

# City of Milford



## AGENDA

Council Meeting

Tuesday, December 28, 2010

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

7:00 P.M.

### PUBLIC HEARINGS

Davis, Bowen and Friedel, Incorporated on behalf of Shore Realty LLC requesting the Minor Subdivision of one parcel into two parcels in a C-3 District at 941 N. DuPont Boulevard (Milford Landing Subdivision, Lot 1A), Milford, Delaware. Tax Parcel MD-16-174.00-01-05.02-00; Area of Petition 1.66 +/- Acres.

### COUNCIL MEETING

*Call to Order - Mayor Joseph Ronnie Rogers*

*Invocation*

*Pledge of Allegiance*

*Communications*

*Unfinished Business -*

Adoption of Ordinance 2010-20/Chapter 222-Water/Prohibits Certain Types of Private Wells

*New Business -*

Adoption of Amended City of Milford Cafeteria Plan

Adoption of Amended Dependent Care Assistance Plan

Adoption of Amended Health Flexible Spending Arrangement Plan

Appointment of City Solicitor

*Adjourn*

### WORKSHOP

*Call to Order - Mayor Joseph Ronnie Rogers*

Board of Adjustment Members Terms

*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.**

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

# City of Milford



## **PUBLIC NOTICE**

### **CITY COUNCIL HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Tuesday, December 28, 2010 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to consider final action on the following matter:

Davis, Bowen and Friedel, Incorporated on behalf of Shore Realty LLC requesting the Minor Subdivision of one parcel into two parcels in a C-3 District at 941 N. DuPont Boulevard (Milford Landing Subdivision, Lot 1A), Milford, Delaware. Tax Parcel MD-16-174.00-01-05.02-00; Area of Petition 1.66 +/- Acres.

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-424-3712 Extension 308.

By: Terri K. Hudson, CMC

Project #  
10-148



PLANNING AND ZONING DEPARTMENT  
(302) 422-6616  
FAX # (302) 424-5933

201 S. WALNUT STREET  
PO BOX 159  
MILFORD, DELAWARE 19963

SITE PLAN    CONDITIONAL USE    APPLICATION  
SUB-DIVISION    VARIANCE    CHANGE OF ZONE  
*(circle all that apply)*

The undersigned hereby makes formal application to the City of Milford for the approval of Minor Subdivision Plan for the property described below. Applications shall be represented at the appropriate meetings or hearing. The applicant is aware that no applications will be accepted if violations exist or if any service fees, including taxes, are delinquent.

OWNER NAME: Shore Realty, LLC.    PHONE NUMBER: (410) 752-5444  
ADDRESS: 601 E. Pratt Street, Suite 600, Baltimore, MD 21202

SIGNATURE: By: Glenn Weir, authorized person    DATE: 10/10/10  
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION!    FEE: \$700.00

APPLICANT NAME: Davis, Bowen & Friedel    PHONE NUMBER: 424-1441  
ADDRESS: 23 N. Walnut St Milford, DE 19963

SITE LOCATION:    ROAD Buccaneer Street    N,S,E,W SIDE 0'    FEET N,S,E,W OF  
ROAD Rt. 113    SUBDIVISION NAME Milford Landing    LOT NUMBER: 1A  
SITE ADDRESS: 941 N. DuPont Blvd

ZONING:    EXISTING: C-3    PROPOSED: C-3    TAX MAP NUMBER: MD-16-174.00-01-05.02-00

PRESENT USE: Commercial    PROPOSED USE: Commercial

AREA OF PETITION: 6.708 +/- Acres    AREA OF ADJACENT LAND IN SAME OWNERSHIP: 1.66 +/- Acres

SANITARY FACILITIES:	EXISTING	<u>X</u>	PROPOSED	<u>          </u>
ELECTRIC SUPPLY:	EXISTING	<u>X</u>	PROPOSED	<u>          </u>
WATER SUPPLY:	EXISTING	<u>X</u>	PROPOSED	<u>          </u>
<del>DWELLING</del> UNITS:	EXISTING:	<u>1 lot</u>	PROPOSED:	<u>2 lots</u>
FRONT SETBACK:	REQUIRED:	<u>30' FT</u>	PROPOSED:	<u>30' FT</u>
REAR SETBACK:	REQUIRED:	<u>50' FT</u>	PROPOSED:	<u>50' FT</u>
SIDE SETBACKS:	REQUIRED:	<u>25' FT</u>	PROPOSED:	<u>25' FT</u>

WETLANDS ON SITE?    YES    (NO)    COMPREHENSIVE PLAN RECOMMENDATION: Commercial

ZONING CHAPTER 230, ARTICLE 14

VARIANCE INFORMATION (IF APPLICABLE):  
\_\_\_\_\_  
\_\_\_\_\_

CONTACT FOR APPLICATION: Timothy M. Metzner, R.L.A.    PHONE: (302) 424-1441

APPLICATION RECEIVED BY: Christine Cecchi    DATE: 10-01-10

DAC MTG:  
10-20-10

P.C. MTG:  
11-16-10

COUNCIL MTG:  
12-28-10

B.O.A. MTG:  
n/a



Millford

### Millford

Layers Themes

#### Base Map

- Hundreds Boundary
- Buck Creek Hundred Parcels
- East Dover Hundred Parcels
- Kentish Hundred Parcels
- Little Creek Hundred Parcels
- Millford Hundred Parcels
- Mispillion Hundred Parcels
- North Murderkill Hundred Parcels
- South Murderkill Hundred Parcels
- West Dover Hundred Parcels
- Water Bodies
- Roads
- Municipalities
- Subdivision Locations

#### Environmental Infrastructure Land Use

Locate Me



2,112 x 1,438 (ft)

