.

Maps and studies that establish special flood hazard areas are on file at Milford City Hall, 201 South Walnut Street, Milford DE 19963.

§ 130-5. Abrogation and Greater Restrictions.

These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but the land subject to such interests shall also be governed by these regulations.

§ 130-6. Interpretation.

In the interpretation and application of these regulations, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body;
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes; and
- (D) 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.

§ 130-7. 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 the City of Milford, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

§ 130-8. Severability.

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE II - DEFINITIONS

§ 130-9. Definitions.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

Accessory Structure: A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Area of Shallow Flooding: A designated Zone AO on a community's Flood Insurance Rate Map with a one percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year; the base flood also is referred to as the 100-year flood (or the 1%-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 water surface elevation of the base flood in relation to the datum specified on the community's Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least 2 feet if the depth number is not specified.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

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.

Dry Floodproofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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.

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 TBs are identified.

Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters, and/or
- (2) 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 Insurance Rate Map (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 1% annual chance flood; base flood elevations are not determined.

Zone AE: Special flood hazard areas subject to inundation by the 1% 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 500-year flood (0.2% annual chance); areas subject to the 1% annual chance flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone X (unshaded): Areas determined to be outside the 1% annual chance flood and outside the 500-year floodplain.

Zone VE: Special flood hazard areas subject to inundation by the 1% 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 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 in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations.

Floodplain: Any land area susceptible to being inundated by water from any source (see “Flood” or “Flooding”).

Floodproofing Certificate: The *National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structures* (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 no more than a designated height.

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.

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.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

- (1) Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

Hydrologic and Hydraulic Engineering Analysis: An analysis performed by a professional engineer, licensed in the State of Delaware, in accordance with standard engineering practices as accepted by FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

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 area. 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 elevations, floodplain and floodway delineations, 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 flood 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.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

Manufactured Home: 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".

New Construction: Buildings and structures for which the "start of construction" commenced on or after June 1, 1977, including any subsequent improvements to such structures.

Person: An individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

Recreational Vehicle: A vehicle which is built on a single chassis, 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 as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area: The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AO, and Zone VE. The term includes areas shown on other flood hazard maps that are specifically listed or otherwise described in § 130-4.

Start of Construction: The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not

include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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.

Structure (or Building): For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Violation: The failure of a structure or other development to be fully compliant with the community's flood plain 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.

ARTICLE III - ADMINISTRATION

§ 130-10. Designation of the Floodplain Administrator.

The Building Inspector is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. The Floodplain Administrator is authorized to: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) 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.

§ 130-11. Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (A) Review applications for permits to determine whether proposed activities will be located in special flood hazard areas.
- (B) Interpret floodplain boundaries and provide flood elevation and flood hazard information.
- (C) Review applications to determine whether proposed activities will be reasonably safe from flooding.
- (D) 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.
- (E) 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.

- (F) 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.
- (G) Inspect buildings and lands to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.
- (H) Review submitted Elevation Certificates for completeness.
- (I) Submit to FEMA data and information necessary to maintain flood hazard maps, including hydrologic and hydraulic engineering analyses prepared by or for the City of Milford, corrections to labeling or planimetric details, etc.
- (J) 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.
- (K) Enforce the provisions of these regulations.
- (L) Assist with and coordinate flood hazard map maintenance activities.
- (M) Conduct determinations as to whether existing buildings and structures damaged by any cause and located in special flood hazard areas, have been substantially damaged.
- (N) 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.
- (O) 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.
- (P) Notify the Federal Emergency Management Agency when the corporate boundaries of the City of Milford have been modified.

§ 130-12. Permits Required.

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, as established in § 130-4, including but not limited to: subdivision of land, filling, grading, or other site improvements and utility installations; construction, alteration, remodeling, improvement, replacement, reconstruction, repair, relocation, or expansion of any building or structure; 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 City of Milford. No such permit shall be issued until the requirements of these regulations have been met.

§ 130-13. 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. The application shall be on a form furnished for that purpose.

(A) Application Contents.

At a minimum, applications shall include:

- (1) Site plans drawn to scale showing the nature, location, dimensions, existing and proposed topography of the area in question, the limits of any portion of the site that was previously filled, and the location of existing and proposed structures, excavation, filling, storage of materials, drainage facilities, and other proposed activities.
- (2) Elevation of the existing natural ground where structures are proposed, referenced to the datum on the Flood Insurance Rate Map, and an Elevation Certificate that shows the ground elevation and proposed building elevations (identified in Section C of the Elevation Certificate as “Construction Drawings”).
- (3) Delineation of special flood hazard areas, floodway boundaries, flood zones, and base flood elevations. Where surveyed natural ground elevations are lower than the base flood elevations, base flood elevations shall be used to delineate the boundary of special flood hazard areas. If proposed, changes in the delineation of special flood hazard areas shall be submitted to and approved by FEMA in accordance with Section § 130-13(B). Where special flood hazard areas are not delineated or base flood elevations are not shown on the flood hazard maps, the Floodplain Administrator has the authority to require the applicant to use information provided by the Floodplain Administrator, information that is available from other sources, or to determine such information using accepted engineering practices.
- (4) For subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, and where base flood elevations are not shown on Flood Insurance Rate Maps, hydrologic and hydraulic engineering analyses and studies as required by § 130-19(D).
- (5) Such other material and information as may be requested by the Floodplain Administrator necessary to determine conformance with these regulations.
- (6) For work on an existing structure, including any improvement, addition, repairs, alterations, rehabilitation, or reconstruction, sufficient information to determine if the work constitutes substantial improvement, including:
 - (a) Documentation of the market value of the structure before the improvement is started or before the damage occurred.
 - (b) Documentation of the actual cash value of all proposed improvement work, or the actual cash value of all work necessary to repair and restore damage to the before damaged condition, regardless of the amount of work that will be performed.
- (7) Certifications and/or technical analyses prepared or conducted by an appropriate design professional licensed in the State of Delaware, as appropriate to the type of development activity proposed and required by these regulations:
 - (a) Floodproofing Certificate for dry floodproofed non-residential structures, as required in § 130-28.
 - (b) Certification that flood openings that do not meet the minimum requirements of § 130-27(B)(3)(b) are designed to automatically equalize hydrostatic flood forces.
 - (c) Technical analyses to document that the flood carrying capacity of any watercourse alteration or relocation will not be diminished and documentation of maintenance assurances as required in § 130-30(C).
 - (d) Hydrologic and hydraulic engineering analyses demonstrating that the

cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but has not delineated a floodway, as required by § 130-30(B).

- (e) Hydrologic and hydraulic engineering analyses of any development proposed to be located in an identified floodway, as required by § 130-30(A).
- (f) Hydrologic and hydraulic engineering analyses to develop base flood elevations for subdivisions and large-lot developments, as required by § 130-19(D) or otherwise required by the Floodplain Administrator.

(B) 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.

(C) 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.

§ 130-14. Review, Approval or Disapproval.

(A) 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 information required in § 130-13 or identified and required by 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:
 - (a) 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 Delaware Environmental Protection Agency under Section 401 of the Clean Water Act.
 - (b) Permits required by the State of Delaware.

(B) Approval or Disapproval.

The Floodplain Administrator shall approve applications that comply with the applicable requirements of these regulations. 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.

(C) Expiration of Permit.

A permit is valid provided the actual start of construction occurs within 180 days of the date of permit issuance. If the actual start of construction is not within 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 180 days each.

§ 130-15. 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. 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.

§ 130-16. 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).
- (C) For all development activities subject to the requirements of § 130-13(B), a Letter of Map Revision shall be provided.

§ 130-17. 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 elevation 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.

ARTICLE IV - REQUIREMENTS IN ALL SPECIAL FLOOD HAZARD AREAS

§ 130-18. Application of Requirements.

The general requirements of this section apply to all development proposed within special flood hazard areas identified in § 130-4.

§ 130-19. Subdivisions and Developments.

- (A) All subdivision and development proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (B) 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.
- (C) All subdivision and developments proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (D) All subdivision proposals and development proposals containing at least 50 lots or at least 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.

§ 130-20. Protection of Water Supply and Sanitary Sewage Systems.

- (A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharges from systems into floodwaters.
- (C) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during conditions of flooding.

§ 130-21. 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 meet the following requirements.

- (A) Be designed (or modified) and constructed to safely resist flood loads. The construction shall provide a complete load path capable of transferring all loads from their point of origin through the load-resisting elements to the foundation. Buildings and structures shall be designed, connected and anchored to resist flotation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the base flood elevation, including hydrodynamic and hydrostatic loads and the effects of

buoyancy.

- (B) Be constructed by methods and practices that minimize flood damage.
- (C) Use flood damage-resistant materials below the elevation of the lowest floor. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant Materials Requirements* and FEMA Technical Bulletin #8 – *Corrosion Protection for Metal Connectors in Coastal Areas*.
- (D) Have electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment located at or above the base flood elevation plus 18". Electrical wiring systems are permitted to be located below the elevation of the lowest floor provided they conform to the provisions of the electrical part of this code for wet locations. If replaced as part of a substantial improvement, electrical systems, equipment and components, and heating, ventilation, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment shall meet the requirements of this section. See FEMA Technical Bulletin #4 – *Elevator Installation*.
- (E) As an alternative to § 130-21(D), electrical systems, equipment and components, and heating, ventilating, air conditioning, and plumbing appliances, plumbing fixtures, duct systems, and other service equipment are permitted to be located below the elevation of the lowest floor provided that they are designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of the base flood.
- (F) Meet the specific requirements of Article V.
- (G) In a special flood hazard area with more than one designation (Zones A, AE, and AO, floodway), meet the requirements of the most restrictive designation.

§ 130-22. Fill.

- (A) Disposal of fill, including but not limited to rubble, construction debris, woody debris, and trash, shall not be permitted in special flood hazard areas.
- (B) Where permitted by Article V (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:
 - (1) 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.
 - (2) Placed and compacted to provide for stability under conditions of rising and falling floodwaters and resistance to erosion, scour, and settling.
 - (3) Consist of soil or rock materials only.
 - (4) Sloped no steeper than one (1) vertical on two (2) horizontal, unless approved by the Floodplain Administrator.
 - (5) Designed with provisions for adequate drainage and no adverse effect on adjacent properties.
- (C) Fill placed for a purpose other than to support a building or structure shall meet the requirements of § 130-22(B)(2) through (B)(5).

§ 130-23. Historic Structures.

Repair, alteration, or rehabilitation of historic structures shall be subject to the requirements of these regulations unless a determination is made that compliance with these regulations will preclude the structure's continued designation as a historic structure and a variance is granted in accordance with

Article VI and such variance is the minimum necessary to preserve the historic character and design of the structure.

§ 130-24. Recreational Vehicles.

- (A) 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 180 consecutive days.
- (B) Recreational vehicles that are not fully licensed and ready for highway use, or that are to be placed on a site for more than 180 consecutive days, shall meet the requirements of § 130-27(C) for manufactured homes.

§ 130-25. Gas or Liquid Storage Tanks.

- (A) 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.
- (B) Above-ground tanks in special flood hazard areas shall be elevated and anchored to or above the base flood elevation plus 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.
- (C) In special flood hazard areas, tank inlets, fill openings, outlets and vents shall be:
 - (1) 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.
 - (2) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

ARTICLE V - SPECIFIC REQUIREMENTS IN SPECIAL FLOOD HAZARD AREAS

§ 130-26. General Requirements.

In addition to the general requirements of Article IV, the requirements of this section apply to all development proposed in special flood hazard areas.

§ 130-27. Residential Structures and Residential Portions of Mixed Use Structures.

(A) Elevation Requirements

- (1) The lowest floor (including basement) shall be elevated to or above the base flood elevation plus 18 inches.
- (2) In areas of shallow flooding (Zone AO), the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 3.5 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.
- (3) Enclosures below the lowest floor shall meet the requirements of § 130-27(B).

(B) Enclosures Below the Lowest Floor

- (1) Enclosures below the lowest floor shall be used solely for parking of vehicles, building access, crawlspaces, or limited storage.
- (2) Enclosures below the lowest floor shall be constructed using flood damage-resistant materials. See FEMA Technical Bulletin #2 – *Flood Damage-Resistant*

Materials Requirements.

- (3) Enclosures below the lowest floor (including crawlspaces) shall be provided with flood openings which shall meet the following criteria (see FEMA Technical Bulletin #1 – *Openings in Foundation Walls and Walls of Enclosures*):
 - (a) There shall be a minimum of two openings on different sides of each enclosed area; if a building has more than one enclosed area below the base flood elevation, each area shall have openings on exterior walls.
 - (b) The total net area of all openings shall be at least 1 square inch for each square foot of enclosed area, or the openings shall be designed and certified by a registered engineer or architect to provide for equalization of hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwaters.
 - (c) The bottom of each opening shall be 1 foot or less above the adjacent ground level.
 - (d) Any louvers, screens or other opening covers shall allow the automatic flow of floodwaters into and out of the enclosed area.
 - (e) Where installed in doors and windows, openings that meet requirements of § 130-27(B)(3)(a) through (d), are acceptable; however, doors and windows without installed openings do not meet the requirements of this section.
- (4) Crawlspaces shall have the finished interior ground level equal to or higher than the outside finished ground level on at least one entire side of the foundation wall.

(C) **Manufactured Homes**

New or replacement manufactured homes, including substantial improvement of existing manufactured homes, shall:

- (1) Be elevated on a permanent, reinforced foundation that raises the lowest floor to or above the base flood elevation plus 18 inches and is otherwise in accordance with § 130-27(A).
- (2) Be installed in accordance with the anchor and tie-down requirements of the building code or the manufacturer's written installation instructions and specifications.
- (3) Have enclosures below the elevated manufactured home, if any, meet the requirements of § 130-27(B).

For the purpose of this requirement, the lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member of the lowest floor.

§ 130-28. **Nonresidential Structures and Nonresidential Portions of Mixed Use Structures.**

(A) **Elevation Requirements**

- (1) The lowest floor (including basement) shall be elevated to or above the base flood elevation plus 18 inches or the structure shall be dry floodproofed in accordance with § 130-28(B).
- (2) In areas of shallow flooding (Zone AO), if not dry floodproofed, the lowest floor (including basement) shall be elevated at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 3.5 feet if a depth number is not specified; adequate drainage paths shall be provided to guide floodwaters around and away from the structure.

- (3) Enclosures below the lowest floor, if not dry floodproofed, shall meet the requirements of § 130-27(B).

(B) Dry Floodproofing Requirements

Dry floodproofed structures, together with attendant utility and sanitary facilities, shall:

- (1) Be designed to be dry floodproofed such that the structure is watertight with walls and floors substantially impermeable to the passage of water to the level of the base flood elevation plus 18 inches. In areas of shallow flooding (Zone AO), the structure shall be dry floodproofed at least as high above the highest adjacent grade as the depth number specified in feet on the Flood Insurance Rate Map plus 18 inches, or at least 3.5 feet if a depth number is not specified.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a licensed professional engineer or licensed professional architect with a Floodproofing Certificate, that the design and methods of construction meet the requirements of this section. Refer to FEMA Technical Bulletin #3 – *Non-Residential Floodproofing – Requirements and Certification* for guidance.

§ 130-29. Accessory Structures.

Accessory structures shall meet the requirements of these regulations. Accessory structures that have a footprint of no more than 200 square feet may be allowed without requiring elevation or floodproofing provided such structures meet all of the following requirements:

- (A) Useable only for parking or limited storage;
- (B) Constructed with flood damage-resistant materials below the base flood elevation;
- (C) Constructed and placed to offer the minimum resistance to the flow of flood waters;
- (D) Firmly anchored to prevent flotation, collapse, and lateral movement;
- (E) Electrical service and mechanical equipment elevated to or above the level of the base flood elevation plus 18 inches; and
- (F) Equipped with flood openings that meet the requirements of § 130-27(B).
- (G) For guidance, see FEMA Technical Bulletin #7 – *Wet Floodproofing Requirements*.

§ 130-30. Protection of Flood-Carrying Capacity.

(A) 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 unless it has been demonstrated through hydrologic and hydraulic engineering analysis that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Such technical data shall be submitted 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 activity:

- (1) Will not result in any increase in the base flood elevation; or
- (2) Will result in an increase in the base flood elevation, provided a Conditional Letter of Map Revision has been issued by FEMA and the applicant completes all of the following:

- (a) Submits technical data required in § 130-13(A)(8)(d);
- (b) Evaluates alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
- (c) Certifies that no structures are located in areas which would be impacted by the increased base flood elevation;
- (d) Documents that individual legal notices have been delivered to all impacted property owners to explain the impact of the proposed action on their properties;
- (e) Requests and receives concurrence of the Mayor of the City of Milford and the Chief Executive Officer of any other community impacted by the proposed actions; and
- (f) Notifies the Delaware Department of Natural Resources and Environmental Control (Division of Watershed Stewardship).

(B) 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 1.0 (one) foot at any point.

(C) 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 § 130-30(A) if the alteration is in a floodway or § 130-30(B) if the alteration is in a watercourse with base flood elevations but no floodway.
- (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 bankful 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 City of Milford 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.

ARTICLE VI - VARIANCES

§ 130-31. Variances.

The City of Milford's Board of Appeals shall have the power to authorize, in specific cases, such variances from the requirements of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(A) Application for a Variance

- (1) Any owner, or agent thereof, of property for which a variance is sought shall submit an application for a variance to the Floodplain Administrator.
- (2) 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 § 130-31(B) and the limitations and conditions of § 130-31(C).

(B) Considerations for Variances

In considering variance applications, the Board of Appeals shall consider and make findings of fact on all evaluations, all relevant factors, requirements specified in other sections of these regulations, and 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 Variances

- (1) An affirmative decision on a variance request shall only be issued upon:
 - (a) 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.
 - (b) A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property.
 - (c) Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 - (d) 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.
 - (e) 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.
 - (f) A determination that the structure or other development is protected by methods to minimize flood damages.
 - (g) A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (2) Upon consideration of the individual circumstances, the limitations and conditions, and the purposes of these regulations, the Board of Appeals may attach such conditions to variances as it deems necessary to further the purposes of these regulations.
- (3) The Board of Appeals 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 of these regulations only, and that the cost of federal flood insurance will be commensurate with the increased risk.

ARTICLE VII - ENFORCEMENT

§ 130-32. Compliance Required.

- (A) 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 permit shall be a violation of these regulations and shall be punishable in accordance with § 130-34.
- (C) 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.

§ 130-33. Notice of Violation.

Notices of violation shall be issued in accordance with the requirement of the building code (see Chapter 88).

§ 130-34. Violations and Penalties.

Violations and penalties shall be administered in accordance with the requirement of the building code (see Chapter 88).

SECTION 3. APPLICABILITY.

For the purposes of jurisdictional applicability, this ordinance shall apply in the City of Milford. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

SECTION 4. REPEALER.

Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 5. DATES.

Introduced: 11-10-2014

Adopted (Projected): 12-08-2014

Chapter 88

BUILDING CONSTRUCTION

- | | |
|---|---|
| <p style="text-align: center;">Article I</p> <p style="text-align: center;">International Residential Code</p> <p>§ 88-1. Adoption of code.</p> <p>§ 88-2. Additions, insertions and changes.</p> | <p>§ 88-8. Membership of the board.</p> <p>§ 88-8.1. Alternate members.</p> <p>§ 88-8.2. Chairman.</p> <p>§ 88-8.3. Disqualification of member.</p> <p>§ 88-8.4. Secretary.</p> <p>§ 88-8.5. Compensation of members.</p> <p>§ 88-9. Application for appeal.</p> <p>§ 88-9.1. Hearing fee.</p> <p>§ 88-10. Notice of meeting.</p> <p>§ 88-11. Open hearing.</p> <p>§ 88-11.1. Procedure.</p> <p>§ 88-12. Postponed hearing.</p> <p>§ 88-13. Board decision.</p> <p>§ 88-13.1. Records and copies.</p> <p>§ 88-13.2. Administration.</p> <p>§ 88-14. Court review.</p> <p>§ 88-15. Stays of enforcement.</p> |
| <p style="text-align: center;">Article II</p> <p style="text-align: center;">International Building Code</p> <p>§ 88-3. Adoption of code.</p> <p>§ 88-4. Additions, insertions and changes.</p> <p>§ 88-5. Reserved.</p> | |
| <p style="text-align: center;">Article III</p> <p style="text-align: center;">Board of Appeals</p> <p>§ 88-6. General.</p> <p>§ 88-7. Limitations on authority.</p> | |

[HISTORY: Adopted by the City Council of the City of Milford 10-22-2007 by Ord. No. 2007-10.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain management - See Ch. 130.
Property maintenance - See Ch. 174.

Residential rental operating licenses - See Ch. 180.
Zoning - See Ch. 230.

¹ Editor's Note: This ordinance also repealed former Ch. 88, Building Construction, adopted 6-12-1995, as amended.

ARTICLE I

International Residential Code**§ 88-1. Adoption of code.**

A certain document, three copies of which are on file in the office of the Building Inspector of the City of Milford, being marked and designated as the International Residential Code, 2006 edition, including Appendix Chapters G and J (see International Residential Code Section 101.2.1, 2006 edition), as published by the International Code Council, is hereby adopted as the Residential Code of the City of Milford, in the State of Delaware, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures are herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the Building Code on file in the office of the City of Milford are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 88-2 of this chapter.

§ 88-2. Additions, insertions and changes.

The following sections or portions are hereby revised as follows:

A. Chapter 1, Administration.

(1) Section R105, Permits.

- (a) Section R105.2, Work exempt from permit, is deleted in its entirety.
- (b) Add: **R105.5.1. Time limitation of permit.** A permit for any activity for which a permit is required shall be valid for one year from the date of issuance.
- (c) Add: **R105.5.2. Completion of construction.** All construction for which a building permit is required must be completed and pass final inspection within one year after issuance of a building permit. One extension of six months, accompanied by a renewal fee of a minimum of \$50 or 10% of the original building permit fee, whichever is greater, may, at the discretion of the Code Official, be granted.

(2) Add: **R106.3.1, Approval of construction documents.** Construction documents shall be approved, in writing or by a stamp which states "Approved plans per IRC section R106.3.1."

(3) Section R108, Fees.

- (a) Add: **R108.2.1. Fee schedule.** A fee for each plan examination, building permit and inspection(s) shall be fixed, from time to time, by City Council.

- (b) Add: **R108.6. Work commencing before permit.** Any person who commences any work on a building, structure, gas or mechanical system before obtaining the necessary permits shall be subject to an additional fee established by the building official that shall be in addition to the required permit fees.
- (c) Add: **R108.6.1. Violation fee.** When obtaining a building permit after the start of construction, the building permit fee shall be \$100 plus the permit fee or double the normal permit fee, whichever is less.

(4) Section R112, Board of Appeals.

Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, shall proceed as described in Article III of this Chapter.

(5) Add: **R113.4. Violation penalties.** Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Enforcement Official, or of a permit or certificate issued under the provisions set forth under this code shall be guilty of a misdemeanor, punishable by a fine of not more than \$500. Each day that a violation continues after due notice has been served shall be deemed as a separate offense.

(6) Add: **R114.3. 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 would be necessary to correct said violation(s) or unsafe conditions, shall be liable to a fine of not less than \$500.

(7) Add: **10.9.1.5.3. Waterproofing inspection.** A waterproofing inspection will be required for all dwelling units with basements. The inspection will be required before the basement walls are backfilled.

B. Chapter 2, Definitions. Adopt without changes.

C. Chapter 3, Building Planning.

(1) Add: TABLE R301.2(1)

Climatic And Geographic Design Criteria

Ground Snow Load	Wind Speed d (mph)	Seismic Design Category	Subject To Damage From			Winter Design Temp e	Ice Barrier Underlay-ment Required	Flood Hazards g	Air Freezing Index i	Mean Annual Temp j
			Weathering	Frost Line Depth b	Termite					
25	100	A	SEVERE	24 INCHES	MOD-HEAVY	14	NO	ADOPTED: 07/14/78 CURRENT: 01/06/05	368	55.71°

For SI: 1 pound per square foot = 0.0479kPa, 1 mile per hour = 0.447 m/s.

- a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weather column shall be filled in with the weathering index (i.e., "negligible," "moderate," or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C34, C44, C62, C73, C90, C129, C145, C216, or C652.
- b. The frost line depth may require deeper footings than indicated on Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.

- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
 - e. The outdoor design dry-bulb temperature shall be selected from the columns of 97:1/2-percent values for winter from Appendix D of the International Plumbing Code. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.
 - f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
 - g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the currently effective FIRM and FBFM, or other flood hazard map adopted by the community, as may be amended.
 - h. In accordance with Sections R905.2.7.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO".
 - i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99%) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32 degree Fahrenheit)" at www.ncdc.noaa.gov/fpsf.html.
 - j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index- USA Method (Base 32 degree Fahrenheit)" at www.ncdc.noaa.gov/fosf.html.
- (2) Section R311, Means of Egress. Add the following:
- (a) **R311.4.1. Exit door required.** Not less than two exit doors conforming to this section shall be provided for each single-family detached dwelling unit. The required exit door shall provide for direct access from the habitable portions of the dwelling to the exterior without requiring travel through a garage. Access to the habitable levels not having an exit in accordance with this section shall be by a ramp in accordance with Section R311.6 or a stairway in accordance with Section R311.5.
 - (b) **R.311.4.3.1. Landings at exit doors.** There shall be a floor or landing on each side of each exit door. The width of each landing shall not be less than the width of the door(s) served. If sliding glass or French doors are installed, the landing width should include the width of both doors (regardless if one panel is fixed or not). The minimum size of each landing shall not be less than 36 inches by 36 inches. Exception: Where; a stairway of two or fewer risers is located on the exterior side of a door, a landing is not required for the exterior side of the door.