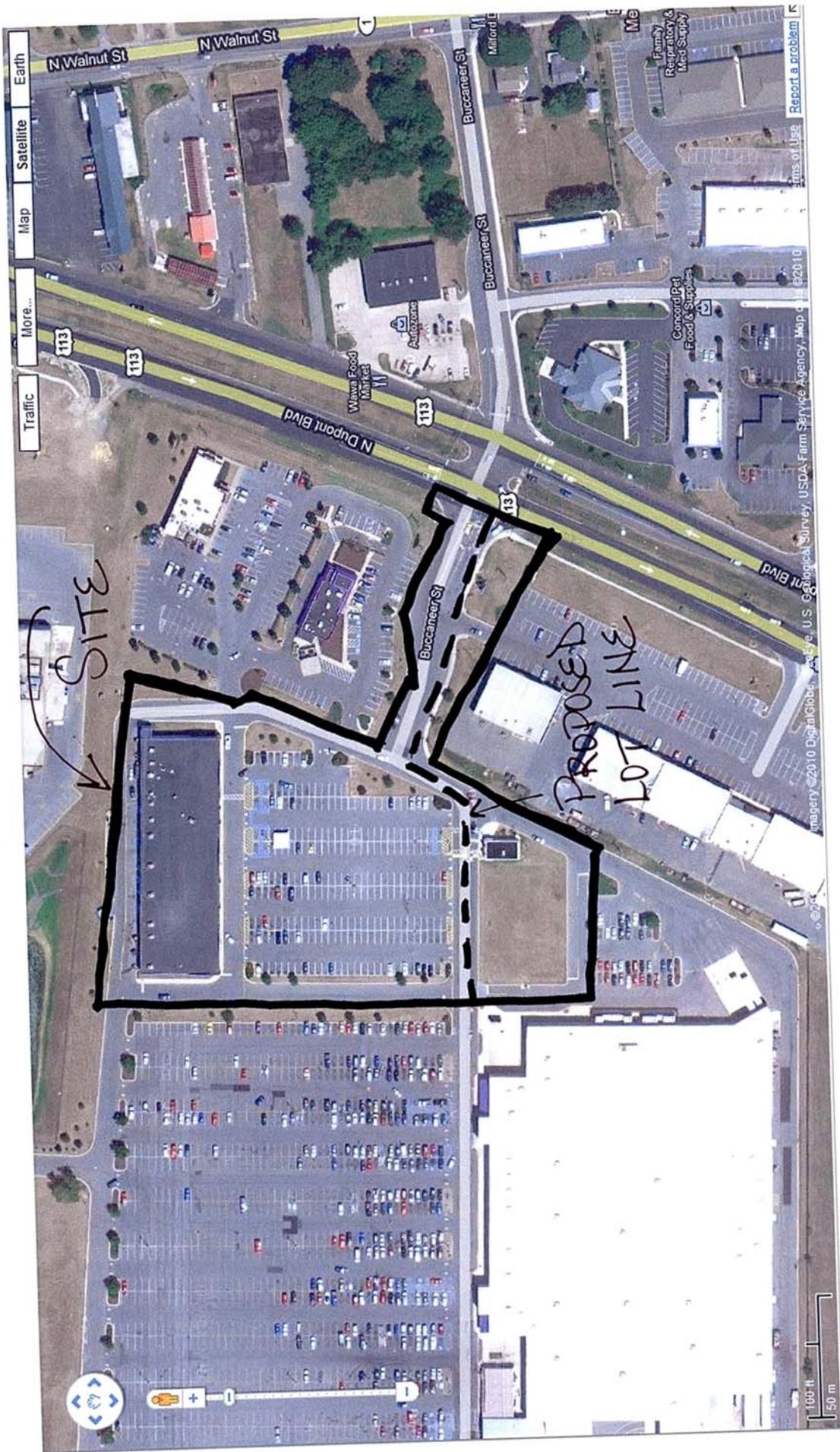
1 : 2,310

0 feature(s) selected

Zoning	Acresage	Hundred Municipality	Map	Block	Parcel	Mult-Id	Building Type	Year Built	Building Application	Permits	Notes
Any		MD 00					Any				

Kent County's Search Engine

search help



SITE

PROPOSED LOT LINE

N Walnut St

N Walnut St

Buccaneer St

Buccaneer St

N Dupont Blvd

Buccaneer St

N Dupont Blvd

Wawa Food Market

Autozone

Concord Pet Food & Supplies

Family Respiratory & Med Supply

© 2010 U.S. Geological Survey, USDA, Farm Service Agency, Map of the 1920s

100 ft  
50 m

Earth

Satellite

Map

More...

Traffic

Gerald G. Friedel, P.E.  
Michael R. Wigley, AIA  
Randy B. Duplechain, P.E.  
Charles R. Woodward, Jr., LS  
Jo Anne Williams, P.E.  
W. Zachary Crouch, P.E.  
Michael E. Wheedleton, AIA

July 13, 2010

City of Milford  
Planning and Zoning Department  
201 S. Walnut Street  
Milford, Delaware 19963

Attn: Mr. Gary Norris, AICP

RE: Milford Landing – Minor Subdivision Plan  
MD-16-174.00-01-05.02

Dear Mr. Norris:

As per our meeting last week the owner of Lot 1 in what is known as the “Wal-Mart Shopping Center” is requesting to subdivide the existing parcel into two lots. The purpose of this minor subdivision is a simple paper exercise to create a separate taxable lot for financing only. They are not proposing a subdivision for building purposes. The developer is scheduled for loan closing in the last week of August, and an administrative review procedure is the only way this date can be met.

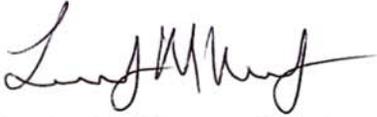
However, the City’s code does not spell out any process on how they review and approve Minor Subdivision Plans. The City has in the past required the applicants to follow the typical subdivision submission process, which is at a minimum three months long and obviously would not be feasible for this application. Therefore, we are asking the City to utilize the planning staff for this review as we do not feel this is necessary to go before the Planning Commission and City Council.