- (c) **R311.5.1.1, Stairways required.** All exit doors should be served by a stairway (steps). Stairways shall not be less than 36 inches in clear width.

D. Chapter 4, Foundations.

- (1) Add: **R403.1.1.1. Minimum footing sizes.** Minimum thickness of a footing shall be the nominal width of the wall, but not less than eight inches. The nominal width of the footings shall be twice the nominal thickness of the wall. Two-story sections of a building shall have a minimum footing width of 24 inches and a minimum footing depth of 10 inches. Pier and column footings shall be 24 inches by 24 inches by twelve-inch concrete.

Exceptions:

-Footing for single-story decks with four-by-four posts shall be a minimum of eight inches in diameter; footings for single-story decks with six-by-six posts shall be a minimum of 12 inches in diameter, and all footings shall extend 24 inches below grade and shall have eight inches of concrete to support each post.

-Footings for pole buildings shall be three times the nominal width of the vertical support member in width, and shall extend 36 inches below grade and have eight inches of concrete to support each post.

-Decks having vertical members spaced six feet on center may be placed on a four-inch concrete pad, provided the vertical members are placed one foot inside the perimeter of the pad and are anchored on four corners with approved anchoring devices.

-Residential accessory structures 300 square feet in area or less, with the exception of a pole building and garage, shall be leveled and secured with tie-downs or equivalent manufactured home fastening devices, one on each corner. Structures 20 feet or more in length shall have two additional anchors installed, one on each side mid-span. All lumber in contact with ground shall be pressure treated.

-Prefabricated room enclosures are to be placed on an approved support system of foundation per the manufacturer's installation instructions.

-A garage and/or similar structures containing rooms above grade or slab shall be considered a single story in terms of footing design. Additional floors with weight bearing on exterior walls shall have the footing design for two-story structures.

- (2) Add R403.4. **Footing reinforcement.** Footings shall be reinforced with a minimum of two #4 rebar wired together with a minimum fifteen inch overlap. Column footings shall be reinforced with three pieces of #4 rebar wired together in two directions.
- (3) Section R404, Foundation and Retaining Walls.

R404.1. Concrete and masonry foundation walls. Concrete and masonry foundation walls shall be selected and constructed in accordance with the provisions of this section or in accordance with ACI318, NCMA TR68-A or ACI 530/ASCE 5/TMS 402 or other approved structural standards. When ACI 318 or ACI 530/ASCE 5/TMS 402 or the provisions of this section are used to design concrete or masonry foundation walls, project drawings, typical details and specifications are not required to bear the seal of the architect or engineer responsible for design, unless otherwise required by the state law of the jurisdiction having authority.

- (4) Table R404.1(1): Delete in its entirety.
- (5) Table R404.1(2): Delete in its entirety.
- (6) Table R404.1(3): Delete in its entirety.
- (7) TABLE R404.1.1(1): Replace with the following:

Plain Concrete And Plain Masonry Foundation Walls								
Maximum Wall Height (feet)	Maximum Unbalanced Backfill Height (feet)	Plain Concrete Minimum Nominal Wall Thickness (inches)			Plain Masonry Minimum Nominal Wall Thickness (inches)			
		GW, GP, SW and SP	GM, GC, SM, SM-SC and ML	SC, MH, ML-CL and Inorganic CL	Soil classes	GM, GC, SM, SM-SC and ML	SC, MH, ML-CL and Inorganic CL	
5	4	6	6	6	6 solid(d) or 8 6 solid(d) or 8	6 solid(d) or 8 8	6 solid(d) or 8 10	
	5	6	6					
6	4	6	6	6	6 solid(d) or 8 6 solid(d) or 8 8	6 solid(d) or 8 8 10	6 solid(d) or 8 10 12	
	5	6	6	6				
	6	6	8g	8g				
7	4	6	6	6	6 solid(d) or 8 6 solid(d) or 8 10 12	8 10 12 10 solid(d) 12	8 10 10 solid(d) 12 solid(d)	
	5	6	6	8g				
	6	6	8	8				
	7	8	8	10				
8 9	4	6	6	6	6 solid(d) or 8 6 solid(d) or 8 10 12 solid(d) 10 solid(d)	6 solid(d) or 8 10 12 12 solid(d) 12 solid	8 12 12 solid(d) Footnote e Footnote e Footnote e	
	5	6	6	8				
	6	8g	8	10				
	7	8	10	10				
	10	10	10	12				
9	4	6	6	6	6 solid(d) or 8 or 8 10 10 12 12 solid(d) Footnote e	6 solid(d) or 8 10 12 12 solid(d) Footnote e Footnote e Footnote e	8 12 12 solid(d) Footnote e Footnote e Footnote e	
	5	6	8g	8				
	6	8	8	10				
	7	8	10	10				
	8	10	10	12				
	9	10	12	Footnote f				

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 Pa.

- a. Mortar shall be Type M or S and masonry shall be laid in running bond. UngROUTED hollow masonry units are permitted except where otherwise indicated.
- b. Soil classes are in accordance with Unified Soil Classification System. Refer to Table R405.1.
- c. Unbalanced backfill height is the difference in height between the exterior finish ground level and the lower of the top of the concrete footing that supports the foundation wall or the interior finished ground level. Where an interior concrete slab-on-grade is provided and is in contact with the interior surface of the foundation wall, measurement of the unbalanced backfill height from the exterior finish ground level to the top of the interior concrete slab is permitted.
- d. Solid grouted hollow units or solid masonry units.
- e. Wall construction shall be in accordance with Table R404.1.1(2) or a design shall be provided.
- f. A design is required.
- g. Thickness may be 6 inches, provided minimum specified compressive strength of concrete, f_c , is 4,000 psi.

- E. Chapter 5, Floors. Adopt without changes.
- F. Chapter 6, Wall Construction. Adopt without changes.
- G. Chapter 7, Wall Covering. Adopt without changes or additions.
- H. Chapter 8, Roof-Ceiling Construction. Adopt without changes.
- I. Chapter 9, Roof Assemblies. Adopt without changes.
- J. Chapter 10, Chimneys and Fireplaces. Adopt without changes.
- K. Chapter 11, Energy Efficiency. Adopt without changes.
- L. Chapter 12, Mechanical Administration. Adopt without changes.
- M. Chapter 13, General Mechanical System Requirements. Adopt without changes.
- N. Chapter 14, Heating and Cooling Equipment. Adopt without changes.
- O. Chapter 15, Exhaust Systems. Adopt without changes.
- P. Chapter 16, Duct Systems. Adopt without changes.
- Q. Chapter 17, Combustion Air. Adopt without changes.
- R. Chapter 18, Chimneys and Vents. Adopt without changes.
- S. Chapter 19, Special Fuel-Burning Equipment. Adopt without changes.
- T. Chapter 20, Boilers and Water Heaters. Adopt without changes.
- U. Chapter 21, Hydronic Piping. Adopt without changes.
- V. Chapter 22, Special Piping and Storage Systems. Adopt without changes.
- W. Chapter 23, Solar Systems. Adopt without changes.
- X. Chapter 24, Fuel Gas. Adopt without changes.

Y. PART VII, Plumbing. Delete in its entirety. Refer to current adopted State Plumbing Code.

- (1) Chapter 25, Plumbing Administration. Delete in its entirety.
- (2) Chapter 26, General Plumbing Requirements. Delete in its entirety.
- (3) Chapter 27, Plumbing Fixtures. Delete in its entirety.
- (4) Chapter 28, Water Heaters. Delete in its entirety.
- (5) Chapter 29, Water Supply and Distribution. Delete in its entirety.
- (6) Chapter 30, Sanitary Drainage. Delete in its entirety.
- (7) Chapter 31, Vents. Delete in its entirety.
- (8) Chapter 32, Traps. Delete in its entirety.

Z. Part III, Electrical. Delete in its entirety. Refer to current adopted State Electrical Code.

- (1) Chapter 33, General Requirements. Delete in its entirety.
- (2) Chapter 34, Electrical Definitions. Delete in its entirety.
- (3) Chapter 35, Services. Delete in its entirety.
- (4) Chapter 36, Branch Circuit and Feeder Requirements. Delete in its entirety.
- (5) Chapter 37, Wiring Methods. Delete in its entirety.
- (6) Chapter 38, Power and Lighting Distribution. Delete in its entirety.
- (7) Chapter 39, Devices and Luminaires. Delete in its entirety.
- (8) Chapter 40, Appliance Installation. Delete in its entirety.
- (9) Chapter 41, Swimming Pools. Use as a reference only. Inspections shall be conducted by a third-party agency under the current state-adopted code.
- (10) Chapter 42, Class 2 Remote-Control Signaling and Power-Limited Circuits. Delete in its entirety.

AA. Part IX, Referenced Standards.

- (1) Chapter 43, Referenced Standards. Adopt without changes.

BB. Appendices.

- (1) Appendix G, Swimming Pools, Spas, and Hot Tubs. Adopt without changes.
- (2) Appendix J, Existing Buildings and Structures. Adopt without changes.
[Ord. No. 2011-22, §§ 1, 2, 9-26-2011]

ARTICLE II

International Building Code**§ 88-3. Adoption of code.**

A certain document, three copies of which are on file in the office of the Building Inspector of the City of Milford, being marked and designated as the International Building Code, 2006 edition, as published by the International Code Council, is hereby adopted as the Building Code of the City of Milford, in the State of Delaware, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures are herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of the Building Code on file in the office of the City of Milford are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in § 88-4 of this chapter.

§ 88-4. Additions, insertions and changes.

The following sections or portions are hereby revised as follows:

A. Chapter 1, Administration.

- (1) Add: **101.1. Title.** These regulations shall be known as the Building Code of the City of Milford, hereinafter referred to as "this code."
- (2) Section 105, Permits.
 - (a) Section 105.2, Work exempt from permit, is deleted in its entirety.
 - (b) Add: **105.5.1. Time limitation of permit.** A permit for any activity for which a permit is required shall be valid for two years from the date of issuance.
 - (c) Add: **105.5.2. Completion of construction.** All construction for which a building permit is required must be completed and pass final inspection within two years after issuance of a building permit. One extension of six months, accompanied by a renewal fee of a minimum of \$50 or 10% of the original building permit fee, whichever is greater, may, at the discretion of the Code Official, be granted.
- (3) Change: **106.1 Submittal Documents.** Construction documents, statement of special inspections and other data shall be submitted in one or more sets with each permit application. The construction documents shall be prepared by a registered design

professional. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

[Added 8-25-2008 by Ord. No. 2008-16]

Exception: The building official is authorized to waive the requirement that construction documents be prepared by a registered design professional if, in the opinion of the building official, with confirmation from the City Manager, the nature of the work is minor and the waiver of said requirement will not be detrimental to the intent of this code.

- (4) Section 108, Fees.
 - (a) Add: **108.2.1. Fee Schedule.** A fee for each plan examination, building permit and inspection(s) shall be fixed, from time to time, by City Council.
 - (b) Add: **108.4.1. Violation fee.** When obtaining a building permit after the start of construction, the building permit fee shall be \$100 plus the permit fee or double the normal permit fee, whichever is less.
- (5) Section 112, Board of Appeals.

Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, shall proceed as described in Article III of this Chapter.
- (6) Add: **113.4. Violation penalties.** Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Code Enforcement Official, or of a permit or certificate issued under the provisions set forth under this code shall be guilty of a misdemeanor, punishable by a fine of not more than \$500. Each day that a violation continues after due notice has been served shall be deemed as a separate offense.
- (7) Add: **114.3. 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 would be necessary to correct said violation(s) or unsafe conditions, shall be liable to a fine of not less than \$500.
- (8) Add: **115.5. Restoration.** A building or structure condemned by the Code Enforcement Official is permitted to be restored to a safe and fully code compliant condition, provided that said restoration or repairs do not exceed 50% of the value of said building or structure as determined by the assessment given by the City for tax purposes. This valuation figure shall be exclusive of foundations. Said repairs shall be made to comply, in all respects, with the requirements for materials and methods of construction of structures hereafter erected. To the extent that the repairs, alterations or additions are

made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34.

(9) Add: **Section 116, Licensed Contractors.**

116.1. Contractors license. All contractors shall be in possession of a current City of Milford contractors license.

- B. Chapter 2, Definitions. Adopt without changes.
- C. Chapter 3, Use and Occupancy Classification. Adopt without changes.
- D. Chapter 4, Special Detailed Requirements Based on Use and Occupancy. Adopt without changes.
- E. Chapter 5, General Building Heights and Areas.
 - (1) Section 503, General Height and Area Limitations. Add:
 - 503.1.1. Height and Zoning Code.** Building height shall not be in conflict with any of the provisions contained in the Code of the City of Milford, Chapter 230, Zoning.
- F. Chapter 6, Types of Construction. Adopt without changes.
- G. Chapter 7, Fire Resistance-Rated Construction. Adopt without changes.
- H. Chapter 8, Interior Finishes. Adopt without changes.
- I. Chapter 9, Fire Protection Systems. Adopt without changes.
- J. Chapter 10, Means of Egress. Adopt without changes.
- K. Chapter 11, Accessibility. Adopt without changes.
- L. Chapter 12, Interior Environment. Adopt without changes.
- M. Chapter 13, Energy Efficiency. Adopt without changes.
- N. Chapter 14, Exterior Walls. Adopt without changes.
- O. Chapter 15, Roof Assemblies and Rooftop Structures. Adopt without changes.
- P. Chapter 16, Structural Design.

161.2.3. Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, acres of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Milford," dated June 16, 1995, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map

(FBFM) and related supporting data, along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

- Q. Chapter 17, Structural Tests and Special Inspections. Adopt without changes.
- R. Chapter 18, Soils and Foundations. Adopt without changes.
- S. Chapter 19, Concrete. Adopt without changes.
- T. Chapter 20, Aluminum. Adopt without changes.
- U. Chapter 21, Masonry. Adopt without changes.
- V. Chapter 22, Steel. Adopt without changes.
- W. Chapter 23, Wood. Adopt without changes.
- X. Chapter 24, Glass and Glazing. Adopt without changes.
- Y. Chapter 25, Gypsum Board and Plaster. Adopt without changes.
- Z. Chapter 26, Plastic. Adopt without changes.
- AA. Chapter 27, Electrical. Adopt without changes.
- BB. Chapter 28, Mechanical Systems. Adopt without changes.
- CC. Chapter 29, Plumbing Systems. Adopt without changes.
- DD. Chapter 30, Elevators and Conveying Systems. Adopt without changes.
- EE. Chapter 31, Special Construction. Adopt without changes.
- FF. Chapter 32, Encroachments into the Public Right-of-Way. Adopt without changes.
- GG. Chapter 33, Safeguards During Construction. Adopt without changes.
- HH. Chapter 34, Existing Structures. Add: **Section 3410.2 Applicability.** Structures existing prior to June 12, 1995, in which there is work involving additions, alterations or changes of occupancy, shall be made to conform to the requirements of this section or the provisions of Sections 3403 through 3407. The provisions in Sections 3410.2.1 through 3410.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Groups A, B, E, F, M, R, S and U. These provisions shall not apply to buildings with occupancies in Group H or I.

[Ord. No. 2011-22, §§ 3, 4, 9-26-2011]

§ 88-5. Reserved.**ARTICLE III
Board of Appeals****§ 88-6. General.**

In order to hear and decide appeals of orders, decisions, or determinations made by the building or code official relative to the application and interpretation of the code, there shall be and is hereby created a board of appeals.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-7. Limitations on authority.

An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8. Membership of the board.

The Board of Appeals shall consist of three members: the City Manager or his designate, a design professional (architect or engineer), and a representative of the contracting industry. The City Manager or his designate will be a standing member of the Board of Appeals. City Council shall appoint the design professional and the representative from the contracting industry. The initial term of the design professional shall be two years and the initial term of the representative of the contracting industry shall be for one year. The term of all subsequent appointments shall be two years.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8.1. Alternate members.

City Council shall appoint an individual of its choice to be an alternate during those times where one of the permanent members is unable to attend an appeals hearing or in cases where a conflict of interest may exist. Said appointment shall be made for a two-year term.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8.2. Chairman.

The Board shall annually select one of its members to serve as chairman.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8.3. Disqualification of member.

A member shall not hear an appeal in which that member has a personal, professional or financial interest.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8.4. Secretary.

The City Manager shall designate a qualified clerk or staff as Secretary to the Board. The Secretary shall file a detailed record of all proceedings with the office of the City Clerk. Secretary shall have no right to vote on matters coming before the board.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-8.5. Compensation of members.

Compensation of members shall be determined by ordinance of City Council.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-9. Application for appeal.

Any person directly affected by a decision of the Code Official or an notice or order issued under this code shall have the right to appeal a decision of the Code Enforcement and/or Building Official to the Board of Appeals provided the application is filed within 20 days of the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not apply or that an equivalent form of construction is to be used.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-9.1. Hearing fee.

The following fee schedule shall apply for hearings of the Board of Appeals:

International Residential Code: \$ 300.00

International Building Code: \$1,000.00

International Property Maintenance Code: \$ 300.00

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-10. Notice of meeting.

The Board shall meet upon notice from the Chairman. The meeting date and time shall be scheduled in accordance with the state guidelines for public hearings. Surrounding property owners within 200 feet of the property or building in question shall be notified by mail.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-11. Open hearing.

All hearings before the Board shall be open to the public. The appellant's representative, the Code Official and any other person or persons that may be deemed necessary as witnesses and all other persons whose interests are affected shall be given an opportunity to be heard.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-11.1. Procedure.

The hearing shall address only those issues or items that may be deemed relevant to the case being heard. The Board shall adopt and publish, for public information, the procedures under which the hearing will be conducted.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-12. Postponed hearing.

When there are fewer than two members of the Board available and the authorized or appointed alternate is unavailable, notification shall be given to the interested parties.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-13. Board decision.

The Board shall affirm, modify or reverse the decision of the Code Official by means of a simple majority.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-13.1. Records and copies.

The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the appropriate Building or Code Official.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-13.2. Administration.

The appropriate Building or Code Official shall take immediate action in accordance with the decision of the Board.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-14. Court review.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the Superior Court of the State of Delaware in the applicable county for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law, following the filing of the Board's decision in the Office of the City Clerk.

[Ord. No. 2011-22, § 5, 9-26-2011]

§ 88-15. Stays of enforcement.

Appeals of notices and orders (other than Imminent Danger Notices) shall stay the enforcement of the notice and order until the appeal is complete or the stay is lifted by the Superior Court.

[Ord. No. 2011-22, § 5, 9-26-2011]

Ordinance 2014-17
Chapter 88/Building Construction

WHEREAS, the City of Milford deems it necessary to regulate and govern the conditions and maintenance of all property, buildings and structures; and

WHEREAS, the City stipulates the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and

WHEREAS, the City requires the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures are herein provided; and

WHEREAS, the City calls for the issuance of permits and collection of fees.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 88 entitled Building Construction.

Section 2. Article 1-International Residential Code, 88-2.-Additions, Insertions and Changes is hereby amended as follows:

C. Chapter 3 Building Planning

(1) TABLE R301.2(1)

Climatic and Geographic Design Criteria

Ground Snow Load	Wind Speed d (mph)	Seismic Design Category	Subject To Damage From			Winter Design Temp e	Ice Barrier Underlayment Required	Flood Hazards g	Air Freezing Index i	Mean Annual Temp j
			Weathering	Frost Line Depth b	Termite					
25	100	A	SEVERE	24 INCHES	MOD-HEAVY	14	NO	ADOPTED: 07/14/78 CURRENT: 01/06/05 See Chapter 130 Floodplain Management	368	55.7F

Section 3. Article II-International Building Code, 88-4.-Additions, Insertions and Changes is hereby amended as follows:

P. [Chapter 16](#), Structural Design.

~~161.2.3~~ **1612.3. Establishment of flood hazard areas.** To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, acres of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Milford," dated June 16, 1995, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map

(FBFM) and related supporting data, along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

Flood hazard areas are established by Chapter 130, Floodplain Management.

Section 4. Dates.

Introduction 11-10-2014

Adoption (Projected) 12-08-2014

City of Milford



Resolution 2014-21

STATE ROUTE 1 & NORTHEAST FRONT STREET GRADE-SEPARATED ROADWAY SUPPORT

Whereas, the City of Milford understands the need and fully supports the construction of a grade-separated roadway bridging Route 1 at the junction of Northeast Front Street (State Route 14) in Milford, Delaware; and

Whereas, the construction of this overpass will provide a transportation improvement by providing a continuous flow of east/west traffic across State Route 1; and

Whereas, this grade-separated roadway will greatly reduce accidents and protect drivers by eliminating the intersections presently in use at Northeast Tenth Street/State Route 1 and Northeast Front Street/State Route 1.

NOW, THEREFORE, Be It Resolved, that the City Council of the City of Milford, respectfully request the Delaware Department of Transportation raise the priority of the Northeast Front Street project and that funding be provided to enable the design, engineering and acquisition of required land in the hopes of moving this project forward.

BE IT FURTHER RESOLVED, that the City Council of the City of Milford is willing to assist the Department in whatever action is needed to preserve the safety of the citizens of Milford and the visitors which transit our city and the surrounding community.

Mayor Bryan Shupe

Attest _____

Adopted December 8, 2014

Invoice



NOV 24 2014

ARCHITECTS * ENGINEERS * SURVEYORS
REMIT TO: P.O. Box 93 Salisbury MD 21803
Tel: 410.543.9091 Fax: 410.543.7937

Faith Argo
CITY OF MILFORD
ACCOUNTS PAYABLE
10 SE SECOND ST
MILFORD, DE 19963

November 20, 2014
Invoice No: 110438

Project 0052A170.A01 Building Assessment - Milford Armory *CITY MSR*

Billing Message: FIELD MEASUREMENT, INVESTIGATION & CAD DRAWINGS FOR BUILDINGS ON SITE

For Professional Services Rendered from September 27, 2014 to October 31, 2014

Professional Personnel

	Hours	Rate	Amount	
PRINCIPAL	19.50	165.00	3,217.50	
SENIOR ARCHITECT	4.00	135.00	540.00	
ARCHITECT	26.50	105.00	2,782.50	
CAD 2	2.00	70.00	140.00	
CLERICAL	.25	50.00	12.50	
Totals	52.25		6,692.50	
Total Labor				6,692.50
		Current Invoice Total		\$6,692.50

**Please disregard outstanding invoices listed above that were paid prior to the distribution of this invoice.
**Please reference invoice number(s) when remitting payment.



October 6, 2014

Milford City Council
201 S. Walnut St.
Milford, DE 19963

Dear Council Members:

Downtown Milford, Inc. is sponsoring a new event in Bicentennial Park: a Brewgrass Festival. This festival will offer live bluegrass music, food to purchase, and beer tastings from local Delaware and Maryland breweries with a maximum of 500 participants. The event is scheduled for Sunday, June 14, 2015 from 12-4pm.

Each participant will pay an entrance fee (\$30—pre-registered, \$40 at the door, \$5 for designated driver) and receive a glass for their tastings. Food, provided by local restaurants, will be available for purchase at food tents throughout the park. The park will be closed off with only one entrance and exit. We have budgeted for local police patrol. We would like to park vendor vehicles in the fenced in area where the DMI/Chamber offices were torn down on Washington St. and attendee vehicles on the GROWMARK FS property near the river and across NE Front St. We do not anticipate a need to close any major roadways other than the road leading into the park. Please let me know if we need to file a road closure application for this street.

Enclosed is our application for a group gathering license. Please sign and return to my attention at the DMI office when Council has approved our request. If you have any questions regarding this event, please contact me at 302.519.6767 or sara@downtownmilford.org.

Thank you for your consideration,

Sara M. Pletcher

Sara M. Pletcher
Brewgrass Festival Chair
DMI Promotions Committee Member

Official Use Only		
Application Number _____	Approved _____	Date _____

**APPLICATION FOR A GROUP GATHERING LICENSE
TO SELL AND DISPENSE ALCOHOLIC LIQUOR AT A GATHERING OF PERSONS**

Provide: Federal I.D. Number _____
 Date of Affair 6/14/15
 Hours of Affair 12-4pm

**TO: Office of the Alcoholic Beverage Control Commissioner
 Carvel State Office Building, 820 French Street
 Wilmington, DE 19801
 (302) 577-5222**

I, Leland R. Nelson, being the Manager or Person-in-Charge
(Manager/PIC's Name)

(PIC) of a gathering of persons where alcoholic liquors are to be sold, on behalf of and in the name of

Downtown Milford Inc. 302-839-1180 Brewgrass Festival
(Name of Organization/Party) (Phone Number) (Name of Event)

am applying for a license to sell alcoholic liquor defined in the Liquor Control Act. I hereby solemnly swear to perform any and all duties and obligations required by said Act, and further certify that I am familiar with the requirements of said law. I also understand that the license, if granted, shall be valid only for the time, period, location, and event specified in this application.

1. Applicant's/Organization's Address: 207 S. Walnut St.
Milford, DE 19963

1(a) License to be mailed to: 70 Box 12, Milford, DE 19963 or
 Emailed to: sara@downtownmilford.org (preferred method)

2. Manager/PIC's Address: 207 S. Walnut St. Milford, DE 19963
 Day Phone - (302) 839-1180 Evening Phone - (302) 519-6767

3. Location of premises wherein license is to be used:
Bicentennial Park NE Front St. Milford DE 19963
(Bldg./complex/Park Name) (Street) (City) (State) (Zip Code)

4. I agree to obtain alcoholic beverages from either a Delaware licensed retailer or wholesaler authorized to provide such alcoholic beverages.

5. It is understood, under penalty of law, that alcoholic beverages shall not be sold, served or dispensed to any person in attendance at this gathering that is under 21 years of age or who appears intoxicated.

6. It is understood that the sale of alcoholic beverages are not permitted between the hours of 1:00 a.m. 9:00 a.m.

7. I agree to sell the alcoholic beverages for consumption on the premises where sold only except that it is permissible for me to sell up to 10 gallons for off premise consumption by way of a raffle or auction, live or silent.
8. It is understood that alcoholic beverages remaining on the premise that are not opened, may be returned to the licensed wholesaler or retailer from which they were purchased or donated, within 30 days of the date of the gathering.
9. I submit \$10.00 dollars in payment of full license fee at the rate of \$5.00 for one or two days, and \$2.00 per day for each day thereafter, Sundays and Holidays as defined in Title 4 Section 709, require an additional \$5.00.

 (Signature of Applicant) (Title) () - (Phone Number)

I understand, and approve, that the above applicant is making application for a license from the Office of the Alcoholic Beverage Control Commissioner to store alcoholic liquor for resale and consumption on the premises and limited off-premises consumption, during the above scheduled event located at:

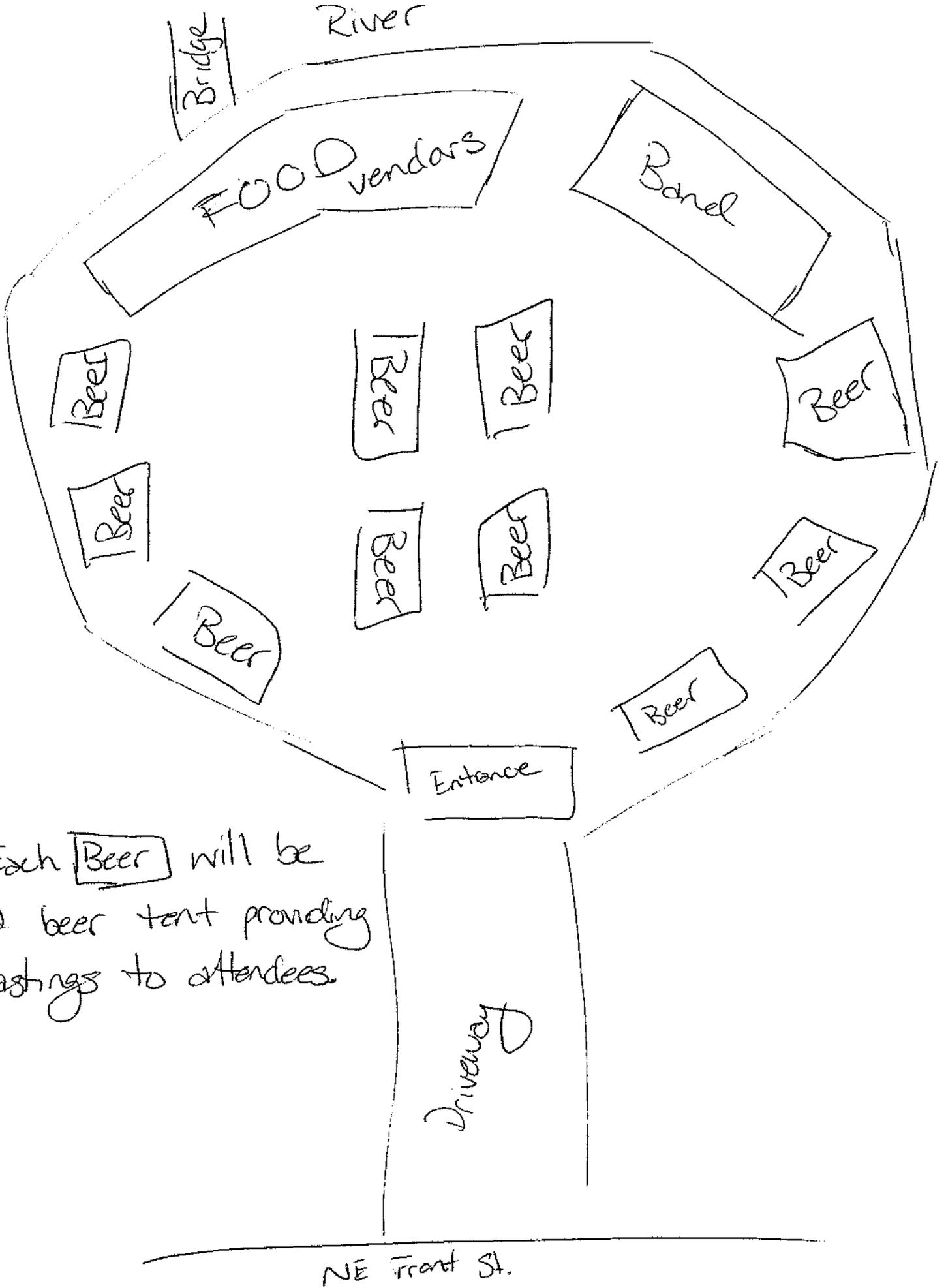
Bicentennial Park, NE Front St. Milford, DE Sunday, June 14, 2015
 (Complete Address for Event) 19963 (Date(s) of Event)
12 - 4pm
 (Hours of Operation)

X _____ (Signature of Owner of Hall/Home, Landlord or Rental Agent) (Title) () - (Phone Number)

 (Alternate Contact Person) () - (Phone Number)

PLEASE COMPLY WITH THE FOLLOWING REQUIREMENTS:

1. Organizations (other than #2 below) must submit current IRS Tax Form 990, or IRS Department of Treasury letter granting an exemption from federal income tax under Section 501(c)(3)
2. If a candidate, political organization, or party, you must submit proof of current registration with the Delaware Department of Elections.
3. The applicant must submit a floor plan of the area to be licensed. The floor plan must include all seating, bar area, entertainment and liquor storage
4. The completed application along with the proof of non-profit status, floor plan and the appropriate fee, must be **submitted no less than ten (10) days** prior to the date of the event. Timely submission will allow sufficient time for consideration by the OABC Commissioner.



Each Beer will be a beer tent providing tastings to attendees.

**CITY OF MILFORD
FUND BALANCES REPORT**

Date: October 2014

Cash Balance - General Fund Bank Balance	\$3,978,518
Cash Balance - Electric Fund Bank Balance	\$4,486,913
Cash Balance - Water Fund Bank Balance	\$2,695,868
Cash Balance - Sewer Fund Bank Balance	\$1,067,097
Cash Balance - Trash Fund Bank Balance	\$364,920

	General <u>Improvement</u>	Municipal <u>Street Aid</u>	Real Estate <u>Transfer Tax</u>	Solid Waste <u>Reserves</u>
Beginning Cash Balance	(332,128)	1,169,531	1,702,653	0
Deposits	22,700	55,691	37,020	
Interest Earned this Month		140	220	
Disbursements this Month	(196,464)	(147,200)	(43,067)	
Investments				250,000
Ending Cash Balance	(\$505,892)	\$1,078,162	\$1,696,826	\$250,000

A/R-SE Front Street & Goat Island

	GF Capital <u>Reserves</u>	Water Capital <u>Reserves</u>	Sewer Capital <u>Reserves</u>	Electric <u>Reserves</u>
Beginning Cash Balance	804,079	5,597,077	3,286,423	5,485,929
Deposits				
Interest Earned this Month	105	319	187	312
Disbursements this Month		(34,289)	(23,093)	(6,002)
Investments	250,000			
Ending Cash Balance	\$1,054,184	\$5,563,107	\$3,263,517	\$5,480,239

	Water <u>Impact Fee</u>	Sewer <u>Impact Fee</u>	Electric <u>Impact Fee</u>	Economic Development <u>Fund</u>
Beginning Cash Balance	1,218,748	\$822,415	\$347,140	\$1,032,163
Deposits	9,712	\$5,132	\$3,000	
Interest Earned this Month				
Disbursements this Month				
Investments				
Ending Cash Balance	\$1,228,460	\$827,547	\$350,140	\$1,032,163

INTEREST THROUGH THE FOURTH MONTH OF THE FISCAL YEAR:

General Fund	3,524	Water Fund	1,430
GF Capital Reserves	445	Water Capital Reserves	1,277
Municipal Street Aid	616	Sewer Fund	509
Real Estate Transfer Tax	702	Sewer Capital Reserves	764
Electric Fund	3,008	Trash Fund	2,357
Electric Reserves	1,279		

TOTAL INTEREST EARNED TO DATE \$15,911

REVENUE REPORT

Page Two

Date: October 2014	AMOUNT BUDGETED	MTD	YTD	33% of Year Expended YTD%
ACCOUNT				
Economic Development Fund	144,120	1,457	41,457	28.77%
Property Transfer Tax-Police	500,000	41,667	166,667	33.33%
Real Estate Tax	3,769,010	(9,412)	3,655,711	96.99%
Business License	40,000	500	2,900	7.25%
Rental License	85,000	300	1,850	2.18%
Building Permits	60,000	5,137	36,523	60.87%
Planning & Zoning	15,000	598	5,006	33.37%
Grasscutting Revenue	15,000	(4,400)	7,600	50.67%
Police Revenues	502,000	212,787	263,092	52.41%
Misc. Revenues	267,460	28,478	48,958	18.30%
Transfers From	3,215,480	267,956	1,071,826	33.33%
Total General Fund Revenues	\$8,613,070	\$545,068	\$5,301,590	61.55%
Water Revenues	2,644,000	243,263	990,291	37.45%
Sewer Revenues	2,649,860	283,185	933,216	35.22%
Kent County Sewer	1,700,000	165,949	632,235	37.19%
Solid Waste Revenues	1,090,545	89,295	357,923	32.82%
Electric Revenues	24,659,500	1,944,699	8,877,597	36.00%
TOTAL REVENUES	\$41,356,975	\$3,271,459	\$17,092,852	41.33%
YTD Enterprise Expense		25,446		
YTD Enterprise Revenue		24,730		
LTD Carlisle Fire Company Building Permit Fund		106,103		

EXPENDITURE REPORT

Page Three

Date: October 2014

33% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	446,455	\$105,310	186,062	41.68%	260,393
O&M	153,060	\$22,196	50,209	32.80%	102,851
Capital	0	\$0	0		0
Total City Manager	\$599,515	\$127,506	\$236,271	39.41%	363,244
Planning & Zoning					
Personnel	160,990	\$4,701	19,222	11.94%	141,768
O&M	42,510	\$3,955	13,759	32.37%	28,751
Capital	0	\$0	0		0
Total P, C & I	\$203,500	\$8,656	\$32,981	16.21%	170,519
Code Enforcement & Inspections					
Personnel	147,175	\$10,906	43,171	29.33%	104,004
O&M	52,900	\$2,277	18,688	35.33%	34,212
Capital	0	\$0	0		0
Total P, C & I	\$200,075	\$13,183	\$61,859	30.92%	138,216
Council					
Personnel	31,225	\$2,622	8,119	26.00%	23,106
O&M	46,760	\$1,709	11,906	25.46%	34,854
Council Expense	17,000	\$3,024	9,612	56.54%	7,388
Contributions	211,000	\$0	71,000	33.65%	140,000
Codification	4,000	\$650	650	16.25%	3,350
Employee Recognition	9,000	\$0	0	0.00%	9,000
Insurance	31,000	\$0	18,344	59.17%	12,656
Total Council	\$349,985	\$8,005	\$119,631	34.18%	230,354
Finance					
Personnel	352,620	\$26,337	104,029	29.50%	248,591
O&M	61,085	\$4,384	18,195	29.79%	42,890
Capital	0	\$0	0		0
Total Finance	\$413,705	\$30,721	\$122,224	29.54%	291,481
Information Technology					
Personnel	181,080	\$8,594	33,994	18.77%	147,086
O&M	180,765	\$9,765	33,225	18.38%	147,540
Capital	85,430	\$61,898	84,818	99.28%	612
Total Information Technology	\$447,275	\$80,257	\$152,037	33.99%	295,238

EXPENDITURE REPORT

Page Four

Date: October 2014

33% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	3,811,255	\$285,829	1,121,314	29.42%	2,689,941
O&M	499,015	\$33,540	173,798	34.83%	325,217
Capital	121,200	\$53,600	68,131	56.21%	53,069
Total Police	\$4,431,470	\$372,969	\$1,363,243	30.76%	3,068,227
Streets & Grounds Division					
Personnel	442,810	\$29,783	126,262	28.51%	316,548
O&M	450,475	\$31,669	163,710	36.34%	286,765
Capital	80,000	\$0	18,790	23.49%	61,210
Debt Service	20,520	\$0	0	0.00%	20,520
Total Streets & Grounds	\$993,805	\$61,452	\$308,762	31.07%	685,043
Parks & Recreation					
Personnel	580,225	\$45,055	187,072	32.24%	393,153
O&M	251,515	\$11,332	126,673	50.36%	124,842
Capital	142,000	\$44,754	96,945	68.27%	45,055
Total Parks & Recreation	\$973,740	\$101,141	\$410,690	42.18%	563,050
Total General Fund					
Operating Budget	\$8,613,070	\$803,890	\$2,807,698	32.60%	5,805,372

EXPENDITURE REPORT

Page Five

Date: October 2014

33% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	281,615	\$21,334	84,531	30.02%	197,084
O&M	1,045,165	\$67,220	287,655	27.52%	757,510
Capital	347,000	\$0	0	0.00%	347,000
Debt Service	970,220	\$7,404	68,198	7.03%	902,022
Total Water	\$2,644,000	\$95,958	\$440,384	16.66%	2,203,616
Sewer Division					
Personnel	281,615	\$21,331	84,525	30.01%	197,090
O&M	1,194,475	\$77,549	371,852	31.13%	822,623
Capital	602,500	\$0	23,372	0.00%	579,128
Debt Service	571,270	\$12,735	25,470	4.46%	545,800
Sewer Sub Total	\$2,649,860	\$111,615	\$505,219	19.07%	2,144,641
Kent County Sewer	1,700,000	\$166,159	632,226	37.19%	1,067,774
Total Sewer	\$4,349,860	\$277,774	\$1,137,445	26.15%	3,212,415
Solid Waste Division					
Personnel	371,835	\$27,667	109,798	29.53%	262,037
O&M	718,710	\$55,076	251,091	34.94%	467,619
Capital	0	\$0	0		0
Total Solid Waste	\$1,090,545	\$82,743	\$360,889	33.09%	729,656
Total Water, Sewer Solid Waste					
	\$8,084,405	\$456,475	\$1,938,718	23.98%	6,145,687
Electric Division					
Personnel	1,210,610	\$86,727	346,538	28.63%	864,072
O&M	1,723,380	\$108,679	491,356	28.51%	1,232,024
Transfer to General Fund	2,500,000	\$208,333	833,333	33.33%	1,666,667
Capital	325,855	\$0	60,051	18.43%	265,804
Debt Service	399,655	\$0	49,937	12.50%	349,718
Electric Sub Total	\$6,159,500	\$403,739	\$1,781,215	28.92%	4,378,285
Power Purchased	18,500,000	\$1,425,567	6,488,684	35.07%	12,011,316
Total Electric	\$24,659,500	\$1,829,306	\$8,269,899	33.54%	16,389,601
TOTAL OPERATING BUDGET					
	\$41,356,975	\$3,089,671	\$13,016,315	31.47%	28,340,660

INTERSERVICE DEPARTMENTS REPORT

Page Six

Date: October 2014

ACCOUNT	AMOUNT BUDGETED	MTD	33% of Year Expended		UNEXPENDED BALANCE
			YTD	YTD%	
Garage					
Personnel	84,085	6,611	25,485	30.31%	58,600
O&M	69,965	6,563	24,774	35.41%	45,191
Capital	40,000	0	0	0.00%	40,000
Total Garage Expense	\$194,050	13,174	\$50,259	25.90%	143,791
Public Works					
Personnel	198,550	14,701	59,149	29.79%	139,401
O&M	201,160	13,460	48,026	23.87%	153,134
Capital	6,000	0	0	0.00%	6,000
Total Public Works Expense	\$405,710	28,161	\$107,175	26.42%	298,535
Billing & Collections					
Personnel	522,210	39,109	157,935	30.24%	364,275
O&M	229,785	16,274	68,221	29.69%	161,564
Capital	0	0	0		0
Total Billing & Collections	\$751,995	55,383	\$226,156	30.07%	525,839
City Hall Cost Allocation					
Personnel	0	0	0		0
O&M	61,530	5,479	15,236	24.76%	46,294
Capital	0	0	0		0
Total City Hall Cost Allocation	\$61,530	5,479	\$15,236	24.76%	46,294

ALL COSTS SHOWN ON PAGE 6 ARE ALSO INCLUDED IN THE VARIOUS DEPARTMENTS LISTED ON PAGES 3-5 OF THE EXPENDITURE REPORT WHO UTILIZE THE SERVICES OF THE DEPARTMENTS LISTED ABOVE.
 INTERSERVICE FUNDS ARE ENTIRELY FUNDED BY OTHER CITY DEPARTMENTS.

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 27, 2014

The City Council of the City of Milford met in Workshop Session on Monday, October 27, 2014 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, S. Allen Pikus,
Dirk Gleysteen, James Starling, Sr. and Katrina Wilson

City Manager Richard Carmean, Police Lieutenant Kenneth Brown and City Clerk/
Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe convened the Workshop Session at 7:01 p.m.

Downtown Development District/Downtown Milford, Incorporated President SaraKate Hammer

Mayor Shupe acknowledged SaraKate Hammer who will be discussing Senate Bill 191 which was funded in the FY 2015 Bond Bill at \$7 million. The initiative provides economic development incentives that promote revitalization of downtown areas and surrounding neighborhoods selected through a competitive application process.

Ms. Hammer then introduced herself stating that though she is president of Downtown Milford Incorporated (DMI), this is not their initiative and she is only assisting the City of Milford by applying for the grant. However, DMI does support the application and has submitted a letter stating they will assist the city in anyway possible to ensure it will be a successful application and designation if the city was so awarded.

She explained that Governor Markell approved legislation providing a grant to three designated districts/towns in the state, one in each county. If the program is successful, Ms. Hammer hopes the money will be re-upped next year by providing more towns the opportunity for the designation.

Ms. Hammer and former City Planner Gary Norris have been working with the State Planning Office to outline a downtown development district based on the 2008 comprehensive plan that is currently being revised. The map is also based on Milford's population and consists of approximately 170 acres in the heart of downtown. It overlays nicely with DMI's Project Area Map and downtown historic districts.

She explained that if Milford were to receive the designation, the mapped out area would have access to a \$7 million pot that the state will provide grants for both residential and commercial improvements, as well as economic development in that district.

For small projects, there is a rebate of up to 20% for improvements over \$25,000. That includes residences, new jobs, new construction and rehab/preservation of historic buildings that qualify.

The city can prioritize large projects and will inform you in advance should the money be awarded.

The intent is to improve housing, increase home ownership rates and reduce the number of vacant houses in the downtown district.

Ms. Hammer then referenced the grant summary:

Grants are available for up to 20 percent of Qualified Real Property Investments in excess of the Minimum Qualified Investment Threshold of \$25,000. The building or facility use must be commercial, industrial, residential, or mixed-use. Qualified Real Property Investments are capital costs, incurred after District designation, necessary for the rehabilitation or expansion of an existing structure, or new construction.

SMALL AND LARGE PROJECTS SET ASIDE

Small Project Set-Aside of \$1,000,000

Investors are eligible for this set-aside for total Qualified Real Property Investments less than \$250,000. Within 45 days of completion, Investor submits as part of the application:

- Placed in service documentation.
- Confirmation of location and conformance with District Plan.
- Type of District Investor – owner, tenant-owner consent, multiple owners, developer.
- Proof of payment of Qualified Real Property Investments.

DSHA distributes funds within 60 days of receipt.

Large Project Pool of \$5,650,000

Establishes a Reservation process based on each General Assembly appropriation to provide:

- Qualified District Investors assurance they will be funded once successfully completed.
- Each District reasonable access to District Grant funds.
- An opportunity to assess demand and make modifications to ensure programs’ success.

Applications for a Reservation are accepted once a year and include:

- Project description
- Type of District Investor – owner, tenant-owner consent, multiple owners, developer.
- Confirmation of location and conformance with District Plan.
- Detailed budget with expected Qualified Real Property Investments clearly supported.
- Proof of applicant readiness to initiate and complete the project within three years.

Each District will have reasonable access to District Grant funds via a District Set Aside. Once each District Set Aside is met, projects will receive Reservations from the remaining pool of funds.

If Reservation requests exceed funding allocated, then requests that address one or more of the following priorities will receive special consideration:

<ul style="list-style-type: none"> • Identified as a Key Priority Project in District Plan • Creates permanent jobs • Provides mixed-use development • Adaptively reuses existing structures 	<ul style="list-style-type: none"> • Expands housing opportunities • Protects historic resources • Promotes sustainable practices
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Grant Fund Disbursement requests are due with 45 days of being placed in placed in service.

DSHA will conduct a compliance review of the final project requesting Grant Fund Disbursement. This on- site review will ensure the final project conforms to project scope outlined in the Reservation Agreement.

DSHA distributes funds within 60 days of receipt.

ELIGIBLE EXPENSES AND ACTIVITIES

Qualified Real Property Investments includes expenditures, incurred after District designation, that are properly chargeable to a capital account and are necessary for the rehabilitation or expansion of an existing structure, or new construction.

Examples include:

- Exterior, interior, structural, mechanical or electrical improvements
- Excavations
- Grading and paving
- Installing driveways
- Landscaping or land improvements
- Demolition

RESTRICTIONS

The following types of projects and activities are not eligible for a District Grant:

- Adult bookstores, adult video shops, other adult entertainment facilities, check cashing facility, gambling facilities, liquor stores, massage parlors, pawn or gun shops, tanning salons, tattoo parlors.
- Soft Costs, including:
 - Appraisal, architectural, engineering, bids or interior design fees
 - Legal, accounting, realtor, sales, marketing or other professional fees
 - Permits, user fees, zoning fees, impact fees, inspection fees
 - Land or building acquisition
 - Loan fees, capitalized interest
 - Utility hookup or access fees
 - Well, septic or sewer systems
 - Machinery, tools or other equipment
 - Temporary facilities
 - Bonding, closing costs, insurance
 - Blinds or other window treatments
 - Furnishings
 - Outbuildings (if ancillary to function of the main building)
 - Signage, Signs or Roads
 - Rent Loss

INVESTMENT RANGE

District Grants are calculated at 20 percent of the Qualified Real Property Investment in excess of the Minimum Qualified Investment Threshold up to \$500,000 per building or facility. District Grants in excess of \$500,000 will be determined according to the following investment ranges for a maximum of \$1,000,000.

Investment Range	Grant Amount	Investment Range	Grant Amount
\$2,525,000 - \$3,500,000	\$500,000	\$12,500,001 - \$13,500,000	\$785,000
\$3,500,501 - \$4,500,000	\$528,000	\$13,500,001 - \$14,500,000	\$814,000
\$4,500,001 - \$5,500,000	\$557,000	\$14,500,001 - \$15,500,000	\$843,000
\$5,500,001 - \$6,500,000	\$585,000	\$15,500,001 - \$16,500,000	\$871,000
\$6,500,001 - \$7,500,000	\$614,000	\$16,500,001 - \$17,500,000	\$900,000
\$7,500,001 - \$8,500,000	\$642,000	\$17,500,001 - \$18,500,000	\$928,000
\$8,500,001 - \$9,500,000	\$671,000	\$18,500,001 - \$19,500,000	\$957,000
\$9,500,001 - \$10,500,000	\$700,000	\$19,500,001 - \$20,000,000	\$986,000
\$10,500,001 - \$11,500,000	\$728,000	\$20,000,001 and over	\$1,000,000
\$11,500,001 - \$12,500,000	\$757,000		

Ms. Hammer stated that if Milford was chosen, the designation would last for ten years with the opportunity to re-up for five-year periods.

The designation requires an administrator from the city, who would be someone on staff, to ensure the local incentives are followed as laid out for economic development.

She noted that a lot of local incentives have already been approved by council. As a result, the city would not offer anything above what is currently offered. However, additional incentives could be added at a later date specifically for the downtown district.

A presentation created by the Delaware State Housing Authority was included in the packet.

The designation will occur in February 2015 and officially starts on the day of designation and grant money would be available immediately.

The application will be submitted within the next few days.

Ms. Hammer then confirmed there is no financial obligation from the city.

She noted there is an emphasis on historic preservation tax credits; some will be set aside for the cities that receive the designation.