Attached are copies of the Kent and Sussex County Codes showing the minor subdivision review being performed administratively. We have included these attachments to help the City in the future, and maybe utilize these as templates to update the City code to give a more detailed action by the City for the minor subdivision and minor lot line adjustment procedures. This would in turn help reduce future conflict between the City and the applicants.

If you have any questions or want to discuss the matter further please let me know.

Sincerely,

*Davis, Bowen & Friedel, Inc.*

A handwritten signature in black ink, appearing to read "Timothy M. Metzner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Timothy M. Metzner, R.L.A.

Project Manager

Enc.: Section 187-28 Minor Subdivisions of the Kent County Code  
Section 99-7 (C.) of the Sussex County Code

Cc: Tunnie Ping – The Cordish Company



PLANNING & ZONING DEPARTMENT  
P 302.424.3712, F 302.424.3559

201 SOUTH WALNUT STREET  
MILFORD, DE 19963

[www.cityofmilford.com](http://www.cityofmilford.com)

July 13, 2010

Tim Metzner  
Davis, Bowen & Friedel  
23 N Walnut Street  
Milford, DE 19963

Dear Mr. Metzner,

Thank you for your letter dated July 13, 2010 regarding a proposed subdivision in the Wal-Mart shopping complex. I have reviewed it, along with the provisions you included that Kent and Sussex Counties are following for minor subdivisions, with the City Manager.

Both Mr. Baird and I are of the opinion that a minor subdivision within the corporate limits of City of Milford, such as the Wal-Mart shopping complex, must follow the Code of the City of Milford Subdivision Ordinance, Chapter 200 which does not allow for an "Administrative Review" as you have requested.

I will share your copies of the Kent County and Sussex County provisions for a minor subdivision with the Planning Commission at their August meeting. You are welcome to attend this meeting and express your opinion on this matter.

In the meantime, if you would like to pursue a minor subdivision of the Wal-Mart shopping complex, please refer to Chapter 200 of the Code of the City of Milford.

If I can be of any assistance, please contact me at (302) 424-3712 ext 312.

Sincerely,

Gary J. Norris, AICP  
City Planner

Milford, Delaware, Code of Ordinances >> PART II - GENERAL LEGISLATION >> Chapter 200 - SUBDIVISION OF LAND >>

**Chapter 200 - SUBDIVISION OF LAND**

*[HISTORY: Adopted by the City Council of the City of Milford 11-10-2008 by Ord. No. 2008-12.<sup>1</sup> Amendments noted where applicable.]*

Editor's note—

- <sup>1</sup> Editor's Note: This ordinance also repealed former Ch. 200, Subdivision of Land, adopted 12-10-2001 by Ord. No. 2001-8, as amended.

Editor's note—

**GENERAL REFERENCES**

Building construction – See Ch. 88.	Streets and sidewalks – See Ch. 197.
Floodplain management – See Ch. 130.	Trees – See Ch. 211.
Property maintenance – See Ch. 174.	Water – See Ch. 222.
Sewers – See Ch. 185.	Zoning – See Ch. 230.

Editor's note—

§ 200-1. - Purpose.

§ 200-2. - Title.

§ 200-3. - Definitions.

§ 200-4. - Application procedure.

§ 200-5. - General requirements and design standards.

§ 200-6. - Variances and waivers.

**§ 200-1. - Purpose.**

These regulations are adopted in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces.

**§ 200-2. - Title.**

These regulations shall be known and may be cited as the "City of Milford, Delaware, Land Subdivision Regulations."

**§ 200-3. - Definitions.**

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

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

**COMMISSION** — The Planning Commission of the City of Milford, Delaware.

**OPEN SPACE** — Areas of land within residential subdivisions or developments including planned unit developments that are available to all residents and or the public and which have the purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped and natural state including lands used for:

- (1) Community gardens;
- (2) Promotion of conservation and protection of wildlife;
- (3) Perpetual conservation easements;
- (4) Parks, plazas, walkways, sidewalks and trails;
- (5) Buffers or forested areas; or
- (6) For recreational uses as defined herein.

Open space shall not include areas of land for the following unless otherwise approved by Council:

- (1) Wetlands or stormwater management facilities;
- (2) Drainage easements;
- (3) Flagpole areas;

- (4) Medians (unless designed as a park);
- (5) Signage areas;
- (6) Landscaping in parking areas;
- (7) Predominantly impervious surfaces such as streets and parking lots;
- (8) Required front, side, or rear yards;
- (9) Any land included within designated lot lines; or
- (10) Utility facilities for uses such as sewer, water, gas or electric.

PLAT — The final drawing on which the subdivision plan is presented to the City Council for approval and which is submitted to the County Recorder of Deeds for recording.

PROPERTY OWNERS' ASSOCIATION — An association established by the subdivider as a non-stock corporation to provide for the perpetual maintenance of the common property in the subdivision.

RECREATIONAL USE — Areas of land within residential subdivisions or developments including planned unit developments which have the purpose to provide active recreational opportunities that are available to all residents of the community and/or the public including lands used for:

- (1) Indoor club houses;
- (2) Swimming pools and pool houses;
- (3) Tennis courts;
- (4) Basketball courts;
- (5) Athletic fields;
- (6) Picnic areas with tables;
- (7) Ponds for recreational use (boat, fishing or swimming);
- (8) Playgrounds; and
- (9) Bike or multi-model trails.

RIGHT-OF-WAY — A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, gas pipelines, and water line, sanitary storm sewer, and other similar uses.

ROADWAY — The paved portion of the street primarily used for vehicular traffic.

- A. ARTERIAL STREET and HIGHWAY — A street primarily used for fast and/or heavy traffic.
- B. COLLECTOR STREET — A street carrying traffic from minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.
- C. MINOR STREET — A street primarily used for access to the abutting properties.
- D. MARGINAL ACCESS STREET — A minor street paralleling and adjacent to an arterial street or highway and providing access to abutting properties and protection from through traffic.
- E. DEAD-END STREET or CUL-DE-SAC — A street closed at one end and having only one connection with any other street.
- F. HALF STREET — A street paralleling the boundary of a subdivision and lying partly in an abutting tract.