Overall, the city will be required to accept the grant money, accept designation, administer and follow the guidelines of the program as established.

Mr. Pikus asked if there is a problem with the awards because Milford is in both counties. Ms. Hammer explained it will be submitted to Sussex County based on conversations with Senator Gary Simpson.

Mr. Pikus asked who will administer the funds; Ms. Hammer said an employee of the city. Currently the plan administrator is Mr. Carmean though she understands that will change over the next couple months.

Ms. Hammer verified the only action needed by the city is for council to support the application by adopting the resolution which will be voted on later this evening.

She explained that they are encouraging as many towns as possible to apply. Though only three towns will receive the designation, the more towns that apply, the more favorable it will look to the governor and administration. They hope that will encourage them to make money available for additional towns next year.

Once the town is designated, the funds are available as long as this is approved as part of the budget.

The city manager thanked Ms. Hammer for spearheading the application process noting that there are only so many hours in a day for our staff and this has been a time-consuming effort.

Review/Ordinance 2014-13/No Smoking Policy/City Parks and Facilities

Mayor Shupe advised that the following ordinance is a result of a recent discussion of the Community Affairs and Parks and Recreation Committees. This is for review and recommendations only. He welcomes any comments before it is placed on an agenda for introduction:

AN ORDINANCE OF THE CITY OF MILFORD PROHIBITING SMOKING IN CITY PARKS, BUILDINGS AND FACILITIES, SPECIFYING REQUIRED SIGNAGE, PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS THEREOF AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a new chapter in the Code of the City of Milford is being created to prohibit smoking in all City parks, buildings and facilities; and

WHEREAS City parks are intended for the healthy enjoyment of all citizens, including children and youth; and

WHEREAS smoking and tobacco use in parks can result in litter of cigarette butts, cigar butts and other tobacco-related waste which can cause environmental degradation and pose a health risk to children and animals; and

WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and

WHEREAS many parks in the City contain trees and plants that can be combustible, particularly in the dry summer months and pose an increased risk of fire; and

WHEREAS, on September 23, 2014, the Community Affairs Committee and Parks and Recreation Committee recommended a smoking ban in City Parks; and

WHEREAS, City Council has previously taken formal action by voting on a policy which prohibits smoking in City Buildings and Facilities.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 190, to be entitled Smoking Prohibited in City Parks, Buildings and Facilities to read as follows:

Section 2. CHAPTER 190. SMOKING PROHIBITED IN CITY PARKS, BUILDINGS AND FACILITIES.

§ 190-1 Definition.

§ 190-2 Smoking prohibited at all times of year

§ 190-3 Conditions.

§ 190-4 Penalties.

§ 190-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Parks and Recreation Director: City of Milford Parks and Recreation Director and any employee or designee thereof.

Smoking: The combustion in any cigar, cigarette, pipe, or any other similar article or any device, of tobacco or other combustible substance.

§ 190-2 Smoking prohibited.

(A) Parks.

(1) Smoking shall be prohibited at all times in all City of Milford public parks and playgrounds, including, without limitation:

- a. Banneker Park*
- b. Bicentennial Park*
- c. Marshall Pond Park*
- d. Marvel Square Park*
- e. Memorial Park South*
- f. Tony Silicato Memorial Park and Can Do Playground*
- g. Library Square*
- h. Milford Library Amphitheater*
- i. Goat Island and THE GARY L. EMORY NATURE TRAIL*
- j. Mispillion Riverwalk*
- k. Milford Dog Park*

(B) Smoking is prohibited within a 25-foot radius of the perimeter of all parks and playground areas owned by the city and open to the public.

(C) Smoking is prohibited in a building or facility owned, leased or operated by the City of Milford.

§ 190-3 Park Conditions.

A. At the entrance(s) of each designated park, there shall be appropriate signage designating the prohibition.

B. No person shall be prosecuted for violation of this chapter unless signs, readily visible to the public, are posted in appropriate places at the entrance(s) to those areas where smoking is prohibited, indicating smoking is prohibited and that violations are subject to penalties.

§ 190-4 Enforcement and Penalties.

The Milford Police Department, City of Milford Code Enforcement Officials and Parks and Recreation Director shall enforce this chapter.

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$100. For a second or subsequent violation, any person, upon conviction, shall be subject to a fine of not less than \$50 nor more than \$200. Each day that a violation of any of the provisions of this chapter continues shall be deemed and taken to be a separate and distinct violation.

Any city employee authorized to enforce this chapter, as provided herein, has the authority to eject from a park facility any person in violation of this chapter.

Mayor Shupe referenced the parks included in the ordinance noted in section 190-2(a)(1).

Mr. Pikus asked if the ordinance is legal and if council has the right to enforce this. The city solicitor stated that council has the right to adopt an ordinance adding that smoking bans are becoming more prevalent all the time. He referenced an ordinance recently enacted by the Town of Bethany Beach where no smoking is permitted on the beach and boardwalk.

Mr. Starling confirmed the city has banned alcohol in parks and this only applies to smoking.

Ms. Wilson said she has never been a smoker but is concerned we are enacting more and more laws involving personal rights. She does not want the city to have the appearance of a dictatorship. She stated that even if she was a smoker, she would not smoke there especially when other people were present.

Mr. Pikus said he brought this up because the parks are enjoyed by a lot of children. People can smoke anywhere they want and in particular, are able to smoke on the streets. He said he has gotten a lot of phone calls from people who have expressed concerns about families getting together in our parks who encounter people who are smoking and they find it offensive.

Mr. Carmean asked if city council has the right to ban smoking on sidewalks and streets; Solicitor Rutt said it is being done on the boardwalks at the beach.

Mr. Gleysteen questioned the section that reads smoking is prohibited within a 25-foot radius of the perimeter of all parks and playground areas owned by the city and open to the public. He asked if that is inside the property line or outside the property line. He asked if that means someone can smoke 25-feet inside the park.

Mr. Rutt said it could mean the exterior perimeter which may involve property not owned by the city adding that we cannot infringe on individual property rights. He recommends re-writing the ordinance and clarify that would only involve parks and playground areas owned by the city.

Mr. Carmean believes this will be difficult to enforce. He said in discussing this with Chief Hudson, they felt an on-the-spot ticket could be issued versus taking someone into custody for a violation. Mr. Pikus likes the idea of a citation being issued for the offense.

The city manager said the chief believes it may be difficult to enforce at all times. The city manager pointed out there are avid smokers which has the potential for the police to be called constantly. The person reporting it then expects immediate action be taken which he believes will be difficult.

Ms. Wilson feels that a call to the police would be made if the smoke was bothering other people in the park.

Mayor Shupe pointed out the ordinance contains reasons for why it is needed. He said there are a number of things that need to be considered and he does not want to rush this and asked that council consider the reasons this should be adopted but to also think about the reasons it should not be adopted. We can then have a later discussion on whether to proceed or not.

Mr. Pikus confirmed this also includes library square; Mr. Carmean stated yes thought it will need to be added. Mr. Rutt noted that the ordinance states public parks and playgrounds, including those listed, without limitation. Therefore, any city-owned parks are included.

Ms. Wilson recommended this be presented to the police committee.

Mr. Mergner asked if a sign is required for the alcohol ban; Mr. Carmean said someone could make a case that if the sign were not posted informing them that alcohol or smoking is prohibited it cannot be enforced. He said the same requirements apply to handicapped parking where a sign must be posted and not just pavement markings.

Mr. Mergner asked what happens if the sign ends up damaged or removed.

Mayor Shupe recalled the sign was part of the discussion by the Community Affairs and Parks and Recreation Committee who recommended this. Mr. Mergner agreed but felt the committee emphasized the need to communicate the message by installing signs. However, he feels that enforcing the no smoking is another issue. The ordinance reads that it cannot be enforced unless a sign is present.

Mr. Pikus then stated that the sign has to be posted. Mr. Grier said they have room to argue if the sign does not exist. Mr. Pikus said a police officer cannot tell someone they are not allowed to smoke unless the sign is posted. Mr. Mergner feels the ordinance needs to be changed to state that if the signs are not there, that does not mean it cannot be enforced.

Mr. Rutt then explained the law can be enforced without a sign. He pointed out there is a presumption that people know the law. For example, the city publishes the ordinance in the newspapers, put signs out and gave the public appropriate notice. He feels that anyone who violates the ordinance and wants to argue they were unaware of law may have a problem. Currently, the ordinance states that no one will be prosecuted unless signs are posted in the appropriate places. As a general concept, people are presumed to know the law.

Mr. Mergner feels we should remove that section. He believes that once we begin to label the parks, these rules should be added as well. He emphasized the need for parks and recreation to identify the parks and post the rules which should be done as quickly as possible.

Mayor Shupe asked council to talk to their constituents and get their opinions. Council can then come back with a better idea of how to handle this.

With no further business, the Workshop Session concluded at 7:32 p.m.

Respectfully submitted,

Terri K. Hudson, MMC

City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 10, 2014

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 10, 2014.

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., James Starling, Sr. and Katrina Wilson

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/
Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Monthly Meeting to order at 7:02 p.m.

INVOCATION & PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Starling to approve the minutes of the October 13 and October 27, 2014 Council Meetings as submitted. Motion carried.

RECOGNITION

Proclamation 2104-18/Proclaiming National Family Caregivers Month

Mayor Shupe read the following proclamation into record:

WHEREAS, most adults would prefer to age in place; 90% of adults over the age of 65 would prefer to stay in their current home as they age. Family, friends, and neighbors provide 80% of the care for the elderly; and

WHEREAS, family caregivers are the only people who are present with patients in all care settings; patients may have more than one doctor; nurses change shifts; prescriptions may be filled at different pharmacies. But family caregivers are there as full partners with their loved ones through it all; and

WHEREAS, complex care happens in the home. Almost half of family caregivers perform sophisticated medical/nursing tasks for their loved ones - such as providing wound care and operating specialized medical equipment - and up to 70% manage medications for their loved ones; and

WHEREAS, caregiving affects the whole family. Men are now almost as likely to say they are family caregivers as women are (37% of men; 40% of women). And 36% of younger Americans between ages 18 and 29 are family caregivers as well, including 1 million young people who care for loved ones with Alzheimer's; and

WHEREAS, family caregivers have the best interests of their loved ones at heart. But caregiving at home can take its toll and takes a lot of planning. The Nation's 90 million family caregivers are front and center in providing care every day - enabling their loved ones to stay at home longer where they are happier and healthier.

NOW, THEREFORE, BE IT RESOLVED, that I, Bryan W. Shupe, Mayor of the City of Milford, by virtue of the authority

vested in me as Mayor of the City of Milford, do hereby proclaim the month of November 2014 as National Family Caregivers Month with the Theme "Care Comes Home" in the City of Milford.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Seal of the City of Milford this 10th day of November 2014.

s/Mayor Bryan Shupe

The proclamation will be presented to the requesting parties.

Proclamation 2104-19/Proclaiming World Diabetes Day

Mayor Shupe read the following proclamation into record:

Proclaiming November 14, 2014 as World Diabetes Day in Milford, Delaware

WHEREAS, diabetes is a group of diseases marked by high levels of blood glucose resulting from problems in how insulin is produced, how insulin works, or both; and

WHEREAS, every ten seconds, someone dies of diabetes and two people develop diabetes worldwide; and

WHEREAS, according to the Centers for Disease Control and Prevention 29.1 million people or 9.3% of the United States population have diabetes; and

WHEREAS, an estimated 8.1 million people have undiagnosed diabetes and 37% of American adults aged twenty years or older had prediabetes; and

WHEREAS, diabetes is the seventh leading cause of death in the United States; and

WHEREAS, diabetes is the number one reason for adult blindness, kidney failure and limb amputation; and

WHEREAS, the estimated diabetes costs in the United States are more than \$245 billion; and

WHEREAS, the City of Milford joins the American Diabetes Association, the International Diabetes Federation and the World Health Organization in encouraging citizens to learn the signs and symptoms of diabetes, consult with their health provider and get screened for diabetes, if recommended, and support health promotion efforts to eliminate Type 2 diabetes.

NOW THEREFORE, I, Bryan W. Shupe, by virtue of the authority vested in me as Mayor of the City of Milford, Delaware, do hereby proclaim November 14, 2014 as WORLD DIABETES DAY in Milford, Delaware and commend its observance to all citizens.

s/Mayor Bryan Shupe

The proclamation will be forwarded to the requesting parties.

MONTHLY POLICE REPORT

Police Committee Member Wilson presented the police report on behalf of Chief Hudson.

Mr. Pikus asked the status of the cameras on top of the Silicato building; Chief Hudson confirmed it is up and operating.

Mr. Pikus said he was informed by the Parks and Recreation Director another camera needs to be installed and asked if the camera on the water facility is being replaced. Chief Hudson stated that presently, all cameras have been installed. He

noted that the city manager assisted with the relocation of the camera that was previously on the water plant. In the meantime, he and Mr. Carmean are discussing two additional cameras in the downtown area.

Ms. Wilson moved to accept the monthly police report, seconded by Mr. Grier. Motion carried.

CITY MANAGER REPORT

Mr. Carmean presented the following report:

ADMINISTRATION

The position of Planner/Economic Development Director has been closed to further applications. I have asked Mayor Shupe and Councilman Grier to look at the applications and recommend at least three applicants to be interviewed. Due to my limited time left as your city manager, he has asked his successor Hans Medlarz to participate in the selection process.

Brad Dennehy has been working closely with Gary Emory on a daily basis to familiarize himself with the operations of Parks and Recreation. Due to the need for continued supervision at Public Works, Mr. Dennehy will assist as needed in overseeing those departments.

ELECTRIC

Our electric crews have been getting Christmas decorations in place for the holiday season. This work is being done in conjunction with their normal work assignments. Several other departments have helped with the project this year.

Additional lighting for the rear parking lot of city hall has been designed and the equipment has been ordered. A light will be added to the center of the light to increase the lighting. I feel this will sufficiently meet our needs and make the parking area much safer.

SEWER AND WATER

The shop drawings are complete for our new water tower and the foundation and structure work will begin shortly. Teal Construction is close to completing the water main extension to the new tower site.

We have a firm commitment from USDA for the loan and grant for Phase I of our proposed sewer improvements. Once we have approval on the Phase II monies and grant, the next step will be a public referendum. As Mayor and Council are aware, the city will receive a grant of \$2 million for the projects.

STREETS AND SOLID WASTE

Southeast Front Street is continuing to be a challenge but will be completed by Thanksgiving. We intended to begin paving last week but a problem on Columbia Street postponed the work. When the milling was done at the depth of 1½ inches, construction workers realized there was no base beneath the blacktop. It became a dirt road that would not support new paving. I went ahead and approved the removal of five or six inches of soil and a new milling overlay. The job will be completed by November 26th.

Handicapped accessibility to sidewalks on North Washington Street should be accomplished by next Wednesday. Jerry's Paving will begin milling immediately after that and work will be finished in the next few weeks.

My street superintendent feels the overlay should be done before cold weather prevents it.

Mr. Brooks asked if Mispillion Street, which was on the paving project list this year, could have a base similar to Columbia Street. Mr. Carmean does not expect that because Mispillion is a better constructed street than Columbia.

The city manager stated that because we had the materials for Southeast Front Street, the additional costs will be very minimal.

Mr. Pikus asked if only one well will be drilled in the location of the new water tower and recalled a discussion about two wells being drilled.

Mr. Carmean said he has been talking with DBF Engineer Randy Duplechain about a second well in that area. A second well will be needed in the future. He agreed a test well is expensive though a couple sources of water may be later needed.

Mr. Brooks moved to accept the city manager report, seconded by Ms. Wilson. Motion carried.

COMMITTEE & WARD REPORTS

Public Works

Chairman Brooks noted that the Southeast Front Street and North Washington Street projects are proceeding as scheduled. The contractor is working diligently to get the project completed.

Homeless Issue

Ms. Wilson advised she is liaison for the Circle of Light homeless organization. She said that winter is approaching and there are concerns regarding the homeless in the area.

She said there is no facility in Milford to accommodate our less fortunate residents. She asked that the mayor and council keep this situation in mind particularly because of the bad weather predicated this winter. The goal is to provide temporary shelter to keep these individuals out of the cold.

Though some of the churches work closely with the Circle of Light, more help is needed. Ms. Wilson emphasized that none of the churches are able to take this on themselves so community support is encouraged.

She was pleased that Circle of Light partnered with Abbotts Grill to raise some funds to help with the homeless situation. Other events are scheduled and any assistance would be greatly appreciated.

Mr. Starling added that his wife is involved and one church has offered twenty-five beds. They are encouraging other churches to do the same. Ms. Wilson will contact Dr. Starling for additional information.

Mr. Carmean asked if food is needed; Ms. Wilson advised that several churches are providing food, including the Presbyterian Church, Upper Room, Multi-Cultural Church and the Church of God.

She emphasized that donations are welcome and volunteers always needed.

COMMUNICATIONS & CORRESPONDENCE

Mayor Shupe advised that this evening, the city issued a Press Release announcing the official hire of Hans Medlarz. He noted that because of the holiday closings, his first day in office will be Monday, January 5, 2015.

He also referenced the new website that went live last week. The mayor acknowledged Christine Crouch who did the majority of the work. He said that Ms. Crouch and he spent many hours combing through previous information and developing new language. He is pleased with the outcome.

New community videos will also be added. He referenced a new software program that will allow people to register and pay for Parks and Recreation programs.

In addition, Ms. Crouch has launched the new Facebook page.

UNFINISHED BUSINESS

Ratification/Comcast Agreement

Mr. Rutt advised that he has spent considerable time negotiating the new Comcast Agreement. Overall, the time frame has been shortened and they have agreed to pay the city for some additional features.

He will send the revised version to Comcast Representative Chris Comer who will disperse it to the appropriate staff. The solicitor also reviewed some of the changes discussed with their Regional Vice President of Government Affairs John Conwell who seemed agreeable to most of the changes though he will need to do a final review.

Mr. Rutt then referenced the letter which extends the current franchise to February 18, 2015.

It was confirmed this is a non-exclusive contract that will allow additional cable providers.

Mr. Pikus noted that the pole attachment fees were increased this year by \$4,000. He said the fee paid by Comcast has not increased in the past six years and asked if we are able to increase that fee. Mr. Rutt said that is a separate agreement.

According to Mr. Pikus, Comcast has applied for another increase to the Public Service Commission.

Mr. Grier stated that his preference would be to change from Sussex County Comcast programming to Kent County.

Mr. Carmean recalled that Comcast designed a hybrid package for Milford that was a combination of both counties.

Designation of Parks & Riverwalk

Mayor Shupe advised that due to the number of laws recently enacted involving city parks, there is a need to designate the areas so it is clear what properties are actual parks. They are also posted on the city website though the areas have never been officially designated.

He recommends the following parks/sites be officially designated:

Banneker Park
Bicentennial Park
Marshall Pond Park
Marvel Square Park
Memorial Park South
Tony Silicato Memorial Park
Library Square
Goat Island
Mispillion Riverwalk
Milford Dog Park

Features within several of the parks were also mentioned, but the list is inclusive of the actual parks that currently exist in the city.

Mr. Grier moved to officially designate the parks be named as presented, seconded by Ms. Wilson. Motion carried.

Ordinance 2014-13/New Chapter 190/Smoking Prohibited in City Parks, Buildings and Facilities

Mayor Shupe recalled council discussing this at the last meeting. He will be moving the matter to the police committee to discuss before council approves it.

Councilman Morrow is out of state tonight though he will follow-up with him.

Ms. Wilson advised that the meeting has been scheduled at 6:00 p.m. on November 18th.

Mr. Brooks recalled the discussion about alcohol, sleeping in the park and public urination. Mayor Shupe said this will add no smoking to that list of prohibited activities which were already banned.

Mr. Mergner emphasized the need to designate the parks which should be identified by signs that will include the park rules so it can be more easily enforced. Right now, there are little or no signs and most people are unfamiliar with what parks are owned by the city.

Mr. Pikus said the no smoking is enforced by boardwalk cops at the beach so he is unsure how we will handle and will be discussed during the committee meeting.

NEW BUSINESS

FY 2014-2015 Budget Adjustment/City Manager Discretionary Account/Reimbursement/Holiday Decorations/P&R

FY 2014-2015 Budget Adjustment/City Manager Discretionary Account Reimbursement/Milford Dog Park/P&R

Mr. Carmean is requesting an adjustment to his discretionary account. He said our parks and recreation department received a number of complaints about the dated downtown holiday decorations. Mr. Emory then purchased approximately \$5,000 worth of new decorations. Because there was not enough money in the parks and recreation budget, Mr. Carmean agreed to pay half (\$2,466) from his discretionary fund.

In addition, Mr. Emory realized he needed to sod the dog park just before it opened. The quickest way to pay for the sod was if Mr. Carmean agreed to pay for it out of the discretionary fund. However, the city manager had not planned for that expense.

He explained that his discretionary account is used to pay for employee flu shots and the employee Christmas party. As a result, he is asking his account be replenished for those unanticipated expenses.

Mr. Pikus moved to transfer \$2,466 out of the general fund reserves and into the city manager's discretionary account, noting there is sufficient funds in that account, seconded by Mr. Gleysteen. Motion carried.

Mr. Pikus moved to transfer \$13,000 out of general fund reserves and into the city manager's discretionary account, to cover the cost of the sod installed at the new Milford Dog Park, seconded by Mr. Gleysteen. Motion carried.

Advantech Security System/City Hall

Delaware Electric Signal/Panic Alarm System/City Hall

Mr. Carmean reported we obtained a proposal for a camera system from Advantech as was directed by city council at a previous meeting. Two choices were submitted. One is a lease agreement and the other proposal covers the cost of purchasing the equipment.

The cost of purchasing the system is as follows:

IP Camera System: \$14,995.00
Software Support and Upgrade Plan: \$100.00/mo. (optional)
Service Plan: \$183.00/mo. (optional)

Chief Hudson confirmed that these cameras would be viewed in the dispatch room at the police department. He reported there had been previous problems with maintenance of their security cameras by a company initially used by parks and recreation at the time the cameras were purchased. Unfortunately, Advantech will not provide a maintenance agreement on the cameras because they were purchased through another company out of Pennsylvania. That company was charging

substantial fees for travel in addition to the maintenance costs.

He confirmed that Advantech is much more reliable with service and repairs.

The chief recalled previous problems experienced with the cameras. To ensure uninterrupted operations, the police department agreed to take over the maintenance and oversee all cameras in the city.

Mr. Pikus asked who was repairing the corner of Walnut and Front Street; Chief Hudson verified it was Advantech. He said they also install security systems for the school districts.

Mr. Pikus confirmed the panic buttons can be installed immediately and asked how quickly we can negotiate the price; Mr. Carmean said he will call the company on Wednesday.

Mr. Mergner asked if it would be feasible to bring in another company to bid. He understands the requirements for the city are somewhat high before a project must be bid; the city manager clarified the threshold is \$30,000.

The city manager said he chose Advantech because the police switched to them because of their reliability. He then had Ms. Crouch contact them to provide a proposal.

Mr. Grier suggested we contact Delaware Electric Signal adding that they provide service to both his Milford and Seaford car washes. It was confirmed that Delaware Electric Signal also installs cameras.

Mr. Pikus moved to postpone action on this matter as well as the panic alarm issue, seconded by Mr. Brooks. Motion carried.

Mr. Carmean reported that we received a proposal of \$970 for a panic button system but will hold off on proceeding as directed by council.

Introduction/Ordinance 2014-15/Chapter 193 Amendment/Solid Waste Management

Mayor Shupe introduced the amendment and explained this increases the yard waste collection time from a restricted number of months a year to a twelve-month time frame.

Mr. Carmean noted that residents have some sort of yard debris all year long. As a result, he felt it was best to bite the bullet and offer it to our customers throughout the year.

The city manager then informed council there was a mix up in the schedule last week due to the holidays. He said we got out on Friday and what they should have done, is pickup Tuesday's household trash on Wednesday. The recycling on Wednesday should have been picked up on Thursday and the yard waste normally picked up on Thursday, should have been collected Friday. Somehow it got reversed though Mr. Dennehy was unfamiliar with how this occurred because he was moved to city hall and not involved as a result.

Mr. Brooks asked what will happen this week which is another holiday week. Mr. Carmean said they learned a lesson last week though he put the street crew on a truck on Friday so the majority of trash was picked up.

Mayor Shupe thanked the city manager for making that possible. He received several calls that day and had Mr. Carmean take care of it which he appreciated.

Introduction/Ordinance 2014-16/Chapter 130 Amendment/Floodplain Management

Mayor Shupe introduced Ordinance 2014-16. He advised that changes in recent laws have required the county and municipalities to amend their flood damage prevention rules and regulations. The entire Chapter 130 will be repealed and replaced with a new Chapter 130 which can be found in the packet.

City Manager Carmean introduced the ordinance stating that he will have Don Williams and Gary Norris attend one of the upcoming meeting to discuss how they have been working with DNREC to assure the correct changes were implemented.

Mr. Brooks asked the difference between the old ordinance and the new ordinance. Mr. Carmean said the big difference is the height of construction. The city is going to raise the height of construction which previously was twelve inches.

The city manager said it will increase construction costs for anyone building in a floodplain but will reduce their insurance premium.