STANDARD SPECIFICATIONS FOR INSTALLATION OF UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN — The current specifications regulating subdivision design and construction as adopted by the City.

STREET — All land between property lines, whether designated as a street, highway, throughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way lane, place, court or any similar term.

SUBDIVIDER — Any person, firm, corporation, partnership or association or duly authorized agent who or which shall apply to the Commission for approval of the layout of any subdivision.

SUBDIVISION — The division or redivision of any tract of land into two or more lots or parcels for immediate or future sale or for building development.

SUBDIVISION, MINOR — Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to four lots.

SUPERBLOCK — An oversize residential block wherein private open spaces, closed to automobile traffic, are provided for the common use of all residents in the block.

[Ord. No. 2009-18, §§ 1, 2, 4-26-2010]

## **§ 200-4. - Application procedure.**

- A. Preliminary approval.
  - (1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in § 230-57.
  - (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

- (3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.
- (4) City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.
- (5) Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.

**B. Final approval.**

- (1) A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in § 230-57.
- (2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.
- (3) The Planning Commission shall review the application and provide either a recommendation of final approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions, or recommendation of denial, the application shall be scheduled to be heard by City Council.
- (4) City Council shall approve the application with or without conditions, deny the application, or table the application.
- (5) Within 90 days of final approval from City Council, the subdivider shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Four sets will be returned to the subdivider.
- (6) Upon recordation of the plat, the subdivider shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.
- (7) Failure to record the approved plat within one year from the date of City Council approval shall void the final approval. In order to obtain final approval after it has been voided, the subdivider must make application for final approval again.
- (8) Failure to record the approved plat in more than one year from the date of City Council approval shall void the preliminary approval and final approval. In order to obtain preliminary and final approval after they have been voided, the subdivider must make application for and receive preliminary approval, then make application for and receive final approval.

**§ 200-5. - General requirements and design standards.**

The following shall be deemed to be minimum requirements and may be varied or waived by the Commission only under circumstances set forth in § 200-6:

**A. Streets.**

- (1) The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:
  - (a) Public convenience and safety.
  - (b) Proposed uses of the land to be served by said streets.
  - (c) Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.
  - (d) Topography and other land features.
- (2) The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.
- (3) Minor streets shall be laid out so as to discourage their use by through traffic.
- (4) Where a subdivision abuts or contains an existing or proposed arterial street, limited-access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with due regard for the requirements of future approach grades and grade separations.
- (5) Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements of this chapter.
- (6) Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.
- (7) Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line

of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.

- (8) The creation of dead-end or loop streets and superblocks will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.
- (9) Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have center-line offsets of 150 feet or more.
- (10) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.
- (11) Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.
- (12) Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.
- (13) Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.
- (14) Right-of-way widths.
  - (a) Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

Street Type (feet)	Right-of-Way Roadway (feet)	
	Arterial	80 to 110
Collector	60	28
Minor, for townhouses and apartments	60	30
Minor, for other residences	50	25
Dead-end	50	22
Marginal access	30	16
*Alley	20	12

Note:

\* If utilities are present in an alley, the City reserves the right to modify the minimum right-of-way and roadway widths.

- (b) Subdivisions utilizing open swale drainage shall have a ten-foot drainage easement along the front of each property to accommodate the back slope of the drainage swales.
- (15) Half streets shall be prohibited except where essential to the reasonable development of a subdivision in conformity with the requirements of this chapter and where the Commission finds that it shall be practicable to require the dedication of the other half when the abutting property is subdivided. Wherever an approved half street shall be adjacent to a subdivision, the other half of the street shall be platted within said subdivision.
- (16) Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of 76 feet and a street right-of-way diameter of 100 feet.
- (17) Street names.
  - (a) Street names shall be selected so as not to duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission. It is recommended that all new streets shall be named in the following manner:

General direction	Long	Short (under 1,000 feet)
North and south	Streets	Places
East and west	Avenues	Courts
Diagonal	Roads	Ways
Curving	Drives	Lanes or Circles

- (b) Arterial streets shall be named "boulevards."
- (18) Street grades shall not exceed 5%.
- (19) Street grades shall be not less than 0.5% wherever feasible.
- (20) Changes in street grades shall be connected by vertical curves of suitable length.
- (21) The width of streets adjacent to areas designed, proposed or zoned for nonresidential use shall be increased by such amount as may be deemed necessary by the Commission to assure the free flow of through traffic without interference by parked or parking cars and to provide adequate and safe parking space.
- (22)

All required roads shall be constructed in accordance with the standard specifications as issued by the City Engineer.

- B. Sidewalks and curbs.
- (1) Sidewalks shall be required in all subdivisions on both sides of the street. Sidewalks shall have the following widths:
    - (a) In residential subdivisions: four feet unless otherwise specified.
    - (b) In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.
  - (2) Curbs or drainage swales conveying stormwater shall be required in all subdivisions.
  - (3) All required sidewalks shall be constructed in accordance with standard specifications as issued by the City Engineer.
- C. Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.
- D. Blocks.
- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
    - (a) The provision of building sites suitable to the needs of the type of use contemplated.
    - (b) Zoning requirements as to lot sizes and dimensions.
    - (c) The control, safety and convenience of pedestrian and vehicular traffic.
    - (d) The characteristics of topography.
  - (2) Block length shall not exceed 1,200 feet.
  - (3) Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.
  - (4) Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.
  - (5) Alleys shall be provided if required by the City Engineer.
- E. Lots.
- (1) Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.
  - (2) Lot sizes shall conform to the requirements of Chapter 230, Zoning.
  - (3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in Chapter 230, Zoning.
  - (4) Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.
  - (5) All lots in a subdivision shall have frontage on a public street.
  - (6) Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.
  - (7) Side lot lines shall be at right angles or radial to street lines.
  - (8) No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of flood hazard may result. Such land should be set aside for uses which would not be endangered by periodic or occasional inundations.
  - (9) No lots shall be platted within 25 feet of land under the jurisdiction of the U.S. Army Corps of Engineers.
- F. Parks, playgrounds, open spaces, school sites and natural features.
- (1) Parks and playgrounds. Where a proposed park or playground is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, in those cases in which the Commission deems such requirements to be reasonable.
  - (2) Open spaces. Where deemed essential by the Commission and City Planner, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale developments, the Commission or City Planner may require the dedication or reservation of sites of a character, extent and location suitable to the needs created by such development for playgrounds or parks. The Commission shall not require that more than 10% of the gross area of the open space of the subdivision to be so dedicated or reserved unless otherwise specified by the Zoning Code.<sup>2</sup> In case of a conflict, the requirement of the Zoning Code prevails. The Commission shall give due credit for the provision of open spaces reserved for the common use of all property owners within the proposed subdivision by covenants in the deeds. Generally, the minimum area of contiguous open space acceptable for dedication for public use shall be at least three acres and preferably five acres. Open spaces with a lesser area may be approved by the Commission whenever it deems that the difference between the area offered and three acres may be made up in connection with the future subdivision of adjacent land or added to an existing recreation area.

Editor's note—

<sup>2</sup> Editor's Note: See Ch. 230, Zoning.

(3)

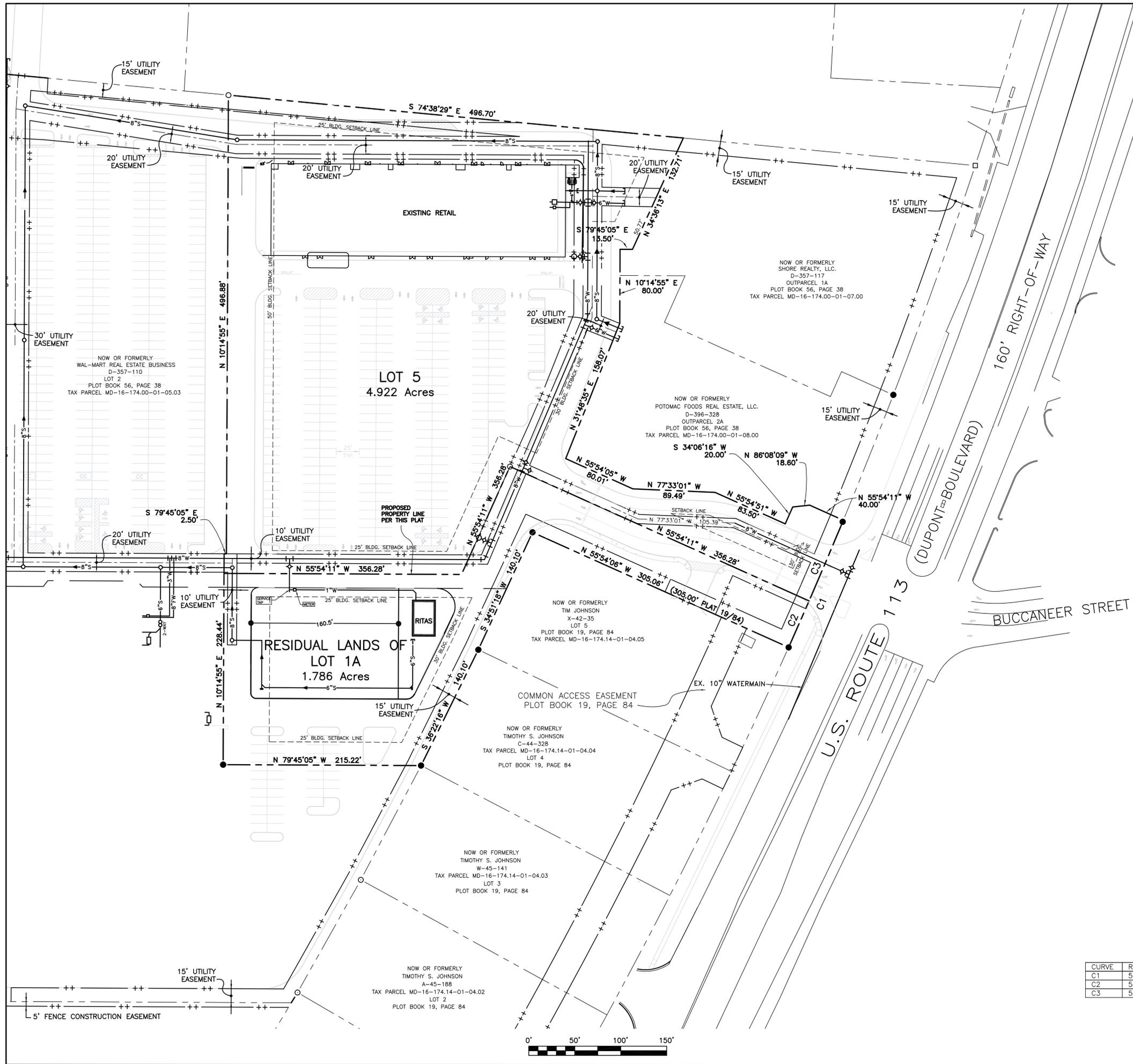
School sites or sites for other public uses. The Commission may also require a subdivider to set aside such area as it may deem to be required for a school or other public use. Upon failure of the proper authorities to purchase such site within one year after the date of the approval of the plat, the subdivider, upon application to the Commission and approval of such application, shall be relieved of the responsibility of reserving such land for public purposes.