Ordinance is scheduled for adoption at the November 24th meeting.

Introduction/Ordinance 2014-17/Chapter 88 Amendment/Building Construction

After introducing Ordinance 2014-17, Mayor Shupe reported that the only change to this code related to the floodplain maps. Previously, each time a floodplain map changed, the ordinance needed revising. This will reference Chapter 130 (Floodplain Code) whenever the maps are mentioned, making it a much simpler process.

Ordinance is scheduled for adoption at the November 24th meeting.

Milford Armory/Open House

Mr. Pikus said a lot of people have asked him to see the Milford Armory. He requested Mayor Shupe and the city manager arrange for an open house so the public can see its present condition and express their ideas for its potential use.

Mayor Shupe likes the idea noting it is a historical building and many people are curious how it looks today.

MONTHLY FINANCE REPORT

Finance Committee Chairman Pikus reported that through the first month of Fiscal Year 2014-2015 with 25% of the fiscal year having passed, 33% of revenues have been received and 24% of the operating budget expended.

He emphasized the balance of the trash cash balance is getting extremely low. There has also been a lot of money spent out of electric reserves which has brought that balance down considerably.

Mr. Pikus pointed out that we have also increased trash services which has come at a cost. As a result, those fees will need to be considered in the very near future.

Mr. Pikus moved to accept the September 2014 finance report, seconded by Mr. Grier. Motion carried.

Mr. Carmean then reported that we are no longer adding to the reserve accounts. He recalled that some of our residents were questioning the city about how much money we had in several reserve accounts. Because of the electric rate reductions that occurred in 2012, nothing has been added to electric reserves since. He said this is also a concern and will need to be watched very closely.

The city manager does not recall the last fee increase for trash because it has been a very long time. He said the \$23.50 still beats any other trash company in the area. He also pointed out that private haulers will not pick up any yard debris so that is a bonus for our customers.

He agrees we are now dipping into our reserves and in the past, he preferred building the solid waste reserves which were used to purchase new trash trucks.

Mr. Carmean recalled when Governor Markell mandated municipalities sign a Memorandum of Understanding to cap electric reserve transfers to the general fund. Because of this, we have not increased that transfer since 1997 or 1998. He said Milford is the only electric community that has that record because we have been locked in that long.

Mr. Pikus feels that should be emphasized. Earmarking funds for improvements helped our credit rating and our bond rating which is the highest of any town this size in this region.

Mr. Brooks recalled the ice storm in 1994 that required we use reserve funds to pay for related expenses up front. FEMA later reimbursed us but that took some time. He feels we were fortunate to have those reserves available at that time. Mr. Carmean believed the city took approximately \$4 million out of reserves during that time, though he agrees with Mr. Brooks that we received the majority back.

He then recalled the 2008 referendum for a new substation. At the time, the voters were informed the borrowing amount would only cover a portion of the project. We knew at that time the other half would have to be paid out of reserves and electric rates would never have to be increased.

ADJOURN

With no further business, Mr. Pikus moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

The meeting adjourned at 8:02 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 18, 2014

A Meeting of the Police Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, November 18, 2014.

PRESIDING: Chairman Douglas Morrow, Sr.

IN ATTENDANCE: Police Committee/Council Members S. Allen Pikus and Katrina Wilson

Mayor Bryan Shupe

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

Chairman Morrow called the Police Committee Meeting to order at 6:01 p.m.

Ordinance 2014-13/New Chapter 190/Smoking Prohibited in City Parks, Buildings and Facilities

Mr. Morrow said the purpose of the meeting is to review and discuss the following ordinance:

AN ORDINANCE OF THE CITY OF MILFORD PROHIBITING SMOKING IN CITY PARKS, BUILDINGS AND FACILITIES, SPECIFYING REQUIRED SIGNAGE, PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS THEREOF AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a new chapter in the Code of the City of Milford is being created to prohibit smoking in all City parks, buildings and facilities; and

WHEREAS City parks are intended for the healthy enjoyment of all citizens, including children and youth; and

WHEREAS smoking and tobacco use in parks can result in litter of cigarette butts, cigar butts and other tobacco-related waste which can cause environmental degradation and pose a health risk to children and animals; and

WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and

WHEREAS many parks in the City contain trees and plants that can be combustible, particularly in the dry summer months and pose an increased risk of fire; and

WHEREAS, on September 23, 2014, the Community Affairs Committee and Parks and Recreation Committee recommended a smoking ban in City Parks; and

WHEREAS, City Council has previously taken formal action by voting on a policy which prohibits smoking in City Buildings and Facilities.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 190, to be entitled Smoking Prohibited in City Parks, Buildings and Facilities to read as follows:

Section 2. CHAPTER 190. SMOKING PROHIBITED IN CITY PARKS, BUILDINGS AND FACILITIES.

§ 190-1 Definitions.

§ 190-2 Smoking prohibited.

§ 190-3 Park Conditions.

§ 190-4 Enforcement and Civil Penalties.

§ 190-5 Payment.

§ 190-6. Procedure to Contest a Violation.

§ 190-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Parks and Recreation Director: City of Milford Parks and Recreation Director and any employee or designee thereof.

Smoking: The combustion in any cigar, cigarette, pipe, or any other similar article or any device, of tobacco or other combustible substance.

§ 190-2 Smoking prohibited.

(A) Parks.

(1) Smoking shall be prohibited at all times in all City of Milford public parks and playgrounds, including, without limitation:

- a. Banneker Park*
- b. Bicentennial Park*
- c. Marshall Pond Park*
- d. Marvel Square Park*
- e. Memorial Park South*
- f. Tony Silicato Memorial Park*
- g. Library Square*
- h. Milford Library Amphitheater*
- i. Goat Island*
- j. Mispillion Riverwalk*
- k. Milford Dog Park*

(B) Smoking is prohibited at all parks and playground areas owned by the city and open to the public.

(C) Smoking is prohibited in a building or facility owned, leased or operated by the City of Milford.

§ 190-3 Park Conditions.

A. At the entrance(s) of each designated park, there shall be appropriate signage designating the prohibition.

§ 190-4 Enforcement and Civil Penalties.

(A) The Milford Police Department shall enforce this chapter.

(B) Any person who violates any provision of this chapter shall be subject to a civil penalty of \$25 beginning with the second violation and not less than \$50 for each subsequent violation.

(C) City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person in violation of this chapter.

§190-5 Payment.

All payments for civil penalties received under this chapter shall be delivered to the Milford Police Department (payable to the City of Milford) within thirty (30) days after receipt.

§190-6 Procedure to Contest a Violation.

Persons who wish to contest the validity of a smoking violation under this chapter may contest the violation by appealing the decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal.

Chairman Morris asked for recommendations of the committee members. Mr. Pikus recommended adding police officers to Section 190-4(C):

(C) Milford Police Officers, City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person in violation of this chapter.

Mr. Morrow confirmed the list of parks is complete and asked if the buildings should also be listed individually. The city clerk recalled when Councilman Brooks talking about city council banning smoking in city buildings a number of years ago. Mr. Carmean agreed though he does not believe the intent was to ban smoking outside city buildings even though it is prohibited in the parks.

Ms. Wilson agrees that could be a problem and employees that smoke would then have to leave the grounds.

Mr. Morrow feels there may be some confusion about a building versus a facility. City Manager Carmean explained that a facility would be a pumping station, treatment plants, etc. Mr. Morrow asked if the entire ground that public works sits on would be considered a facility. Mr. Carmean feels that involves buildings where people work on a regular basis. Mr. Morrow asked if the wash bays and garages are considered facilities and whether the parking lots should be included. Mr. Carmean feels the parking lot is considered land and not a facility.

It was agreed to add a definition for building and facility.

In regard to the penalties, Mr. Morrow recalled a previous discussion relating to the alarm ordinance and asked if this is appropriate. Chief Hudson explained that initially a violation of the alarm ordinance was being handled as a criminal offense but was change to a civil penalty. This ordinance treats the smoking violations as a civil matter.

It was confirmed that Mr. Rutt reviewed the ordinance.

Mr. Morrow asked if the fines are large enough to cover the costs of prosecution. Chief Hudson explained that one \$25 fine does not cover the actual costs of the officer. However, in most cases, the fine is paid without a court appearance.

Ms. Wilson pointed out that we are doing this because of health, clean air issues and littering. Chief Hudson explained that anyone observed smoking will initially be given a verbal warning. Mr. Morrow said he does not want this to cost the city more than they will collect in fines. He believes the \$25 fine is too low.

Mr. Morrow then noted that the first violation is a warning though the ordinance does not state that. Mr. Pikus stated that any person that violates a provision of this chapter will be subject to a civil penalty of \$25 beginning with the second violation. He feels that they are already receiving a warning because the posted sign will state no smoking is allowed. If they refuse to stop after they are warned by a police officer, they should be fined in his opinion.

Chief Hudson reiterated that in the majority of these civil penalty cases, the violator pays the fine to prevent going to court.

It was confirmed the fines are in line with other area towns.

The committee agreed that if it was later determined the fines need to be increased, council would revisit the matter at that time.

City Manager Carmean asked how the warnings will be tracked; Chief Hudson said his intent is to create a log that will be managed by the dispatchers. When someone is caught smoking and a verbal warning is issued, the officer will inform the dispatcher who will then add the person's name to a log. That information would then always be available to the officers.

He will work that out but believes it will be handled in a manner similar to how the department tracks people who are banned from various apartment complexes.

Chief Hudson said that he had also considered a verbal warning for the first violation, an ejection from the park on the second offense and then begin issuing civil penalties on the third offense.

The committee agreed the officers or code officials could use their discretion to eject a violator at any point.

The city manager said his concern is the number of people who hang out at the park with no identification.

City Manager Carmean asked if this ordinance will prohibit our employees from smoking outside the buildings on their breaks; Mr. Morrow said we will only ban it in structures. However, the employees that work at parks and recreation will not be permitted to smoke in the park areas. Mr. Pikus agreed emphasizing it is a park.

It was agreed smoking would be allowed in the driveway or parking lot area adjacent to parks and recreation.

Chief Hudson then asked if it is necessary to designate smoking areas at each of the buildings; Mr. Carmean agreed that he should designate specific areas at each city building. The chief said the police department employees smoke behind the police department which is away from the entrance to the building and out of the view of the public.

Mr. Carmean agreed to establish a smoking area at parks and recreation. He said that would also allow a person using the park to smoke in that designated area. He feels we could also provide receptacles for their cigarette butts as well.

Mr. Pikus feels that would create a problem. He said the intent is to eliminate all smoking in city parks. He believes that smokers hanging out in Bicentennial Park are going to walk across the street to the liquor store and smoke on the sidewalk which is going to affect non-smokers. He does not want to encourage smoking near any of these areas.

Mr. Carmean said we will need to be careful on public lands where employees are now allowed to smoke. He said any designated area must be away from the entrance and exits to prevent people from walking through the smoke.

Mr. Pikus emphasized the need to get the signs ordered and in place. Chief Hudson agrees it is very important to have the rules be posted at every park.

Mr. Morrow said the signs need to be posted and he does not want this enforced until that is done. Chief Hudson suggests a grace period long enough to allow the no smoking ban to be properly communicated before it begins to be officially enforced.

When asked when the ordinance would become effective, the city clerk stated that it will need to go through the ordinance process and should be effective sometime around the first of the year. The minimal number of days after it is adopted is ten days though council has the right to make it a longer period.

When asked how long to get the signs made, City Manager Carmean said no smoking in the park could be obtained quickly. Anything more complicated will take a little longer.

It was confirmed the signs would be in English and Spanish which is consistent with past practices.

Mr. Morrow reiterated that he does not want this enforced until all the signs have been installed for several days. He recommends the signs be posted at every entrance into every park.

Mayor Shupe pointed out that if this becomes effective in January, once the weather gets warmer, it will need to be re-communicated as news and information. He does not believe it will be a problem until the weather starts to get warmer.

Chief Hudson agrees it is very important to educate our residents. He believes the signs should state in both languages the more common violations which are no alcohol, no smoking and that the parks are closed dusk to dawn.

City Manager Carmean reported that the rules on Goat Island are already posted and Mayor Shupe commented that there are some strange things included on that sign.

Mr. Morrow asked that Chief Hudson and Parks and Recreation Assistant Director Brad Dennehy take an inventory of the parks and determine how many signs are needed. Chief Hudson asked that the signs be posted at the major entrances if possible.

Mr. Morrow said this cannot apply to Milford Little League because they have night games on a regular basis. The city manager asked if the little league park is listed. Mr. Pikus stated no even though it is a park.

Mr. Carmean explained that the city does own the land but it must be designated as a city park. Mr. Morrow pointed out it is not on the list so it is not a designated city park. It was determined that though a portion of their land is owned by the city, the league already has a no smoking policy though the details are not known.

It was agreed to exempt that property and allow them to implement their own policy.

Mr. Morrow asked if electronic cigarettes should be included. Mr. Pikus noted that the beach towns are including them in their ban. The definition will be amended accordingly.

Chief Hudson asked that the code officials and/or parks and recreation staff contact the dispatchers after they warn someone to ensure the person's name is on record at the department.

Mr. Pikus expects very little enforcement from our code officials. Chief Hudson feels that any city employee who may be in the park working should have the ability to inform someone they are not permitted to smoke.

Mr. Morrow asked the city clerk to amend the ordinances with the recommendations that were discussed.

Chief Hudson stressed the need to post these rules at the major entrance of each park adding it is much easier to enforce versus someone being blindsided with the ban. Mr. Pikus agreed that is very important.

Mr. Pikus moved to recommend proceeding with the ordinance as amended, and that the signs be ordered in both languages, seconded by Ms. Wilson. Motion carried.

Community Policing in the Parks

Mayor Shupe said he received a number of compliments regarding the foot patrol that was done in the downtown area and in the parks this summer.

Chief Hudson reported that the officers walking downtown were actually part of the patrol shift working each day. In addition, the department's community policing unit, who consist of the school resource officers, also shared in those duties.

He said when school is out, those officers will be assigned foot patrol in those areas again.

The chief also explained they did not have a seasonal program this year due to the lack of applications. However, the intent is to continue that program this summer.

Mr. Morrow asked if weather permitting, are there any plans for some presence in the parks. Chief Hudson said yes noting that foot patrol is scheduled this Friday and Saturday night.

Mayor Shupe reiterated that he has received many positive comments and the businesses downtown appreciate the visibility and interaction with the officers. He feels it goes a long way and wanted to publicly thank Chief Hudson. He noted that Chief Hudson is very responsive to anything he has called him for and he also very responsive to council and appreciates that.

Chief Hudson advised that they received a grant from Kent County Levy Court and hope to purchase either a gator type vehicle or golf cart that can be used by officers in the parks, particularly during special events. Presently, they have to borrow one of these vehicles from parks and recreation, which leaves them with one less of these vehicles as well.

Mr. Pikus confirmed that the chief is planning to include the seasonal officers in the upcoming budget. Chief Hudson stated yes, they working on a recruitment campaign in hopes of getting more interest.

Mr. Morrow suggested the department participate in the job fairs sponsored by the Department of Labor and the various colleges.

Chief Hudson then advised that the seasonal program is open to persons eighteen to twenty years of age who have an interest in the criminal justice field. A background and criminal check is required.

The chief reiterated that they are focusing on reestablishing the seasonal program to ensure those areas are patrolled on a more regular basis. The officers working the road will also assist when they are not tied up on other complaints which can be a hit and miss situation.

Mayor Shupe thanked Chief Hudson for his help with this matter and other situations.

Adjourn

With no further business, the Police Committee meeting was adjourned at 6:40 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
 MINUTES OF MEETING
 November 24, 2014

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and James Starling, Sr.

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Milford City Council held Public Hearings on Monday, November 24, 2014 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on the following matters:

Community Development Block Grant Program - Sussex & Kent County - Fiscal Year 2015

Adoption of Resolutions 2014-16; 2014-17; 2014-18; 2014-19; 2014-20

Mayor Shupe called the Public Hearing to order at 7:03 p.m.

Mayor Shupe advised the City of Milford, Delaware, in cooperation with Sussex County Council, Kent County Levy Court and the Delaware State Housing Authority, is holding a public hearing for the purpose of providing any interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant Program.

In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals.

This federally funded program provides grants amounting to \$2,000,000 (funding level subject to change), to support Community Development Activities in eligible local governments in Kent and Sussex Counties.

The mayor advised that Brad Whaley from Sussex County and Albert Biddle from Kent County are in attendance to present the information.

Mr. Whaley addressed council thanking the mayor and council for allowing them to hold this public hearing. He explained that their offices apply for and administer the Community Development Block Grant (CDBG) funding for towns and cities in Kent and Sussex Counties. This funding originates from HUD (Department of Housing and Urban Development) and is designed to help low to moderate income residents with housing issues. The funding has been used for mainly housing rehabilitation and demolition, small infrastructure projects, sewer and water connections, etc.

He advised that almost \$2 million is available, on a competitive basis, for Sussex and Kent Counties. Mr. Whaley added the application is due in February.

The current guidelines, established by HUD, are as follows:

		Kent County			Sussex County	
	30% OF MEDIAN	LOW	MODERATE	30% OF MEDIAN	LOW	MODERATE
1 Person	13,600	22,650	36,250	13,100	21,850	34,950

2 Person	15,550	25,900	41,400	15,000	25,000	39,950
3 Person	17,500	29,150	46,600	16,850	28,100	44,950
4 Person	19,400	32,350	51,750	18,700	31,200	49,900
5 Person	21,000	34,950	55,900	20,200	33,700	53,900
6 Person	22,550	37,550	60,050	21,700	36,200	57,900
7 Person	24,100	40,150	64,200	23,200	38,700	61,900
8 Person	25,650	42,750	68,350	24,700	41,200	65,900

Mr. Whaley explained that historically, the funding is used for housing rehabilitation in an attempt to keep the housing stock stable. Basic housing repairs, roof repairs, windows, HVAC upgrades and electrical upgrades are often done. The house must be a home-owner occupied property, property taxes must be current and it must be insured or insurable.

A rehab does require the funding be secured with a lien. Depending on the age of the home owner, it fluctuates from a five-year to a ten-year lien. It is a non-interest bearing, prorated lien which means each year, it is reduced by a percentage based on what would need to be repaid if the property were sold.

Any demolition involves a permanent lien and when the property is sold, the funding is reimbursed and reissued in that community.

Mr. Whaley reported that on the Sussex side over the past ten years, Milford has received a little more than \$453,000 was used by 35 households for rehabs. During the current 2014 funding year, Milford received \$70,000 for housing rehabs. Presently, there are four projects under contract which should be started in the near future.

Mr. Whaley reported that the purpose of the hearing is to allow town leaders and residents to provide input on what they would like the counties to apply for in the upcoming funding year (2015).

Mr. Pikus referenced the \$35,000 income and asked if there is an exception such as social security; Mr. Whaley confirmed that all income, including social security and pensions are included in the calculation. The income is total income and multiple incomes within the household are included.

Mayor Shupe commented that the Economic Development Committee suggested and council approved, some micro loans for small businesses. This may be a way to look at residential rehabilitation in conjunction with the city's loan program.

The mayor recommends they continue to apply for the same type applications as were done in the past.

Mr. Whaley informed council there are currently fifteen names on the waiting list.

The city manager noted that the city code officials are aware of this program and periodically suggest this type funding for homeowners who need help.

Albert Biddle of Kent County then introduced himself noting that Mr. Whaley covered all the essentials.

Mr. Biddle explained that this current year (FY 2014), Sussex County received money for Milford while Kent County did not. However, Kent County did obtain funding for Milford in FY 2013 which benefitted four to five projects. Because the years overlap, they are presently finishing up those projects.

Mr. Biddle noted that Sussex County will begin the FY 2014 projects shortly and Kent County is just closing down the FY 2013 projects.

He also pointed out the income levels are somewhat different in each county and slightly higher on the Kent County side. However, the program is identical in both counties.

Mr. Brooks asked the number of residents on the waiting list in Kent County; Mr. Biddle stated there are a few less on his waiting list. He confirmed that they operate off the waiting list and work with city inspectors so that they are better aware of the needs in the community. When someone is added to the list for a housing rehab, they go down the list and as long as the property owner remains on the list, they will eventually receive the funding as is required by the federal government.

Mayor Shupe asked if anyone from the public wished to speak. No one responded.

Councilman Gleysteen then moved to adopt the following five resolutions:

RESOLUTION 2014-16

Sussex County

Council Member Gleysteen submitted to the Council the following Proposed Resolution:

ENDORSE PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING TODD F. LAWSON, SUSSEX COUNTY ADMINISTRATOR TO SUBMIT APPLICATION.

WHEREAS, the City of Milford resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants State of Delaware Program for Block Grants as contained in Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Milford has met the application requirements of (Attachment E Delaware Community Block Grant Program Policies and Procedures) Citizen Participation requirements; and

WHEREAS, Sussex County plans on accomplishing the requested projects with CDBG funds; and

WHEREAS, the City of Milford hereby agrees to allow Sussex County to accomplish the projects in the targeted areas of Milford; and

WHEREAS, the City of Milford and Sussex County are in agreement with this activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Milford and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

Total Infrastructure project cost is \$ _____, total CDBG grant request is \$ _____. Matching funds in the amount of \$ _____ will be provided by the City of Milford general funds.

NOTE: To be used for Infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 24th DAY OF NOVEMBER 2014.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Council Members

Garrett Grier, III	Owen Brooks, Jr.
Christopher Mergner	Douglas Morrow
S. Allen Pikus	James Starling, Sr.
Dirk Gleysteen	Katrina Wilson

 Bryan W. Shupe
 Mayor

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION ADOPTED BY THE CITY OF MILFORD IS THE SAME TITLE OF RESOLUTION NO. _____ ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE ____ DAY OF _____.

 Robin A. Griffith
 Clerk of the County Council

Resolution 2014-17
 CITIZEN PARTICIPATION
 CERTIFICATE OF ASSURANCE
 Sussex County

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware, has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- 1) made available information concerning the amount of funds that may be applied for;
- 2) made known the range of activities that may be undertaken with these funds;
- 3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- 4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies and others in a timely manner; and
- 5) provided a summary of other important program requirements.

The City of Milford has held a Public Hearing on November 24, 2014 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution and after one Public Hearing, endorsed this application.

RESOLUTION 2014-18
Requirement for Fair Housing
Sussex County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on November 24, 2014.

s/Mayor Bryan Shupe

RESOLUTION 2014-19
Authorizes Levy Court of Kent County to Submit Application

The City Council of Milford, Delaware, hereby authorizes its Mayor, Bryan W. Shupe, to submit the Fiscal Year 2014 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2015 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford's application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was passed by a majority of the Council of the City of Milford on November 24, 2014.

s/Mayor Bryan Shupe

RESOLUTION 2014-20
Requirement for Fair Housing
Kent County

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the Kent County Levy Court, when acting as administrators of a Community Block Grant for the City of Milford, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on November 24, 2014.

s/Mayor Bryan Shupe

Motion seconded by Mr. Pikus and carried with no one opposed.

Mayor Shupe thanked Mr. Whaley and Mr. Biddle for attending this evening.

*Matthew & Jennifer Feindt/303 Pierce Street
Minor Subdivision & Conditional Use
Parcel MD-16-183.10-04-12.00
Adoption/Ordinance 2014-07*

Mayor Shupe advised this is an application for Matthew and Jennifer Feindt for a conditional use to allow a single family semidetached dwelling in an R2 District and a final minor subdivision on 0.25+/- acres at 303 Pierce Street. It included a reduction in front yard setback to 18.5' on Pierce Street, and a reduction in front yard setback to 17.5' on NE Second Street.

Bob Nash of Bob Nash Associates was present to represent the application. He apologized for not attending the hearing scheduled last month due to some confusion.

Mr. Nash introduced himself as the surveyor that has been working on the project for several months. He explained this is a problematic property on an acute angle at the corner of Pierce Street and Second Street. The intent is to build a duplex on the property. In the process of doing that, there were setback issues on both streets and width issues as well as coverage issues.

All issues went before the Board of Adjustment who approved everything. The planning commission conditionally approved the application based on the last variance that was approved by the Board of Adjustment.

They are now before city council to ask for final approval of the subdivision and conditional use.

Mr. Rutt referenced the history of the application included in the packet which states as follows:

Feindt Minor Subdivision/Conditional Use Project History

Project Description: This project is a proposed minor subdivision/conditional use. The applicant is proposing to subdivide a 10,827 ft² corner lot located at the corner of Pierce and Second Streets. The property is zoned R-2 and the applicant wishes to construct a semidetached residential building. This is a conditional use in the R-2 zone. The building will result

in two (2) separately owned single-family units. The property line which will subdivide the existing parcel will subdivide the two (2) single family units. This will facilitate separate ownership.

May, 2014:

The application was forwarded to the City's planning and engineering consultant, Davis, Bowen & Friedel on May 5, 2014. The application included an application for a request for two (2) variances. The applicant was seeking relief from the required minimum front yard setback of 30 feet and the minimum required corner lot area of 6,500 ft². The applicant was proposing a minimum front setback of 18 ½ feet along Pierce Street and a corner lot area of 6,068 ft².

The consultant submitted review comments on May 8, 2014. The review pointed out that an additional variance would be required. A corner lot requires a minimum front setback of 30 feet on each street frontage. The applicant was proposing a front setback along Second Street of 17 ½ feet.

The project was considered by the Planning Commission on May 20, 2014. The Commission voted to recommend approval of the minor subdivision with the recommendation that the lot size variance be granted. The Commission then recommended approval of the conditional use with the following conditions:

- 1. There is a party wall between the two units*
- 2. There is to be separate fee ownership of the two units*
- 3. The setback variance(s) has (have) to be granted by the Board of Adjustment*
- 4. It (the project) must meet all code criteria for duplexes*

The requests for variances for the minimum required front setbacks and corner lot area were considered by the Board of Adjustment on May 22, 2014. The Board approved the variances for the requested reduction to the Pierce Street front setback and the corner lot area. The requested reduction to the Second Street front setback was conditionally approved pending recommendation from the Planning Commission and approval from Council.

June, 2014:

Because the application must be heard by the Planning Commission again, the application was not heard at the June 23, 2014 City Council meeting, as was originally scheduled and was instead scheduled for July 28, 2014.

July, 2014:

The revised plan was submitted to the City's consultant on July 11, 2014. The consultant forwarded review comments to the City on July 15, 2014. The review comments noted that two additional variances would be required. The maximum lot coverage for the conditional use is 30%. The applicant was proposing a lot coverage for the interior lot of 45%. The minimum lot width for the conditional use is 40 feet. The applicant was proposing a lot width of 39.2 feet for the interior lot.

The Planning Commission considered the project again on July 15, 2014. The Commission recommended approval of the 17 ½ foot front setback on Second Street and they recommended approval by the Board of Adjustment of the proposed interior lot coverage and the proposed interior lot width.

Because the application must be heard by the Board of Adjustment again, the application was not heard at the July 28, 2014 City Council meeting, as was scheduled and was instead scheduled for the October 27, 2014 meeting.

September, 2014:

The requests for reduced interior lot coverage and lot width were considered by the Board of Adjustment on September 11, 2014. The Board approved both requests.

October, 2014:

The applicant did not have representation at the October 27, 2014 City Council meeting therefore the application was deferred until the November 24, 2014 City Council meeting.

November, 2014:

The application is scheduled to be heard at the November 24, 2014 City Council meeting.

Mr. Rutt recommended the history be included in the record.

Mayor Shupe asked for comments from the public. No one responded.

Mr. Morrow moved for approval of the final Minor Subdivision and adoption of Ordinance 2014-07, seconded by Mr. Grier as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE APPROVING A CONDITIONAL USE TO ALLOW A SINGLE FAMILY SEMI-DETACHED DWELLING IN AN R-2 DISTRICT AT 303 PIERCE STREET, MILFORD, DELAWARE. TAX PARCEL MD-16-183.10-04-12.00

WHEREAS, the City of Milford Planning Commission did hold a public hearing on July 19, 2014, in accordance with the requirements set forth in the City of Milford Zoning Code to consider the Conditional Use Application and Ordinance 2014-07; and

WHEREAS, after reviewing all facts and testimony presented at said hearing, the Planning Commission did recommend that City Council approve the application and ordinance; and

WHEREAS, the Board of Adjustment held two hearings on May 20, 2014 and September 11, 2014 during which time variances for setback, lot size, lot coverage and lot width requirements were granted; and

WHEREAS, on October 27, 2014, a second public hearing was held at which time the City Council reviewed the Conditional Use application and Ordinance 2014-07, along with the recommendations of the Planning Commission and city staff; and

WHEREAS, it is deemed in the best interest of the City of Milford to allow a Conditional Use for a single family semi-detached dwelling in an R-2 district as herein described.

Now, Therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance by City Council, Matt Feindt on behalf of Legal Owner Matthew & Jennifer Feindt is hereby granted a Conditional Use Permit at Tax Map MD-16-183.10-04-12.00, in accordance with the application, approved plans and any conditions set forth.

Section 2. Construction or operation shall be commenced within one year of the date of issuance of the permit or the conditional use becomes void.

Section 3. Dates.

Adoption 11-24-14

Effective 12-04-14

Motion carried.

With no further business, Mayor Shupe adjourned the hearing at 7:18 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 24, 2014

The City Council of the City of Milford met in Workshop Session on Monday, November 24, 2014 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Chris Mergner, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and James Starling, Sr.

City Manager Richard Carmean and Deputy City Clerk/ Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

The Workshop Session convened at 7:18 p.m.

NE Front Street Overpass/Woodshaven President Emmett Venett/DelDOT Project Manager Jim Satterfield

Mr. Venett introduced himself stating he is representing Woodshaven and the residents on the east side of Route 1. He is hoping to gain support of the overpass on Northeast Front Street to alleviate the safety concerns in the area of Tenth/Front Streets and Route 1.

He recalled some letters that were written in 2009 in an attempt to a more reasonable approach to the development where Grottos and Royal Farms are now located and to provide for a safer situation. He said initially there were some feelings this was just a Woodshaven community concern. His objective is to get city councils' support to recognize that no only Woodshaven, but parts of the City of Milford, on both sides of Route 1 (including Milford High School) are impacted by the inadequacies of the two intersections.

He Venett stated that DelDOT Secretary Shailen Bhatt has tried to institute what he calls an objective way of assessing the prioritization of projects called Decision Lens. Decision Lens has a lot of concrete factors of which some are affected by the planning that occurs within DelDOT to design, acquire right-of-ways, etc. ahead of time. When that data is applied to Decision Lens, it has a lot of impact if the programs are in place.

Mr. Venett pointed out that a certain part of Decision Lens is objective while a portion is political. The political part is where he is asking the city's help in bringing this project to fruition.

Decision Lens is based on the following criteria with the number one priority being safety:

- Safety – 33%
- System Operating Effectiveness – 24.8%
- Multi-Modal Mobility/Flexibility/Access – 15.6%
- Revenue Generation/Economic Development/Jobs & Commerce – 7.9%
- Impact on the Public/Social Disruption/Economic Justice – 7.2%
- Environmental Impact/Stewardship – 6.5%
- System Preservation – 5%

He explained the second one is system operating effectiveness which is 24%. Mr. Venett said that of that, 50% is congestion management. Mr. Venett noted that the Thompsonville overpass is now number three on the priority list and is already in the bidding process. He explained that congestion drove that high priority. He said congestion is measured by taking the average speed of the highway and then measuring points along the highway to determine how that particular point is faring in regard to the average speed.

He explained that if a light had been installed in front of the Silicato-Wood Subdivision, the priority would have been

much higher under that formula. Mr. Venett feels that the Thompsonville intersection is automatically getting priority because it contains a traffic light.



He referenced the above picture which indicates what most drivers in this area are familiar with on Sunday with regard to traffic. Mr. Venett said this is a challenge for people east of Route 1 to reach city services.

He then provided the following accident statistics which he believes covers a three-year rolling average:

Junction Route 1/Thompsonville Road
Accidents-26 with 6 injuries

Junction Route 1/Tenth Street
Accidents 16 with 8 injuries

Junction Route 1/Northeast Front Streets
Accidents 12 with 7 injuries

Total 28 Accidents (Tenth & Front Streets) with 15 injuries

Mr. Venett said that although we are unable to measure the speed as the model suggests, he feels the word congestion is a reasonable assumption as is shown in the photo below (looking east from Front Street):



He pointed out that our bus drivers have a challenge because their bus fairly fits on the intersection as indicated in the

next photo:



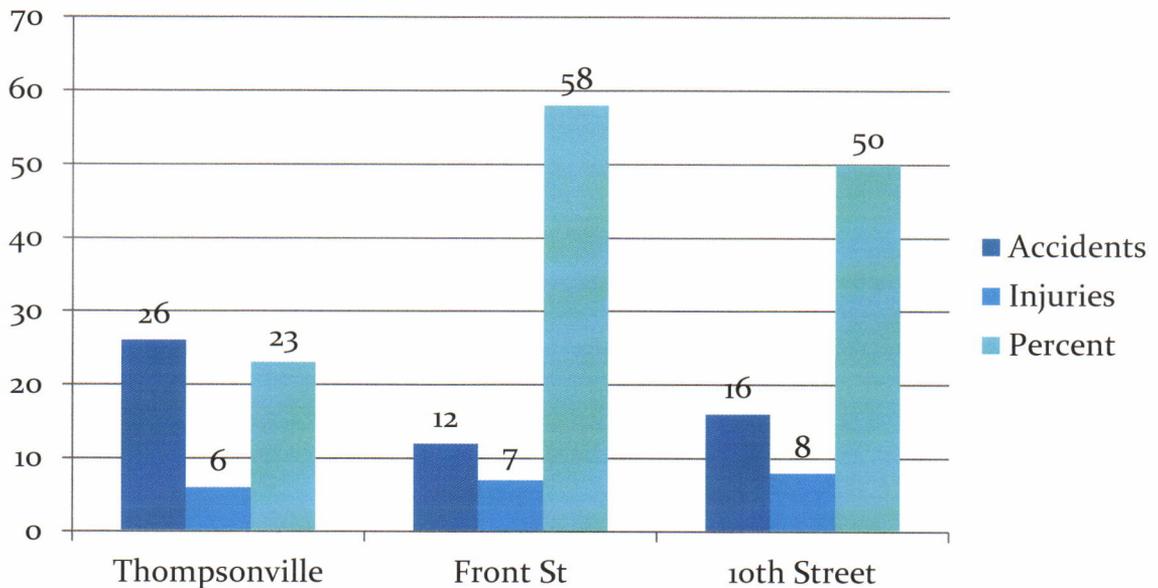
He recalled that one bus did not make it across the Front Street intersection and killed a woman from out of state a few years ago.

Mr. Venett then noted the inability to determine who has the right-of-way:



He expressed concern that the Northeast Front Street intersection has become extremely overloaded since DeIDOT closed the Tenth Street intersection in one direction. All the northbound traffic (and eastbound into Woodshaven) is now required to travel south to the Front Street intersection to make a u-turn to go north on Route 1.

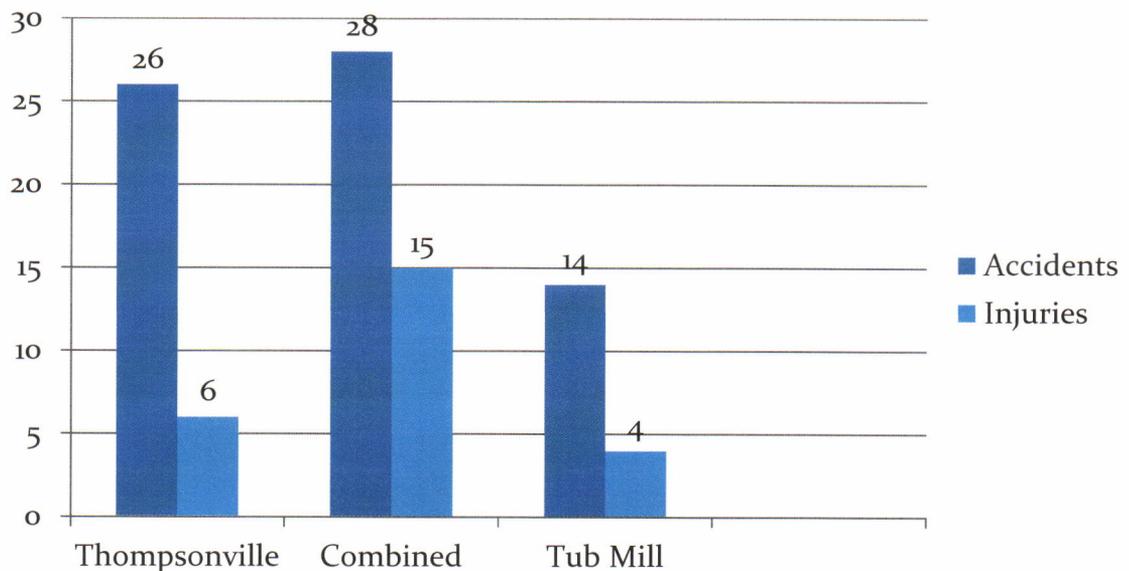
He noted that people using Royal Farms currently exit southbound on Route 1, then make the u-turn to go north which adds to the congestion of local traffic.



Mr. Venett explained that six of the 26 accidents at Thompsonville resulted in injuries as a result of front to back crashes and not angular crashes. Those accidents occur at various times and in most cases involve a driver that did not see a car stopped in front of them.

At the Front Street intersection, almost 60% of the people involved are injured because of angular crashes.

Mr. Venett said he has heard a lot of recent hype over the area where the sports complex is. He has heard people comment that the Tub Mill intersection is dangerous and has the planning and funding and should be jumping ahead of the Milford overpass:



He referenced the 14 accidents that occurred there that resulted in 4 injuries. Combining the Tenth Street and Front Street statistics, 15 of those 28 accidents resulted in injuries.

Mr. Venett reported that DeIDOT has already announced the bid for the Thompsonville project, but in terms of injuries and danger, he feels this is a travesty because of its position in it's the prioritization. .

He asked that council consider the fact that a portion of the city is on the east side of Route 1. He felt it would probably

be in the city limits if when Ed Fisher and Harvey Marvel, Sr. were establishing Woodshaven in the 1960's and requested council annex and provide electric services, council turned it down. Mr. Venett said had the city said yes at that time, Woodshaven would be part of the city today.

He noted there is a large area that may be conducive to further development and feels the subdivision where Royal Farms and Grottos are located could have been much more efficient. He also asked council to consider the 90 +/- acres of McColley land that is zoned for commercial development.

He said when you see the impact of the overpass south of Milford where the hospital will be located, the importance of infrastructure is evident in terms of properly developing the city in the future.

Mr. Venett's objective is that council join him, along with the residents east of Route 1, in contacting legislators and public officials and inform them that the facts say Milford needs this overpass.

Mr. Venett said if the decision is based on a body count, it will eventually happen. He could stop his efforts and eventually a tragedy will occur that will drive this politically.

When asked by Mr. Pikus if Secretary Bhatt has seen this presentation, Mr. Venett said not exactly in this format. However, Senator Gary Simpson, along with some other local legislators, met at Milford Library and were shown a similar presentation two years ago. He has made the presentation more graphical and with less data.

He explained the Council on Transportation sits as a public group appointed by the governor to advise DeIDOT on their programming. He feels this is more of a public buy-in before something is taken to the legislature. Mr. Venett met with them last November and pleaded for this case. At that time, the council was discussing the sports complex and moving that project up in priority. He tried to make them aware of the facts, but spoke for five minutes following a two and a half hour meeting. So he is unsure how much impact he had at that late time.

Mr. Venett does not believe the administration understands the safety concerns which might be due to a lack of voices. That is the reason he is asking for the city's support this evening. He feels that city council has the ability to help them understand the importance of this situation though the facts speak for themselves.

Mr. Brooks said he has been very supportive of this project. He lives on Tenth Street off Route 1 and frequently witnesses police vehicles, fire trucks and ambulances heading toward this intersections. On Sundays, he observes Route 1 traffic on Tenth Street and on Route 1 at a complete stop. He agrees it is basically impossible to cross east and west on Route 1 or to enter the northbound lane on Route 1.

Mr. Brooks' number one concern is safety. The school buses and students are put in a dangerous situation every time they access those intersections. He has personally witnessed some very serious accidents at the Tenth Street intersection and agrees with the need for this overpass which, in his opinion, is a one and only solution.

Mr. Venett feels that most of council does not utilize this intersection because of where they live in the city. He understands how difficult it is for them to sympathize because of that. He noted the statistics he provided tonight do not include the student who was killed walking across Route 1 to get to her home in Woodshaven because that occurred a year prior to the time frame covered by those numbers.

Presently, anyone wishing to cross Route 1 from its west side must travel nine-tenths of a mile to get into Woodshaven. On weekends, they have to battle traffic in both directions. Previously they would simply cross the intersection and go directly into the development.

He also recalled the bus driver who was trying to negotiate the turn at the intersection at Front Street who killed a driver traveling south on Route 1.

Mr. Venett feels there is a high likelihood this will occur again though he prefers not having a body count to measure the

need for the overpass though that may be the only criterion that may have an impact.

He is asking council for either a letter or a resolution of support that can be sent to DeIDOT stating that city council is concerned about this situation and the overpass needs greater attention.

Mr. Pikus said he does not see any reason why this body would not want to protect our citizens east of Route 1, which in his opinion, is part of Milford. It seems to him the Metropolitan Planning Organization, who is constantly in the newspapers, has a great deal of clout. He said he does not know anyone who has an objection to an athletic complex for kids though how successful it will be depends on what they do. He asked if Mr. Venett has had a chance to talk to anyone in Dover because of the media coverage they receive.

Mr. Venett pointed out that he is a one-man band who is trying to be effective. He recalled going to all the cocktail parties when the officers from the base would go and socialize with the officials in Kent County. He agrees there is a lot of clout there and they are good people. However, they do not know the facts and no one is shaking their hand from this community and telling them we need to talk about this.

Mr. Venett said the first time they recognized Milford as a community was when they needed some support for something that was already started in Kent County. They came to a meeting and asked Milford to help with their project. He understands that they appreciate the fact that they recognize the leadership in Milford. However, he feels the city needs to do more to articulate Milford's needs at the Kent County level.

He reported there are a couple Milford residents that sit on the council though he is unfamiliar with them. He would be pleased to provide council with their names.

Mr. Venett then announced the Council on Transportation consists of Lee J. Beetschen of Magnolia, I.G. Burton of Lewes, Robert Fifer of Camden-Wyoming, John Gilbert of Lewes, Sue McNeil of Newark, Martin Lessner, Barbara Y. Washam and Ted Williams from Wilmington. The nine-member advisory panel, appointed by the Governor, is chaired by Weston E. "Pete" Nelliuss of Rehoboth Beach.

Mr. Venett does not have the names of the Kent County Planning Group.

When asked what criteria are needed to move this intersection higher on the list, Mr. Venett explained that safety is the main criterion and has an 80% value. A program needs to be found where this project was identified. The Federal Highway Transportation Safety Group is mandated by the Federal Highway Administration because that is where 80% of the funds come from. They want to ensure a proper job of identifying these projects and if they spend the money, it must provide a quick return.

In Secretary's Bhatt's most recent letter, he was informed of this group. When he was at a hearing of the Council on Transportation, Mr. Venett asked Senator Simpson to approach DeIDOT's chief planner and find out who are these people and asked that he go before them and present this information.

Mr. Venett said there is a need to figure out the system and how to share the information while obtaining as many supporters as they can.

He commended Jim Satterfield adding that he has worked with him throughout this process. However, the political push comes from the Federal Highway Transportation Safety Group, Council on Transportation and management within DeIDOT.

When asked what the second component, referred to as system operating effectiveness means, Mr. Venett is unsure how that is measured though 50% is congestion.

Mr. Venett believes when they are considering the operating effectiveness of the system, they are looking at Route 1 north/south and how fast traffic gets to their destination. He does not believe they are considering crossing traffic and

how to cross Route 1. He feels that would work if the road mirrored Route 1 north of Dover which is a dedicated limited access highway. However, that is not the case south of Dover to the beaches which includes entrances, driveways and roadways.

Jim Satterfield then introduced himself as the Regional Group Engineer for Project Development South 1 which covers projects in Kent and Western Sussex County. He has worked with Mr. Venett in the past and agrees with Mr. Venett's concerns with regard to the need for these overpasses.

Mr. Satterfield stated he is the Project Manager for Route 1 and Route 9, Route 1 and Route 30, Thompsonville, South Frederica and Northeast Front Street. Naturally, he would like to build them all and believes each has a need.

Mr. Satterfield explained that unfortunately, he is not a lot of good with regard to how projects are prioritized. He is the Project Manager for Route 1 and Route 9, Route 1 and Route 30, Thompsonville, South Frederica and Northeast Front Street. He said he wants to build them all and each has individual utility.

He does not know a lot of Decision Lens because he is fighting for each of these projects to be built. Mr. Satterfield recommends that DelDOT's Director of Planning Drew Boyce come to a meeting and review Decision Lens. He believes it is garnered to remove a lot of the subjectivity with regard to how projects are ranked and is unsure how that is done. He reiterated that Mr. Boyce is more familiar with the program than he is.

Mr. Satterfield met Mayor Shupe at the time they toured the state with Senator Carper looking for funding for this project whether that would be additional gas tax or borrowing or other revenue source that may be available to get projects like this built.

He recalled the Front Street project was funded with right-of-way acquisition as early as 2017 at one point. That money was then moved around. Mr. Satterfield has a new house designer working on it so there is not a huge outlay of preliminary engineering funds being used. This is a much cheaper way of handling it versus an outside firm doing the work.

Mr. Satterfield is asking for enough money to dig some soil borings and utility test pits in order to get to the final right-of-way plans. At that point, if something else were to fall behind or an additional revenue source was found, he could suggest the money be spent to buy the right-of-way for Northeast Front Street. The project would then be that much further along.

He and his staff will do what they can to get to the final design in case funding becomes available; they would then be ready to purchase the right-of-way.

Mr. Satterfield stated that as everyone realizes this could fix a lot of the problems Mr. Venett discussed. He said a grade separation located at Front Street would make use of a portion of the service road that was built when the Grottos and Royal Farms were developed. That would connect Tenth and Front Streets with a grade separation which would eventually serve both roads.

He recalled there were six or eight alternatives considered and a number of public workshops offered by DelDOT at which time those alternatives were presented. They decided on the final design, which ended up being the least expensive because some of the infrastructure needed is already built as a result of the Silicato development on Route 1.

Mr. Satterfield emphasized that his staff is continuing to work on this and he supports council taking a position in hopes of finding some source of funding for the overpass. If the money is found, they will get it built.

Mr. Pikus said it is hard for him to understand though he realizes this is bureaucracy and he feels it is necessary to fight the politics of northern Kent County. He said it would be great to build all the overpasses if there were money in the highway transportation fund which is not the case. However, that will not happen because the people downstate do not have the clout they do upstate because that is where the votes are. He asked how they justify putting up an overpass for

something DelDOT does not even know will work, though they hope it will. He pointed out that in Milford, two people have lost their lives at these overpasses. He has a family that uses these overpasses every day. He cannot understand how the State of Delaware and Kent County Senators and Representatives can justify overlooking the Milford intersections and instead move a sports complex up the list over the safety and health of our residents.

Mr. Satterfield said he does not disagree but part of what is happening is there is so much history built up now with regard to all the grade separations. When he first started working on these, which is the better part of a decade, they were tasked to begin removing signals on Route 1. It was to begin at Route 9, then at Little Heaven, then at Thompsonville. However, that was during the development boom. South Frederica gained a lot of attention then because there was a lot of development proposed west of Route 1 which was prior to the sports complex.

He said there have been different interests throughout this time frame. The projects were moved around and Thompsonville was moved to the bottom of the list because there was a perception, right or wrong, the signal was safe for now. Then there was an issue at Route 1 and 30, after a few serious accidents, even though that had been on the radar for years. Priorities have changed in the past three to five years and at that point, they were working to finalize those projects. That is how Thompsonville has gotten to the point where all the right-of-ways were acquired. He said that is also how South Frederica got to the point, where they were one day away from advertising and then informed to hold off. However, both of those projects have the acquired right-of-ways and the Northeast Front Street has not gotten to that point. The other two are still ahead of Northeast Front Street because the right-of-ways are already acquired.

Mr. Pikus confirmed the right-of-way is acquired for the South Frederica overpass; Mr. Satterfield stated yes which was the result of the development planned west of Route 1. Though that development never occurred, the sports complex was gearing up. It was agreed that the grade separation would work for the sports complex as well. The priority was to keep working on the South Frederica overpass until the sports complex was ready to go and the two would go together. Then Decision Lens came into play which changed the priorities and moved the South Frederica project down and the Thompsonville overpass up. Northeast Front Street was also moved down the list though they continued to work on it.

Mr. Satterfield explained that over the years, the priorities have changed. As they continue to work on certain projects, they gain more attraction because the right-of-way plans are done and right-of-ways acquired. It then only needs to be advertised though the money has to be found to build them. He said the Northeast Front Street project has not gotten to that point which is what Mr. Venett and the Woodshaven group are fighting.

It was agreed that the City of Milford needs to go on record to support the Northeast Front Street to protect the citizens of Milford.

Mr. Satterfield then referenced the map showing the land owned by the State of Delaware. He explained the service road behind Grottos and Royal Farms was built with the intention of being able to tie into the overpass which would provide access to both Tenth and Front Streets.

Mr. Venett asked if the NKS property is available; Mr. Satterfield said he is unsure though they were told they would not receive access to that ramp. The plan is to extend the service road and if NKS were to develop on that lot, they would not be able to safely and efficiently access the ramp.

Mr. Satterfield confirmed there will be some impact to Hitchens Tire and Brendon Warfel's property. They would approach NKS to purchase their property for use as part of the project. He believes there may be a total of ten to twelve parcels involved.

He also confirmed there will be a significant impact on the Chaney land as well. However, their intent is to minimize as many properties as possible.

Mr. Venett then pointed out that an extension of the service road from the overpass that would provide access to the Hampton Inn and allow for further development near the Lighthouse Estate subdivision. He said to repair the narrow access over the wetland area will be very expensive. The availability of an overpass on that side of the highway will

inevitably lead to more development on the east side. The overpass on the west side of Route 1 will enhance the viability of the lots on Silicato Way.