- (4) Preservation of natural features. The Commission may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and historic spots and similar irreplaceable assets. In no case shall a tree over 12 inches in diameter measured three feet from the base be removed without prior approval by the City Arborist.
- G. General grading. No final slope on the property shall exceed the normal angle of repose of the soil of said slope as determined by the City Engineer, except where said slope consists of a natural rock formation or is supported by a retaining wall or equivalent of a design acceptable to the City Engineer.
- H. Improvements.
- (1) In major subdivisions the following improvements are required:
- (a) Paved streets.
  - (b) Street signs.
  - (c) Curbs and gutters, or roadside swales. Curbs shall be required as per standard specifications to stabilize intersections, entrances, and parking areas, and where they are necessary for the conveyance of stormwater and protecting road surfaces and driveway surfaces from vehicular traffic.
  - (d) Sidewalks.
  - (e) Streetlighting.
  - (f) Shade trees. Shade trees 150 feet on center each side of the road shall be located so as not to interfere with utilities or sidewalks and shall be of the types recommended by the City Arborist.
  - (g) Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.
  - (h) Monuments. Monuments shall be of the type, size and shape required by the City Engineer.
  - (i) Water mains, culverts, storm sewers and sanitary sewers.
    - [1] All water installations shall be looped; all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.
    - [2] All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
    - [3] Utility easements shall be required to be granted and recorded by the subdivider to allow extension of utilities to neighboring properties.
  - (j) Swales. Conveyance of stormwater is permitted by open drainage systems where appropriate for environmental and engineering integrity and design. Such systems shall be separated from the edge of road to the top of bank by a minimum five-foot shoulder. The depth of such systems shall not exceed two feet below crown of road. The side slope shall be a maximum of 4:1. The bottom of the system shall have a minimum width of two feet. The system slope shall be such that the maximum velocity does not exceed two feet per second. The system has to be designed in such a way as to incorporate driveway and crossroad drainage pipes; such systems shall be restored with topsoil and sod. Temporary check dams shall be placed in intervals not to exceed 300 feet.
  - (k) Headwalls. Storm drainage pipes which are part of an open swale drainage system shall be terminated with a headwall in accordance with standard specifications.
- (2) The developer shall complete all utilities and street improvements not specifically waived by the Commission in accordance with standard specifications as issued by the City Engineer and with any additional requirements specified by the Commission. Construction drawings shall be submitted in a form satisfactory to the City Engineer.
- (3) When the Commission or the City Engineer, due to planning considerations extraneous to the subdivision, requires a standard of improvements higher than that which is sufficient to serve the subdivision, the amount of the bond to be posted shall be deemed to be satisfactory if it adequately covers the cost of improvements which would be normally required.
- (4) The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, Planning and zoning fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.

#### **§ 200-6. - Variances and waivers.**

Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 200, and the Planning Commission may, at its discretion, recommend to City Council the varying or waiving of said requirements and request conditions that substantially secure the objectives of the requirements so waived. Upon the findings of the City Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the City Council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, Chapter 230, Zoning, the Development Plan or this

chapter. In varying or waiving certain requirements, the City Council may specify such conditions at will, in its judgment, secure substantially the objectives of the requirements so varied or waived.



**SITE DATA:**

TAX MAP: MD-16.00-174.00-01-05.02-00

OWNER/DEVELOPER: SHORE REALTY, L.L.C.  
601 E. PRATT STREET, SUITE 600  
BALTIMORE, MD 21202

DEED REFERENCE: D-357-117  
PLOT BOOK 60, PAGE 32

ZONING: EXISTING C-3 PROPOSED C-3

SITE AREA: LOT 5: 4.922 ACRES  
RESIDUAL: 1.786 ACRES  
TOTAL: 6.708 ACRES

SEWER: CITY OF MILFORD  
WATER: CITY OF MILFORD  
FIRE DISTRICT: CARISLE  
SCHOOL DISTRICT: MILFORD  
CITY WARD: 4th

SETBACK REQUIREMENTS:  
FRONT SETBACK 30'  
SIDE SETBACK 20', 50' AGGREGATE TOTAL  
REAR SETBACK 50'

NO. OF CONCRETE MONUMENTS FOUND: 0  
NO. OF IRON RODS/PIPES FOUND: 5

THIS SITE IS NOT IMPACTED BY THE 100 YEAR FLOOD PER FIRM 10005C0041 J DATED JANUARY 6, 2005

BLANKET EASEMENTS SHALL BE GRANTED TO LOTS 1A, 2, 3, AND 4 FOR SHARED STORMWATER MANAGEMENT, ACCESS, AND PARKING.

PLOTBOOK 19/84

**ENGINEER'S STATEMENT**  
I, RANDY B. DUPLECHAIN, HEREBY STATE THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

RANDY B. DUPLECHAIN, P.E. \_\_\_\_\_ DATE \_\_\_\_\_

**OWNERS' STATEMENT**  
WE, SHORE REALTY, L.L.C., HEREBY STATE THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND DESIRE THE PLAN BE RECORDED ACCORDING TO LAW, AND THAT ALL STREETS SHOWN HEREON AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC USE.

SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

THE PURPOSE OF THIS PLOT IS TO SUBDIVIDE LOT 1A AS SHOWN ON PLOT RECORDED IN PLOT BOOK 60, PAGE 32.

**LEGEND**

- CONCRETE MONUMENT FOUND
- IRON PIPE FOUND
- IRON PIPE TO BE SET
- PROPERTY LINE
- - - EXISTING PROPERTY LINE
- CONCRETE CURB
- - - EASEMENT LINE
- - - SETBACK LINE
- PUBLIC ACCESS EASEMENT (PRIVATE MAINTENANCE)

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5599.58'	94.97'	94.97'	S 33°02'52" W	00°58'18"
C2	5599.58'	55.00'	55.00'	S 33°48'54" W	00°33'46"
C3	5599.58'	149.97'	149.96'	S 33°19'45" W	01°32'04"

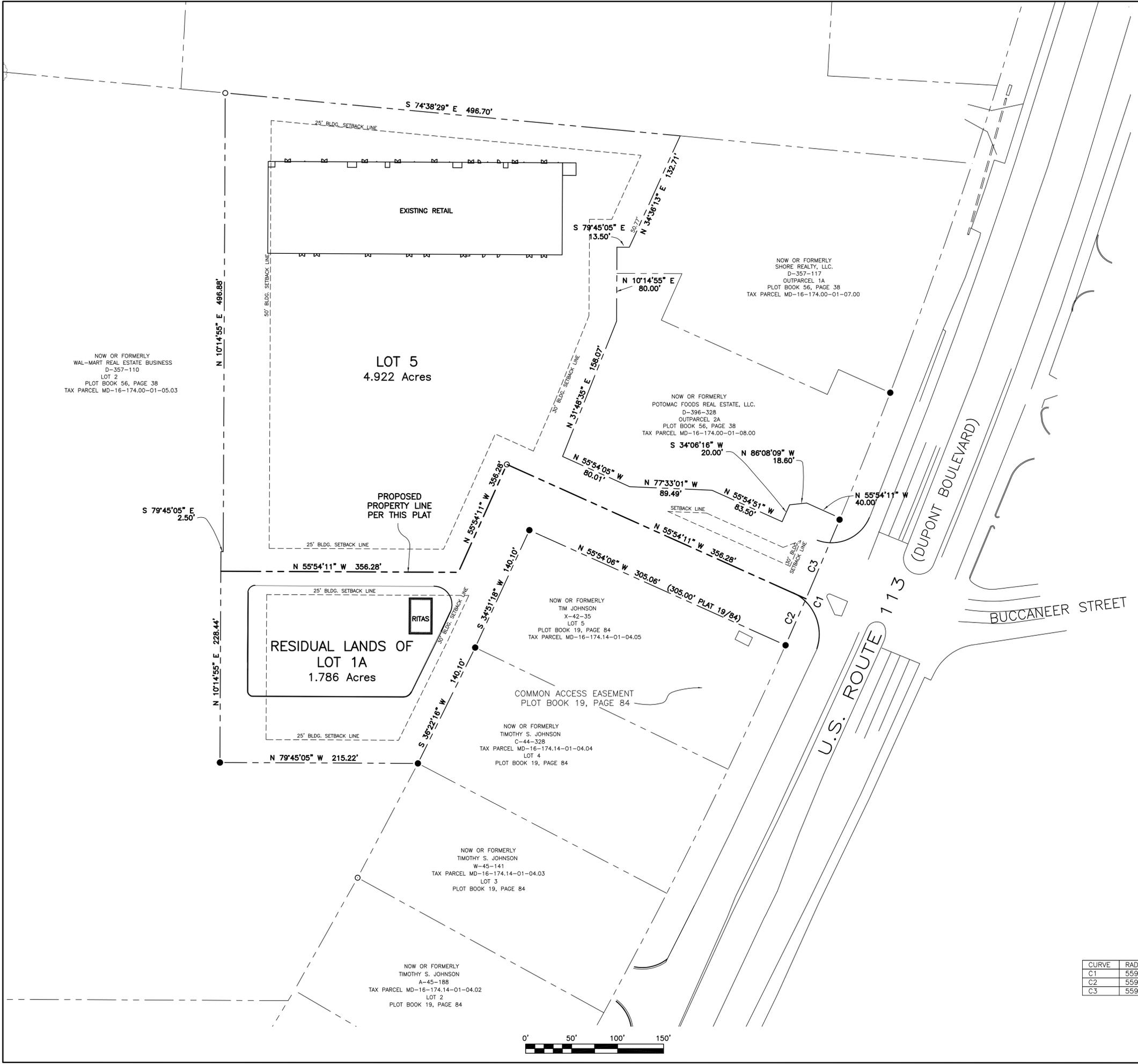
THIS DRAWING, THE DESIGN AND CONSTRUCTION FEATURES DISCLOSED ARE PROPRIETARY TO DAVIS, BOWEN & FRIEDEL, INC., AND SHALL NOT BE ALTERED OR REUSED WITHOUT WRITTEN PERMISSION.

ARCHITECTS ENGINEERS SURVEYORS  
SALISBURY, MARYLAND (410) 543-9091  
MILFORD, DELAWARE (302) 424-1141



RESUBDIVISION  
LOT 1A  
MILFORD LANDING  
CITY OF MILFORD  
KENT COUNTY, DELAWARE

Revisions:  
  
Date: AUGUST 2010  
Scale: 1" = 50'  
Dwn.By: TMM  
Proj.No.: 857A002B  
Dwg.No.:



**SITE DATA:**

TAX MAP: MD-16.00-174.00-01-05.02-00

OWNER/DEVELOPER: SHORE REALTY, L.L.C.  
601 E. PRATT STREET, SUITE 600  
BALTIMORE, MD 21202

DEED REFERENCE: D-357-117  
PLOT BOOK 60, PAGE 32

ZONING: EXISTING C-3 PROPOSED C-3

SITE AREA: LOT 5: 4.922 ACRES  
RESIDUAL: 1.786 ACRES  
TOTAL: 6.708 ACRES

SEWER: CITY OF MILFORD  
WATER: CITY OF MILFORD  
FIRE DISTRICT: CARISLE  
SCHOOL DISTRICT: MILFORD  
CITY WARD: 4th

SETBACK REQUIREMENTS:  
FRONT SETBACK 30'  
SIDE SETBACK 20', 50' AGGREGATE TOTAL  
REAR SETBACK 50'

NO. OF CONCRETE MONUMENTS FOUND: 0  
NO. OF IRON RODS/PIPES FOUND: 5

THIS SITE IS NOT IMPACTED BY THE 100 YEAR FLOOD PER FIRM 10005C0041 J DATED JANUARY 6, 2005

BLANKET EASEMENTS SHALL BE GRANTED TO LOTS 1A, 2, 3, AND 4 FOR SHARED STORMWATER MANAGEMENT, ACCESS, AND PARKING.

PLOTBOOK 19/84

NOW OR FORMERLY  
WAL-MART REAL ESTATE BUSINESS  
D-357-110  
LOT 2  
PLOT BOOK 56, PAGE 38  
TAX PARCEL MD-16-174.00-01-05.03

LOT 5  
4.922 Acres

NOW OR FORMERLY  
SHORE REALTY, LLC.  
D-357-117  
OUTPARCEL 1A  
PLOT BOOK 56, PAGE 38  
TAX PARCEL MD-16-174.00-01-07.00

NOW OR FORMERLY  
POTOMAC FOODS REAL ESTATE, LLC.  
D-396-328  
OUTPARCEL 2A  
PLOT BOOK 56, PAGE 38  
TAX PARCEL MD-16-174.00-01-08.00

NOW OR FORMERLY  
TIM JOHNSON  
X-42-35  
LOT 5  
PLOT BOOK 19, PAGE 84  
TAX PARCEL MD-16-174.14-01-04.05

NOW OR FORMERLY  
TIMOTHY S. JOHNSON  
C-44-328  
LOT 4  
PLOT BOOK 19, PAGE 84

NOW OR FORMERLY  
TIMOTHY S. JOHNSON  
W-45-141  
LOT 3  
PLOT BOOK 19, PAGE 84

NOW OR FORMERLY  
TIMOTHY S. JOHNSON  
A-45-188  
LOT 2  
PLOT BOOK 19, PAGE 84

**ENGINEER'S STATEMENT**  
I, RANDY B. DUPLECHAIN, HEREBY STATE THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT THE INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND BELIEF REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
RANDY B. DUPLECHAIN, P.E.

**OWNERS' STATEMENT**  
WE, SHORE REALTY, L.L.C., HEREBY STATE THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, THAT WE ACKNOWLEDGE THE SAME TO BE OUR ACT AND DESIRE THE PLAN BE RECORDED ACCORDING TO LAW, AND THAT ALL STREETS SHOWN HEREON AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC USE.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
PRINTED NAME: \_\_\_\_\_

THE PURPOSE OF THIS PLOT IS TO SUBDIVIDE LOT 1A AS SHOWN ON PLOT RECORDED IN PLOT BOOK 60, PAGE 32.

**LEGEND**

- CONCRETE MONUMENT FOUND
- IRON PIPE FOUND
- IRON PIPE TO BE SET
- PROPERTY LINE
- - - EXISTING PROPERTY LINE
- CONCRETE CURB
- - - EASEMENT LINE
- - - SETBACK LINE
- PUBLIC ACCESS EASEMENT (PRIVATE MAINTENANCE)

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	5599.58'	94.97'	94.97'	S 33°02'52" W	00°58'18"
C2	5599.58'	55.00'	55.00'	S 33°48'54" W	00°33'46"
C3	5599.58'	149.97'	149.96'	S 33°19'45" W	01°32'04"



THIS DRAWING, THE DESIGN AND CONSTRUCTION FEATURES DISCLOSED ARE PROPRIETARY TO DAVIS, BOWEN & FRIEDEL, INC., AND SHALL NOT BE ALTERED OR REUSED WITHOUT WRITTEN PERMISSION.

ARCHITECTS ENGINEERS SURVEYORS  
SALISBURY, MARYLAND (410) 543-9091  
MILFORD, DELAWARE (302) 424-1141



RESUBDIVISION  
LOT 1A  
MILFORD LANDING  
CITY OF MILFORD  
KENT COUNTY, DELAWARE

Revisions:  
Date: AUGUST 2010  
Scale: 1" = 50'  
Dwn.By: TMM  
Proj.No.: 857A002B  
Dwg.No.:

**CITY OF MILFORD  
PLANNING COMMISSION**

*Minutes of Meeting  
November 16, 2010*

A workshop session of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, November 16, 2010.

**PRESIDING:** Chairman Charles Rini  
**IN ATTENDANCE:** Commissioners Kim Stevenson, Karen McColley, George Pilla, Archie Campbell, Marvin Sharp, Jamie Burk, William Lane  
**ALSO:** City Planner Gary J. Norris, AICP, and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 6:07 pm noting Mr. Gleysteen was absent.

Mr. Norris introduced Mr. Edgell of the Office of State Planning and Ms. Mary Ellen Gray of Kent County Planning. Tonight's workshop will focus on open space.

Mr. Edgell began reviewing a power point presentation, which will be included in the minutes.

Mrs. Gray introduced herself and explained Kent County's open space regulations, cluster development, and transfer development rights, which will also be included in the power point attached to the minutes.

Mr. Gleysteen arrived at 6:57 pm.

At the conclusion of the power point presentation, Mr. Rini recognized Councilman Pikus in the audience and asked if he had any comments. Mr. Pikus asked how the county determines how much money a developer contributes to the open space fund when choosing the "cash in lieu of" option.

Mrs. Gray explained it is based on what it would cost to put in active recreation that's required in the ordinance. They have only had to do this once or twice so far. Mrs. Stevenson asked if there has been an instance when the county has told the developer they cannot do the "cash in lieu of" option. Mrs. Gray stated it actually does not happen very often. Most developers are willing to provide what the county planning department has asked for. When asked how that push-pull works, she explained the developer simply will not get approvals. They developers understand from the beginning it is a give and take situation and if they are not giving, the commission will not approve their project at all.

The training session was very informative and Mr. Norris thanked Mr. Edgell and the Office of State Planning for their providing the sessions over the past year to the City of Milford. Mr. Rini also thanked Mrs. Gray for the useful information on how the county works with developers.

With no further discussion, the workshop session adjourned at 7:09 pm.

Respectfully submitted,



Christine R. Crouch  
Department Administrative Assistant/Recording Secretary

# Open Space and Recreation

November 16, 2