Mr. Satterfield explained that during the first several minutes of every presentation he does now is a discussion of the need for additional funding. He understands that each of the overpasses is important but he stressed how impossible it would be to obtain it all at once.

It was agreed to add a resolution of support to the next council meeting.

Mayor Shupe thanked Mr. Satterfield and Mr. Venett for attending and providing their information.

Ordinance 2014-18/Chapter 204/Taxation/Supplemental Bills and Appeal Deadlines

City Manager Carmean presented the following ordinance that was needed to solve some problems we were encountering with supplemental bills, appeal dates and deadlines. This ordinance will change our tax year to end on June 30th and all properties will be billed within that year. It also addresses any changes to the property and the need for an interim assessment. There are no major changes and no impact on the tax rate.

*Ordinance 2014-18
Chapter 204/Taxation*

ARTICLE I - Tax Relief for Senior Citizens

§ 204-1. - Conditions for senior citizen exemption on real property tax.

Every person 65 or more years of age having an income not in excess of \$15,000 per year, exclusive of social security and railroad pensions, and residing in a dwelling owned by him or her which is a part of his or her real property shall be entitled, on proper claim being made thereof, to exemption from taxation on \$40,000 of assessed valuation of such real property, in the aggregate, and in the case of jointly owned property or property owned by husband and wife, such exemption shall be granted where the income of both does not exceed \$25,500 per year, exclusive of social security and railroad pensions.

§ 204-2. - Signed statement required; proof of income.

Every fact essential to support a claim for exemption as provided shall exist during the previous year. Every claimant, therefore, shall sign a statement that he or she is a resident of the City of Milford, of the age of 65 years, the owner and resident of a dwelling which is a part of the real property for which such exemption is claimed and has been a resident of that property for a period of at least one year prior to the year for which he or she is claiming that exemption. Such applicant shall also establish that his or her income for the yearly period did not exceed that allowed in § 204-1, exclusive of social security and railroad pensions.

§ 204-3. - Written application; filing.

No exemption from taxation on the valuation of real property shall be allowed except on written application, on a form prescribed by the City and mailed each year to applicants who have requested such exemption. All applications to be filed will be based on information for the pretax year and must be received prior to the billing process on a date determined each year by the City of Milford.

§ 204-4. - Continued exemptions.

The City shall require the filing of a new application or such proof as deemed necessary to establish the right of the claimant to continued exemption.

§ 204-5. - Appeals.

An aggrieved taxpayer may appeal from the disposition of an exemption claim in the same manner as is provided for appeals from assessments generally.

REMOVE:

ARTICLE H - Exemption of New Improvements Added to Property

~~§ 204-6. - Eligibility for new improvement exemption of real property taxes.~~

~~The exemption shall only apply to the increase in assessed value resulting from substantial rehabilitation, renovation or improvements of existing properties (residential, commercial, industrial, etc.) located within the city limits. New construction does not qualify.~~

~~The building permit for the said improvements must be issued prior to June 30, 2013 and shall be valid for a period of one year. The exemption shall be based on the change in the improvement assessment value only. The land assessment is not eligible for exemption under this article.~~

~~§ 204-7. - Amount of the exemption.~~

~~The amount of the exemption shall be determined by subtracting the value of construction per the building permit from the improvement assessment value following the new construction.~~

~~§ 204-8. - Application of the exemption and limitations.~~

~~The dollar amount of the exemption shall be multiplied by the property tax rate in the first full tax year following the issuance of a certificate of occupancy by the City. The dollar amount of the exemption shall be limited to a maximum of \$1,000 for residential properties and limited to a maximum of \$5,000 for all other properties. The exemption shall only be good for one year immediately following the issuance of a certificate of occupancy.~~

~~§ 204-9. - Appeals.~~

~~An aggrieved taxpayer may appeal from the disposition of an exemption claim in the same manner as is provided for appeals from assessments generally.~~

~~§ 204-10. - Due date for payment of property taxes.~~

~~Property taxes shall be payable on or before September 30th of each year.~~

~~§ 204-11. - Penalties.~~

~~To every tax not paid after the said date established in § 204-10, there shall be added and collected a penalty, for each month that the said tax remains unpaid. A penalty of one percent per month, or fraction thereof, shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in § 204-10 for the addition and collection of penalties.~~

RENUMBER:

ARTICLE II – Authority to exempt real property from taxation.

§ 204-6. The city council shall have the power to exempt real property located within the city from municipal property taxes when, in the opinion of the tax assessor, the same will best promote the public welfare. The city assessor shall be empowered to grant tax exemptions pursuant to 9 Del. C. § 8105 and 8110, upon receipt of an application to the City of Milford filed by the organization to establish its entitlement to such exemptions.

§ 204-7. No assessment shall be made against that portion of a parcel during the period in which the portion qualifies for agricultural, horticultural or forest uses as more fully defined by 9 Del. C. § 8330 through 8337, inclusive.

ARTICLE III – Annual Tax Bill.

§204-8. The tax year shall run from October 1st through September 30th each year based on assessed values as of June 30th.

§ 204-9. Property taxes shall be payable on or before September 30th of each year.

§ 204-10. To every tax not paid after the said date established in 204-9, there shall be added and collected a penalty, for each month that said tax remains unpaid. A penalty of one percent per month, or fraction thereof, shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in 204-9 for the addition and collection of penalties.

ARTICLE IV- Supplemental Assessments and Tax Bills

§204-11. Supplemental Assessment Required.

A. Changes, including zoning and construction, shall require reassessment of the property at its fair market value as of the date of the last citywide revaluation. A supplemental assessment will be determined for the amount of difference between the value stated on the regular assessment roll(s) and the new fair market value.

B. Supplemental tax bills shall be issued when there is an increase in taxable value caused by any change as stated in 204-11. More than one tax year may be affected by the increase in value, causing more than one supplemental bill to be issued. Even when a property has been sold, the original owner may be billed for any change in value relating to the dates of their ownership.

C. The increase in assessed value resulting from the reassessment is reflected in a prorated assessment that covers the period from the first day of the month following the supplemental event to the end of the fiscal year.

§204-12. - Assessment Appeals.

A. Appeal date deadlines

Appeal filing deadline (Annual billing) August 31st

Appeal filing deadline (October billing) November 30th

Appeal filing deadline (January billing) February 28th

Appeal filing deadline (April billing) May 31st

- 1. Right to appeal is lost if appellant has missed the designated appeal date.*
- 2. Appeals/refunds for errors or opinions of value from appellants will not be heard for prior years.*
- 3. The assessment as revised and adjusted by the board of assessment appeals shall be the listed value for the year under appeal and shall be the basis for the levy and collection of taxes for the city.*

He said that our billing supervisor, along with Christine Crouch, who is currently handling the city's land records in house, have worked with Jeff Portmann and himself to develop this ordinance.

Mr. Rutt said he has not had time to review the ordinance but will provide some later comments.

The ordinance is for review and recommendations only and is scheduled for introduction at the December 8th meeting.

Adjourn

With no further business, the Workshop Session adjourned at 8:10 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 24, 2014

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 24, 2014.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Chris Mergner, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and James Starling, Sr.

City Manager Richard Carmean and Deputy City Clerk/ Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 8:10 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

RECOGNITION

No special guests present.

COMMUNICATIONS

Councilman Starling advised that his church is again providing approximately 400 Thanksgiving meals to those in need. In addition, Christmas meals will also be provided. He encouraged anyone willing to support their effort to contact him.

Mayor Shupe reminded council the Holiday Stroll in Downtown Milford will be Friday, December 5th. The city manager and mayor plan to have the new billing office at the former PNC building open to the public. That will allow our residents to see the improvements that have been done.

The mayor also noted the dog park has been a great success and commended Gary Emory for his vision and successful completion of the project.

Mayor Shupe reported that the contractor started paving Southeast Front Street this week. It has been a long project but all the sidewalks have been replaced from Walnut Street to Rehoboth Boulevard. He is pleased they are in the final stages of paving. The city manager then confirmed the project will be complete by the end of November.

UNFINISHED BUSINESS

Introduction/Ordinance 2014-14/Chapter 165 Amendment/Parks and Recreation

Mayor Shupe introduced Ordinance 2014-14, explaining that throughout the year, the city receives a number of requests for alcohol waivers for special events throughout the city. The requests, including one from Downtown Milford's Farmers Market, located in the downtown park area, were granted waivers by council.

He explained that Ordinance 2014-10, entitled Parks and Recreation, was adopted to provide rules for the use of the city parks. The use of alcohol in city parks is currently banned by that particular ordinance. We have received a request for an event in one of our parks. After a great deal of consideration, the alcohol could be permitted during special events with the implementation of specific rules and approvals by the appropriate agencies in the State of Delaware as well as city council.

He then referenced the proposed ordinance:

*Ordinance 2014-14
Chapter 165-Parks and Recreation*

WHEREAS, the Council of the City of Milford adopted Ordinance 2014-10, entitled Parks and Recreation, for the purpose of providing necessary regulations, conditions and requirements which shall be uniformly applied to the general use of city parks; and

WHEREAS, the Milford City Council desires to adopt revised rules governing the city parks; and

WHEREAS, the use of alcohol in city parks is currently banned by ordinance; and

WHEREAS, the City Council desires to amend the Parks and Recreation Ordinance to allow the use of alcohol on park property for a special event; and

WHEREAS, recognizing that special events enhance the quality of life for residents and visitors, as well as provide substantial economic benefits, it is deemed to be in the best interest of the City of Milford to allow alcoholic beverages in the parks with the proper approvals and by requiring event identifications; and

WHEREAS, a new Milford Dog Park opened on November 1, 2014 for the further use and enjoyment of the public; and

WHEREAS, the City Council desires to update its established rules regarding permissible and prohibited activities in the City Dog Park.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. An Ordinance to Amend Article II-Parks and Recreational Rental Rules and Regulations-of the Parks and Recreation Code of the City of Milford by adding an exception to the alcohol prohibition.

Section 2. §2.03(d) is hereby amended by adding (1)(a), (1)(b) and (1)(c) as stated below:

(d) No alcoholic beverages permitted. Refer to Chapter 77 of the City of Milford Code.

(1) Exception.

- (a) Alcoholic beverages may be sold and consumed at special events in parks only upon application to and approval of the City Council and receipt of the applicable permit from the State of Delaware Alcoholic Beverage Control Commission.*
- (b) The event organizer is required to provide event identification to those persons twenty-one years of age or older who intend to purchase and consume alcohol at the special event in the park.*
- (c) Alcoholic beverages are prohibited on city streets and sidewalks beyond the boundaries of the designated special event area as posted by the event organizer.*

Section 3. Article IV. Penalty for Violations. Article IV is hereby renumbered as Article V.

Section 4. Article IV. A new Article IV, entitled Milford Dog Park, is adopted as follows:

Article IV. Milford Dog Park

§4.01. There is hereby established within the City of Milford a dog park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of an owner/handler who is competent and knowledgeable relative to the behavior of said dog(s).

§4.02. As a condition of entering the Milford Dog Park, dog owners and handlers must read and agree to be bound by the following rules and regulations:

- (a) *Park is open sunrise to sunset only.*
- (b) *All dogs must be licensed and wear current license and vaccine tags.*
- (c) *Dog owners/handlers assume all risks for injury or loss of any kind to themselves and their dogs.*
- (d) *Dog owners/handlers are legally responsible for any damage caused by the dog.*
- (e) *Dogs must be on a leash and under control at all times outside the fenced area.*
- (f) *Owners/handlers must carry a leash at all times and closely supervise their dogs. At no time may the owner/handler exit the fenced area without his/her dog(s).*
- (g) *Only people with dogs are permitted in the fenced area.*
- (h) *Each owner/handler must be above the age of 13 and shall not supervise more than two dogs while in the park.*
- (i) *Excessive barking is prohibited; dogs barking excessively must be removed.*
- (j) *Dogs exhibiting aggressive behavior are to be removed immediately.*
- (k) *Any waste left by the dog must be picked up immediately and properly disposed of in the containers provided. Owners/handlers may bring use old grocery sacks/bags.*
- (l) *Owners/custodians must fill any holes created by their dogs and report any observations of gaps or weaknesses in the boundary fencing to the Parks and Recreation Department.*
- (m) *No human or dog food, including treats, are allowed in the park for any reason.*
- (n) *Prohibited from entering the park are dogs with sickness, female dogs in heat, puppies under four months of age and all other domestic animals.*
- (o) *Smoking is strictly prohibited in the park.*

§4.03. Infraction of the rules as stated in §4.02 may result in temporary or permanent loss of park privileges. All other state and local laws apply.

Section 5. Dates.

Introduction 11/24/14

Adoption (Projected) 12/08/14

Mayor Shupe noted that some form of identification will be required for individuals twenty-one years of age and older. In addition, a perimeter must be determined where alcohol will be restricted. In addition, approval is required from the State of Delaware.

Rules were also added for the new Dog Park that opened on November 1, 2014. Some of the rules are posted at the park, but need to be added to the Parks and Recreation Code to ensure everyone understands and is on board with what is required.

Mr. Grier confirmed the purpose of the alcohol exemption is to create more downtown activities and events; Mayor Shupe stated he has several organizations approach the city about such events. The latest request came from Downtown Milford, Incorporated, who are planning a Brewgrass Festival. The festival will have bluegrass bands and beer vendors who will provide beer to attendees twenty-one years and older.

Mr. Pikus then questioned whether the beer will be sold or given away. The city manager said that each event will be handled differently. From what he understands, a container will be provided to each attendee at the Brewgrass event. The participant will then go to each vendor who will provide them with beer. Mr. Pikus confirmed the vendors will be selling beer then; Mr. Carmean stated yes.

It was confirmed that other communities are having these type events in the form of a fundraiser.

Mr. Starling confirmed this will allow people to drink beer on a special day but that person cannot go back to the site the next day and drink again. However, the next day, they could not return and do the same thing, or they may end up paying a fine. He feels this is sending mixed messages.

He recalled adopting an ordinance recently that prohibited alcohol in the parks even though P&R Director Gary Emory has never allowed alcohol in the parks. Because the ordinance was adopted, he does not think it should be allowed at anytime.

Mr. Grier compares this to Eat in the Street which he noted is a very successful event. In that situation, there is wine and

beer served along with the food.

Mr. Starling reiterated that council passed an ordinance that prohibits alcohol in the park. Mr. Brooks pointed out that this does give the city some control. The applicant will have to come before council and explain their plans before it is approved. In addition, it is only allowed during a specific time and in a defined area.

Mayor Shupe agreed with Mr. Brooks stating it will only be allowed at a special event. Currently, any event involving alcohol, regardless of whether it is on city lands or on private lands, requires approval from the State of Delaware and city council approval. He referenced the beer tasting that was approved for the farmer's market this past summer.

Mr. Starling agreed that was approved but at the time, he did not think alcohol was prohibited by the ordinance. We now have an ordinance that states that alcohol is not allowed in the parks. Mayor Shupe reemphasized this would only be allowed at a special event, which time and place would need to be approved by council.

Mr. Starling is very concerned there may be a conflict because council is sending different messages. He would have a problem if someone was found drinking in a park and they were fined. But at the same time, that person could go to another park and legally drink.

City Solicitor Rutt stated that the organizer would obtain a special event permit issued by the Alcohol Beverage Control. He said the state could issue the permit in the park downtown or any other city park if that is where the activity was confined for a limited period of time.

Mr. Starling verified this will overrule what council previously approved; Mr. Grier noted that this will allow an exception or waiver only for a special event.

Mr. Morrow referenced an alcohol ordinance that prohibits drinking in public areas at anytime. That includes sidewalks, parking lots, streets, etc. However, someone can request an exception to that ordinance with the approval of council. Though alcohol is not permitted in the parks and recreation ordinance, this would allow an exception as is permitted with the alcohol ordinance.

Mr. Starling disagrees and feels this could be challenged. When council makes one rule and begins making exceptions, it becomes confusing. Mr. Rutt said the state could say it is allowed and issue the permit.

According to Mr. Rutt, the existing ordinance has language that states city council can grant an exemption for alcohol beverages. Mr. Starling confirmed that this ordinance states alcohol is not permitted in the parks; Mr. Rutt stated yes.

Mayor Shupe confirmed that there needs to be some sort of perimeter, identification of participants and state approval before the exemption is approved by council. He said that he left the identification requirement vague so the organizer can decide whether to use a stamp or wristband.

Mr. Pikus asked how this would prevent someone entering an event with alcohol purchased off site. Mayor Shupe said that could be a problem and that should be addressed in the ordinance. The intent is not to allow any person to enter with their own alcoholic beverage but to acquire the alcohol being provided by the organizer.

Mr. Mergner also recommends adding a requirement that the container be made of plastic and no glass cups or bottles be allowed.

City Solicitor Rutt referenced Code 77 related to Alcoholic Beverages that allows alcoholic beverages be sold and consumed at special events or gatherings in public places, upon application to and approval of the City Council.

Mr. Pikus said that is in this ordinance; Mr. Rutt said that is in the existing ordinance. Mr. Morrow asked if we are only tweaking that ordinance; Mr. Rutt stated yes.

Mayor Shupe then stressed that we are adding that language to the parks and recreation ordinance that currently prohibits alcohol in the parks only. That prevents two ordinances with two different rules

Mr. Starling asked if the ordinance that Mr. Rutt is referring to is the one related to city parks; Mr. Rutt then stated that 77-1 states that it shall be unlawful for any person to consume any alcoholic beverage or beverages upon any of the public streets, avenues, alleys, sidewalks, parks and similar public areas or in vehicles upon any of the above stated areas within the municipal boundaries of the City of Milford.

Mr. Rutt then reiterated that it also states that alcoholic beverages can be sold and consumed at special events or gatherings in public places, upon application to and approval of the city council. Therefore, there is an exemption in the ordinance already.

Mr. Pikus confirmed that the area must be a designated area. Mr. Rutt states yes, Bicentennial Park or Library Square for example. Mr. Mergner feels that there must also be a confined area within the park where alcohol will be sold and consumed instead of the entire park. He recommends it be identified with a fence, tape or something similar. Otherwise, it could become a problem.

Mr. Starling said he understands, but is concerned we are sending mixed messages that will confuse people.

Mayor Shupe advised this is the result of a recent request though council did approve a beer tasting at the Farmer's Market which took place in the park area.

Mr. Pikus asked if the request is to use a certain area of a park. Mayor Shupe explained that under the new ordinance, the organizer will have to identify the area and perimeter with some type of marking. They will need to decide whether a temporary fence, rope or other material to use. Mr. Carmean recommends the city will then need to come in and approve the area before council approves it.

Mayor Shupe then asked if council feels there are any other rules that should be added.

Mr. Pikus wants to make sure the city is protected in these situations and agrees we do not want to send the wrong message that people are allowed to drink in our parks.

Mayor Shupe also recommends adding a requirement that the area must be cleaned up by the organizer at the completion of the event.

Mr. Mergner asked who would oversee and make sure the area is set up appropriately and cleaned up. Mr. Carmean said that would be the responsibility of parks and recreation. Mr. Mergner wants to make sure that everything is place to prevent any problems after an event begins. He noted it would be difficult to address this once the event begins and a large number of people are present. He recommends the parks and recreation director sign off at the site prior to the start of the event.

Mr. Grier also agrees it is important the organizer is required to clean up the area to its original condition and to prevent any disasters the next day.

City Manager Carmean also recommends a security deposit be required. If the cleanup is not done, that money will be used to pay the expenses of city crews taking care of it.

Mr. Mergner also suggests that portable toilets be mandated at events where alcohol is being sold. Those costs would be the responsibility of the organizer. He feels if that is not done, our parks could end up being damaged.

Mr. Pikus agreed the organizer should be responsible for the cost of the portable toilets and any maintenance involved. Mayor Shupe agrees and stated that those items will be added. He asked council to contact either himself or the city clerk with any other items needed to ensure everything is covered for the protection of the city.

Adoption/Ordinance 2014-15/Chapter 193 Amendment/Solid Waste Management

Mayor Shupe advised an amendment is needed to the Solid Waste Management Code Amendment to change yard waste collection from a restricted number of months each year to a full year. It will continue to be picked on an every-other-week basis as is done with recycling.

Mr. Pikus noted that the solid waste budget is dwindling and an increase in fees will need to be considered in the next budget year.

Mr. Pikus moved to adopt Ordinance 2014-15, seconded by Mr. Grier:

*Ordinance 2014-15
Chapter 193-Solid Waste Management*

AN ORDINANCE APPROVING AN AMENDMENT TO ARTICLE III YARD WASTE OF CHAPTER 193 SOLID WASTE MANAGEMENT OF THE CODE OF THE CITY OF MILFORD.

WHEREAS, the City of Milford, mindful of its responsibilities to protect and maintain the public health, safety and welfare of its residents, provides for the collection of solid waste materials; and

WHEREAS, the City currently limits yard waste collection beginning on April 1st and ending October 31st of each year; and

WHEREAS, the City is willing to provide yard waste collection on an every-other-week basis as a year-round service to its solid waste customers; and

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by removing the time limitation for yard waste collection and changing it to a year-round service.

Section 2. Article III Yard Waste, Section 193-14A, Collection Procedures is hereby amended to read as follows:

ARTICLE III YARD WASTE

193-14. Collection Procedures

A. The city will ~~provide for the collection of~~ collect yard waste, ~~from April 1 through October 31 of each year~~, provided that such yard waste is deposited into the yard waste containers issued by the city. Disposal of yard waste that will not fit into the container shall be the responsibility of the property owner.

Section 3. Article III Yard Waste, Section 193-15A and Section 193-15B, Collection & Rate Schedule is hereby amended to read as follows:

193-15. Collection & Rate Schedule.

A. The City will collect yard waste as described in Section 193-~~10A~~ 14A once every other week.

B. The loose leaf curbside collection as described in Section 193-~~10A~~ 14B will be collected once each week.

Section 4. Dates

*Adopted November 24, 2014
Effective December 4, 2014*

Motion carried.

Adoption/Ordinance 2014-16/Chapter 130 Amendment/Floodplain Management

Changes in recent laws have required government agencies to amend their flood damage prevention rules and regulations to be compliant. As a result, Chapter 130 will be repealed and replaced with a new Chapter 130. A riparian buffer standard will be developed for building setbacks along the Mispillion River and other waterways. In addition, commercial

structures outside of the floodplain must be delineated to ensure those sites remain open space in perpetuity.

The city manager stated that Mr. Rutt advised him he wanted to look the ordinance over and compare it to Kent and Sussex Counties ordinances to prevent any problems with future buildings.

Mr. Rutt recalled when former City Planner Gary Norris sent him a draft of the ordinance in August 2012. He has seen nothing since and the next time he saw the ordinance was in the packet this past weekend.

Because he has not seen the revised version, which he found to be significantly different from the 2012 draft, he wants to take sometime to compare the two counties to Milford's ordinance to prevent any conflict.

Mr. Pikus moved to postpone action on Ordinance 2014-16, seconded by Mr. Brooks:

ORDINANCE NO. 2014-16

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AMENDING THE CITY OF MILFORD CODE OF ORDINANCES TO REPEAL CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT A NEW CHAPTER 130 FLOODPLAIN MANAGEMENT; TO ADOPT FLOOD HAZARD MAPS, TO DESIGNATE A FLOODPLAIN ADMINISTRATOR, TO ADOPT ADMINISTRATIVE PROCEDURES, AND TO ADOPT CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND FOR OTHER PURPOSES; TO PROVIDE FOR APPLICABILITY; REPEALER; AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Milford has the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency has identified special flood hazard areas within the boundaries of the City of Milford and such areas may be 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, and

WHEREAS, the City of Milford was accepted for participation in the National Flood Insurance Program on June 1, 1977 and the City Council of the City of Milford desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Milford, Delaware, that the following floodplain management regulations are hereby adopted.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

SECTION 1. This ordinance specifically repeals and replaces Chapter 130 Floodplain Management with amendments to the following:

ARTICLE I - GENERAL PROVISIONS

- § 130-1. Findings.*
- § 130-2. Statement of Purpose.*
- § 130-3. Areas to Which These Regulations Apply.*
- § 130-4. Basis for Establishing Special Flood Hazard Areas.*
- § 130-5. Abrogation and Greater Restrictions.*
- § 130-6. Interpretation.*
- § 130-7. Warning and Disclaimer of Liability.*
- § 130-8. Severability.*

ARTICLE II - DEFINITIONS

- § 130-9. Definitions.*

ARTICLE III - ADMINISTRATION

- § 130-10. *Designation of the Floodplain Administrator.*
- § 130-11. *Duties and Responsibilities of the Floodplain Administrator.*
- § 130-12. *Permits Required.*
- § 130-13. *Application Required.*
- § 130-14. *Review, Approval or Disapproval.*
- § 130-15. *Inspections.*
- § 130-16. *Submissions Required Prior to Issuance of a Certificate of Occupancy.*
- § 130-17. *Flood Insurance Rate Map Use and Interpretation.*

ARTICLE IV - REQUIREMENTS IN ALL SPECIAL FLOOD HAZARD AREAS

- § 130-18. *Application of Requirements.*
- § 130-19. *Subdivisions and Developments.*
- § 130-20. *Protection of Water Supply and Sanitary Sewage Systems.*
- § 130-21. *Buildings and Structures.*
- § 130-22. *Fill.*
- § 130-23. *Historic Structures.*
- § 130-24. *Recreational Vehicles.*
- § 130-25. *Gas or Liquid Storage Tanks.*

ARTICLE V - SPECIFIC REQUIREMENTS IN SPECIAL FLOOD HAZARD AREAS

- § 130-26. *General Requirements.*
- § 130-27. *Residential Structures and Residential Portions of Mixed Use Structures.*
- § 130-28. *Nonresidential Structures and Nonresidential Portions of Mixed Use Structures.*
- § 130-29. *Accessory Structures.*
- § 130-30. *Protection of Flood-Carrying Capacity.*

ARTICLE VI - VARIANCES

- § 130-31. *Variances.*

ARTICLE VII - ENFORCEMENT

- § 130-32. *Compliance Required.*
- § 130-33. *Notice of Violation.*
- § 130-34. *Violations and Penalties.*

*SECTION 3. APPLICABILITY.**SECTION 4. REPEALER.**SECTION 5. DATES.*

Introduction: 11-10-2014

Adoption:

City Inspector Don Williams then provided an overview of the ordinance.

Mr. Williams stated that this ordinance is in response to Senate Bill 64. As a result of FEMA updating floodplain maps in Delaware this year, all municipalities in Delaware are required to participate in the National Flood Insurance Program by updating floodplain language to comply with the National Floodplain Insurance Program requirements.

To assist in this endeavor, DNREC developed four model floodplain ordinances to help coastal and non-coastal communities. DNREC is suggesting higher floodplain standards as a way to reduce flood damage and lower flood insurance premiums.

Mr. Williams reported the ordinance was developed with the assistance of NFIP State Coordinator and Certified DNREC Floodplain Manager Greg Williams. The DNREC Secretary has also reviewed the ordinance and made some changes.

In addition, Mr. Williams has been working with the consulting firm hired to ensure all ordinances are in compliance.

He also conferred with Former City Planner Gary Norris who is more familiar with the floodplain issues. Mr. Norris also tweaked the ordinance.

The final draft was sent back to Greg Williams for his final review.

The building inspector explained that Milford was using the standard of 12 inches of freeboard, which means 12 inches above the floodplain. Mr. Williams recommends the city increase to 18 inches which means 2 feet and saves 64% on insurance versus the 49%.

He confirmed this has been reviewed by all required agencies including DNREC. All ordinances must be effective by March 16, 2015.

Mr. Rutt confirmed that every town in Sussex County except Greenwood and Delmar had to amend their floodplain ordinance.

Mr. Williams reiterated that the big change is the increase from 12 inches of freeboard to 18 inches. He feels there will be little impact on existing buildings though when the Warren Furniture building is demolished, they are a foot below the floodplain and will have to rebuild 2½ to 3 feet higher. However, if it is renovated as it currently exists, he will be required to add some floodgates.

Motion then carried with no one opposed.

Adoption/Ordinance 2014-17/Chapter 88 Amendment/Building Construction

Building Inspector Don Williams explained that the changes to Chapter 88 affect two areas in the building code.

References to Chapter 130, regarding floodplain management, were made to the following sections:

Ordinance 2014-17
Chapter 88-Building Construction

WHEREAS, the City of Milford deems it necessary to regulate and govern the conditions and maintenance of all property, buildings and structures; and

WHEREAS, the City stipulates the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and

WHEREAS, the City requires the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures are herein provided; and

WHEREAS, the City calls for the issuance of permits and collection of fees.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 88 entitled Building Construction.

Section 2. Article 1-International Residential Code, 88-2-Additions, Insertions and Changes is hereby amended as follows:

C. Chapter 3 Building Planning

1. TABLE R301.2(1)

Climatic and Geographic Design Criteria

Ground Snow Load	Wind Speed d (mph)	Seismic Design Category	Subject To Damage From			Winter Design Temperature	Ice Barrier Underlayment Required	Flood Hazards g	Air Freezing Index i	Mean Annual Temp j
			Weathering	Frost Line Depth b	Termite					
25	100	A	SEVERE	24 INCHES	MOD-HEAVY	14	NO	ADOPTED: 07/14/78 CURRENT: 01/06/05 See Chapter 130 Floodplain Management	368	55.7F

Section 3. Article II-International Building Code, 88-4.-Additions, Insertions and Changes is hereby amended as follows:
 P. Chapter 16, Structural Design.

161.2.3 1612.3. Establishment of flood hazard areas. To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at a minimum, acres of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Milford," dated June 16, 1995, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data, along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.
Flood hazard areas are established by Chapter 130, Floodplain Management.

Section 4. Dates.
 Introduction 11-10-2014
 Adoption
 Effective

To prevent changing the data each time the floodplain maps change, he is referencing Chapter 130 in both sections.

City Manager Carmean recommended this be postponed and adopt at the time Ordinance 2015-16 (Chapter 130) is approved.

Mr. Pikus moved to postpone action on Ordinance 2014-17 until the next meeting, seconded by Mr. Brooks. Motion carried.

Introduction/Ordinance 2014-13/Chapter 190/Smoking Prohibited in City Parks, Buildings and Facilities

Mayor Shupe reported this ordinance was initiated by Councilman Pikus after some complaints were received from people using our parks. It has been reviewed by the Community Affairs and Parks and Recreation Committee. It was last reviewed by the Police Committee whose minutes are included in the packet.

Mr. Morrow introduced the ordinance stating that the Police Committee met last Tuesday and thoroughly reviewed the ordinance section by section. Some tweaks made and definitions added.

*ORDINANCE 2014-13
 Chapter 190-Smoking Prohibited in City Parks, Building and Facilities*

AN ORDINANCE OF THE CITY OF MILFORD PROHIBITING SMOKING IN CITY PARKS, BUILDINGS AND FACILITIES, SPECIFYING REQUIRED SIGNAGE, PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS THEREOF AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, a new chapter in the Code of the City of Milford is being created to prohibit smoking in all City parks, buildings and facilities; and

WHEREAS City parks are intended for the healthy enjoyment of all citizens, including children and youth; and

WHEREAS smoking and tobacco use in parks can result in litter of cigarette butts, cigar butts and other tobacco-related waste which can cause environmental degradation and pose a health risk to children and animals; and

WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and

WHEREAS many parks in the City contain trees and plants that can be combustible, particularly in the dry summer months and pose an increased risk of fire; and

WHEREAS, on September 23, 2014, the Community Affairs Committee and Parks and Recreation Committee recommended a smoking ban in City Parks; and

WHEREAS, City Council has previously taken formal action by voting on a policy which prohibits smoking in City Buildings and Facilities.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 190, to be entitled Smoking Prohibited in City Parks, Buildings and Facilities to read as follows:

Section 2. CHAPTER 190. SMOKING PROHIBITED IN CITY PARKS, BUILDINGS AND FACILITIES.

§ 190-1 Definitions.

§ 190-2 Smoking prohibited.

§ 190-3 Park Conditions.

§ 190-4 Enforcement and Civil Penalties.

§ 190-5 Payment.

§ 190-6 Procedure to Contest a Violation.

§ 190-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

Building: Free-standing structure enclosed by a floor, ceiling and walls on all sides that are continuous and solid except for closeable entry and exit doors and windows.

Open-Air Facility: Structure that is not fully enclosed but may be partially enclosed (for example, structures with open sides).

Parks and Recreation Director: City of Milford Parks and Recreation Director and any employee or designee thereof.

Smoking: The combustion in any cigar, cigarette, pipe, or any other similar article or any device, of tobacco or other combustible substance.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or tobacco like products in any manner or form.

§ 190-2 Smoking prohibited.

(A) Parks.

(1) Smoking shall be prohibited at all times in all City of Milford public parks and playgrounds, including, without limitation:

- a. Banneker Park*
- b. Bicentennial Park*
- c. Marshall Pond Park*
- d. Marvel Square Park*
- e. Memorial Park South*
- f. Tony Silicato Memorial Park*
- g. Library Square*
- h. Milford Library Amphitheater*
- I. Goat Island*
- j. Mispillion Riverwalk*
- k. Milford Dog Park*

(B) Smoking is prohibited at all parks and playground areas owned by the city and open to the public.

(1) Exception.

- a. Land owned by the City of Milford and used by Milford Little League.
Policy will be established and enforced by Milford Little League Board of Directors and/or designee.*

(C) Smoking is prohibited in a building or open-air facility owned, leased or operated by the City of Milford.

§ 190-3 Park Conditions.

A. At the entrance(s) of each designated park, there shall be appropriate signage designating the prohibition.

§ 190-4 Enforcement and Civil Penalties.

(A) The Milford Police Department shall enforce this chapter.

(B) Any person observed violating this chapter who has not been issued a written warning, shall be issued a verbal warning for a first offense.

(C) Any person who has received a written warning and is observed violating this chapter, shall be subject to a civil penalty of \$25 beginning with the second violation and not less than \$50 for each subsequent violation.

(D) Milford Police Officers, City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person observed violating this chapter.

(E) The name of any person issued a verbal warning shall be immediately reported to the Milford Police Department.

§190-5 Payment.

All payments for civil penalties received under this chapter shall be delivered to the Milford Police Department (payable to the City of Milford) within thirty (30) days after receipt.

§190-6 Procedure to Contest a Violation.

Persons who wish to contest the validity of a smoking violation under this chapter may contest the violation by appealing the decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal.

Section 3. Dates.
Introduction: 11/24/2014
Adoption: 12/08/2014

Adoption is scheduled at the next meeting of council.

*Security System Proposals/City Hall**Advantech Proposal*

City Manager Carmean recalled the Advantech Camera Security and Delaware Electric Signal Panel Proposals presented at the November 10th meeting.

At that time, Mr. Carmean noted that Councilman Mergner asked if we had obtained additional proposals. He only considered Advantech because it would be appropriate to use the same company the police department uses. When thinking about getting some additional proposals, he discussed the matter with City Solicitor Rutt who agreed there was a problem because the Advantech proposal was already public.

Mr. Rutt then added that the city is not obligated to bid the work because it is below \$30,000. He pointed out that because Advantech is already working with the city and the staff is comfortable with them, he feels that council should approve their proposal. This is an administrative purchase and there would be additional costs associated with the proposal because an engineering firm would need to be hired to write and provide specifications. Potentially, it could cost the city a great deal more money.

Mr. Carmean recalled there was a great deal of concern about security at city hall by council. He knew that Chief Hudson had been working with Advantech and his department was very pleased with their work. He added that the fees associated with the contract would be paid out of the general fund reserves.

Mr. Pikus said based on the city solicitor's comments, he moved to accept the Advantech proposal as presented, seconded by Mr. Morrow. Motion carried.

Mr. Pikus moved the Advantech proposal be paid from the General Fund Reserves, as recommended by the city manager, seconded by Mr. Starling. Motion carried.

Delaware Electric Signal Proposal

Mr. Carmean reported that Delaware Electric Signal is the current carrier of our alarm system and he recommends we proceed with this proposal as well.

Mr. Pikus asked how quickly these buttons can be installed, Mr. Carmean said very quickly. Mr. Pikus said that is very important. Mr. Carmean noted that we currently have an alarm system though our employees would have to get to it to set it off.

Mr. Brooks moved to approve the Delaware Electric Signal Proposal in the amount of \$970, to be paid from General Fund Reserves, seconded by Mr. Morrow. Motion carried.

NEW BUSINESS

Davis, Bowen and Friedel Test Well Services - SE Milford Water System Expansion Project/Wickersham Site

DBF Engineer Erik Retzlaff advised the Southeast Water System Expansion includes the water tower and one production well. The construction of the elevated storage tank is underway and the construction of the associated water main extension and production well are complete with only closeout paperwork needed. He said we are in the process of bidding out the design of the water treatment facility. The first well drilled was not a huge producer though it did meet our current needs. Because the city has invested a significant amount of money to build a water treatment facility on the site, they are recommending another test well be constructed to ensure the correct location to add a new well five years from now when the demand increases.

He confirmed this is a cautionary move they recommend before the city invests a significant amount of money at the treatment facility and storage tank site.

Mr. Retzlaff confirmed this will be in the same location as the first well, but will be at a different depth.

Mr. Pikus was under the impression at the time this well was drilled, it would be sufficient for future development. Mr. Retzlaff advised the current production well produces about 140 gallons. He explained that southern Milford is the cusp of where water somewhat starts to disappear. The confined aquifers do not extend much further south of Milford. The majority of the municipalities in Eastern Sussex County only have production wells in the unconfined, groundwater aquifer because they do not have access to any of the confined aquifers.

Initially, Mr. Retzlaff reported there was a test well installed north of Wilkins Road which was a larger producer than what is occurring further south where water disappears as it migrates out.

Mr. Brooks asked how far this is to the next closest well, Mr. Retzlaff estimates approximately 2,500 feet. He noted that the initial test well on the Hall property could also be seen from the other test well.

When asked the depth, Mr. Retzlaff said it is screened in the interval of about 330 to 370 feet.

He said the reason they are recommending a higher screened area is because of the production capacities of the remaining wells and the tower. The highest of the confined aquifer is about 275 to 290 feet. They feel it is prudent to ensure there is water before the city spends \$750,000 to \$1 million for water treatment.

Mr. Retzlaff said because it is an unanticipated cost for the city, DBF is waiving their fees. They have contracted with AC Schultes to install the test well. The cost for their work will be \$34,270 with no engineering fees.

Mr. Mergner confirmed this was part of the initial Southeast Milford Water project; Mr. Retzlaff said yes but they want to ensure the additional production capacity is available for the future installation of a supplementary production well in order to meet the city's future demands.

Mr. Pikus asked what happens if this is not successful. Mr. Retzlaff said there are ways to handle it. He said the water being pumped from the ground will need to go somewhere to be treated before it enters the distribution system though it does not have to be at this location. The treatment plant can still be placed at another location though the water will have to be pumped somewhat further. It was confirmed there would be additional costs if that were the case.

Mr. Retzlaff reported the initial test boring went down over 650 feet and four different formations were detected. However, they cannot guarantee how much water can be pulled from the different formations until the area is screened and pumped which is further investigatory work.

Mr. Mergner referenced the \$30,000 bid requirement and asked if the Schultes proposal is subject to be bid. Mr. Retzlaff said that AC Schultes is the most qualified well driller that can handle a project of this size and capacity. He would be cautious to have another contractor do this work.

Mr. Pikus advised that AC Schultes has been doing this work for years in the city. Mr. Mergner said that is exactly the reason the numbers sometimes need to be considered. He feels if a business becomes comfortable getting the job and the price is not shopped, we simply pay what is on the invoice without question. He reiterated the \$30,000 threshold discussed earlier, noting this is \$34,000 that he felt should have been bid. Mr. Pikus agreed we may need to do that.

Mr. Retzlaff explained that the \$30,000 threshold is related to construction projects and this is investigatory. He added that because this is investigatory, it falls under DBF as a professional service which is exempt from the threshold.

Mr. Carmean said it falls under the contractual category which is also exempt from the \$30,000 requirement.

Mr. Brooks asked who is the next closest contractor that does this work; Mr. Retzlaff said UniTech out of northwestern New Jersey or Layne Christensen out of Quakertown, Pennsylvania. He emphasized there are plenty of well drillers in this area but none that can handle a project of this size and magnitude.

Mr. Carmean then stated that the city has a working relationship with AC Schultes.

Mr. Retzlaff noted this is lower than their initial estimate because he negotiated with them.

He said the drilling of the well behind city hall and the Southeast well projects were both bid. UniTech bid on those jobs

though AC Schultes was the low bidder because of the mobilization costs associated with the other contractors. AC Schultes is also familiar with the water formations here; someone coming from another state is not.

Mr. Gleysteen then stated that regardless of any of that, whether \$30,000 is spent on contractual services or any of work does not make a difference. To him, it is still over the \$30,000 threshold. He feels there is no rush to drill the test well. In his opinion, we should get a second proposal and have the time to do it.

Mr. Carmean said that would involve at least an additional two months because of the advertising, pre-bid meetings and bid meeting.

Mr. Pikus said we already have one bid which is \$34,270. Mr. Retzlaff explained that he asked them to give him a number to do the test well and now another company could come in with a bid of \$34,000.

Mr. Mergner then recalled the city solicitor saying we cannot consider another bid once the first proposal has been made public. Mr. Rutt said the proposal has been discussed and it is part of the packet so it is now a public record. If that were to occur, Schultes could come in and say it is unfair considering their number was publicly discussed.

Mr. Gleysteen feels that in that situation, AC Schultes would also have the opportunity to rebid.

Mr. Pikus then moved to approve the DBF proposal in the amount of \$34,270, seconded by Mr. Starling. Motion carried with no one opposed.

FY 2014-2015 Budget Adjustment/SE Second Street Pump Station Improvements/Sewer Reserves

Erik Retzlaff recalled that during the previous fiscal year, council budgeted \$45,000 to make some minor improvements to the Southeast Second Street Pumping Station. He explained the pump station is old and needs some work including a new pump controller, valves and existing valves and access hatch repaired.

Due to some unanticipated repairs, additional pavement restoration and traffic control measures, additional funding is needed to replace the hatch. The cost, based on contractors' estimates and the cost associated with the public works staff is approximately \$7,500 more than was budgeted. His recommendation is to transfer \$10,000 to ensure the work can be completed without an additional budget adjustment.

Mr. Brooks moved for the approval of \$10,000 from Sewer Reserves to the Southeast Second Street Pump Station Improvements Project, seconded by Mr. Morrow. Motion carried.

FY 2014-2015 Budget Adjustment/Reisinger Contract/Change Order 2/Billing Office-PNC Building

Change Order #2 consists of the following work as proposed by the contractor:

We are writing you at this time to submit our cost for additional work as per your request. The work is to include the deletion of the VCT in the three restrooms on the first floor and the installation of ceramic tile in the restrooms with 6" ceramic tile base. We have also included the installation of new VCT in the IT Room with vinyl base, including floor preparation.

Materials	\$40.00
Labor IT Room Floor Prep	\$142.00
Credit for VCT in Rooms 104, 105 & 107	-\$368.00
New Ceramic Tile for Rooms 104, 105 & 107	\$3,057.00
New VCT & Base for IT Room	\$333.00
Supervision	\$120.00

<u>Subtotal</u>	<u>\$3,324.00</u>
GC OH 10%	\$332.40
GC Profit 5%	\$182.82
<u>TOTAL</u>	<u>\$3,839.22</u>

We are writing you at this time to submit our cost for additional work as per your request. The work is to include adding a transom light above the front entry door. The transom is to be a fixed insulated panel in Dark bronze to match the frame. The new door location will shift out approximately 6" to the stone surround and the concrete will be ground to accommodate for this with the new flooring at the interior.

Materials	\$550.00
Labor	\$528.00
Supervision	\$35.00
<u>Subtotal</u>	<u>\$1,113.00</u>
GC OH 10%	\$111.30
GC Profit 5%	\$61.22
<u>TOTAL</u>	<u>\$1,285.52</u>

We are writing you at this time to submit our additional cost as per your request. The work is to include providing a new Aluminum storefront window in 8' high watt, reframe the metal studs, install wood casing and paint new wood work. Window to be fixed with anneal glass, aluminum to be dark bronze.

Materials	\$725.00
Labor	\$660.00
Painting Subcontractor Cost	\$75.00
Supervision	\$60.00
<u>Subtotal</u>	<u>\$1,520.00</u>
GC OH 10%	\$152.00
GC Profit 5%	\$83.60
<u>TOTAL</u>	<u>\$1,755.60</u>

We are writing you at this time to submit our additional cost for additional demo as performed at the above mentioned project. This work included the additional demo of block walls at the entrance vestibule, bathrooms and conference room. Demolition of the mud set tile base in the bathrooms and pouring of a new concrete topping slab. Our cost for this work is as stated below:

Subcontractor's Materials	\$425.76
Subcontractor's Labor	\$3,358.58
Supervision	\$60.00
<u>Subtotal</u>	<u>\$3,844.34</u>

GC OH 10%	\$384.43
GC Profit 5%	\$211.44
<u>TOTAL</u>	<u>\$4,440.21</u>

We are writing you at this time to submit our additional cost for additional work as per your request. The work was to include the additional structural framing at the conference room, bulkhead framing, new low wall behind teller counter and a new SAT ceiling in the conference room with insulation above. Our cost for this work is as stated below:

Framing Subcontractor's Materials	\$1,266.22
Framing Subcontractor's Labor	\$3,727.41
Ceiling Subcontractor	\$796.00
Supervision	\$40.00
<u>Subtotal</u>	<u>\$5,829.63</u>
GC OH 10%	\$582.96
GC Profit 5%	\$320.63
<u>TOTAL</u>	<u>\$6,733.22</u>

Mr. Carmean explained that the original plans included a vinyl floor in the public restrooms. However, he does not believe that is the best way to go so the contract was changed to add a ceramic tile floor. The vinyl floor was then put in the IT room because there would be less foot traffic there. In addition, the vinyl is easier to clean than the ceramic tile.

The next change was to add a transom light above the front door. The door was moved six inches in to align with the concrete block and height of the changed flooring.

The third change involves the addition of a new storefront window in the new wall that separates some of the work area from the lobby. The window allows our employees to see customers in the lobby area.

The next change was a result of the demolition of the block walls in the vestibule, bathrooms and conference room. The tile base in the bathroom was also removed and new concrete added for the ceramic floors.

He reported that the last change was to add framing for a conference room, a new wall behind the teller counter and a new SAT ceiling in a conference room.

This change order totals \$18,053.77.

Mr. Pikus moved to transfer \$18,053.77 out of electric reserves to cover the cost of the Reisinger Change Order Number 2 for the new billing office, seconded by Mr. Gleysteen. Motion carried.

Mr. Carmean then noted the original contract was \$317,000 and we are currently at \$348,014.03 which he feels is very reasonable considering the unknowns you face when renovating a building of this age.

FY 2014-2015 Budget Adjustment/VoiceNet Communications/Telephone System/Billing Office-PNC Building

The city manager explained this budget adjustment is needed to cover the cost of the new telephone system for the new billing office. This equipment was chosen because it interfaces with our present phone system. The cost of the proposal is \$5,511.30 which includes eight digital telephones and provides room for three additional phones. This proposal covers equipment, installation, and programming labor.

Mr. Pikus moved to approve the transfer of \$5,511.30 out of electric reserves for the VoiceNet Communications proposal in the amount of \$5,511.30 for a new telephone system at the renovated billing office, seconded by Mr. Morrow.

Mr. Pikus then stated that we are still well below what we would have paid for a new building. Mr. Carmean agreed adding it was estimated at \$2 million at the time of the 2008 referendum; Mr. Pikus agreed that we have paid only a little more than half when compared to the cost of a new building.

Motion carried.

Acceptance/City of Milford Audit FY 2013-2014

Mayor Shupe reported that after the annual audit is complete, the city charter requires a vote of council to accept the audit.

Finance Chairman Pikus suggested council review pages five and six of the audit which explains why we are in good financial condition.

Mr. Pikus moved to accept the Fiscal Year 2013-2014 City of Milford Audit, as completed, seconded by Mr. Starling. Motion carried.

EXECUTIVE SESSION

Mr. Pikus moved to go into Executive Session reference a personnel matter and strategy session, seconded by Mr. Starling. Motion carried.

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed (P&R Matter)

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation (Union Contract & Easement Issue)

Mayor Shupe recessed the Council Meeting at 9:09 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 10:08 p.m.

FY 2014-2015 Budget Adjustment (P&R Personnel)

Mr. Pikus moved to approve the first item as discussed, seconded by Mr. Starling. Motion carried.

Easement Issue

Mr. Pikus moved that no change be made on this issue, seconded by Mr. Gleysteen. Motion carried.

Union Contract

Mr. Pikus moved that the union contract issue be transferred to the Police Committee for discussion in Executive Session on Tuesday, December 2, 2014, seconded by Mr. Grier. Motion carried.

ADJOURN

With no further business, Mayor Shupe adjourned the Council Meeting at 10:11 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 2, 2014

A Meeting of the Police Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, December 2, 2014.

PRESIDING: Chairman Douglas Morrow Sr.

IN ATTENDANCE: Police Committee Members S. Allen Pikus and Katrina Wilson

Mayor Bryan Shupe, Councilpersons Christopher Mergner, Garrett Grier III,
Dirk Gleysteen, Owen Brooks, Jr. and James Starling, Sr.

City Manager Richard Carmean, Police Chief Keith Hudson and
City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Chairman Morrow called the Police Committee Meeting to order at 6:04 p.m.

City Solicitor Rutt referenced the third item on the agenda that stated "Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation" which referenced an easement issue. He said the purpose of the meeting is to discuss the police union contract and the agenda needs to be amended accordingly.

Mr. Pikus moved to amend the agenda by replacing 'easement issue' with 'police union contract', seconded by Ms. Wilson. Motion carried.

EXECUTIVE SESSION - Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation.

Mr. Pikus moved to go into Executive Session reference the police union contract, seconded by Ms. Wilson. Motion carried.

Police Union Contract

Mr. Morrow recessed the Council Meeting at 6:05 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 7:29 p.m.

Police Union Contract

No action taken.

ADJOURN

With no further business, Chairman Morrow adjourned the Police Committee Meeting at 7:30 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder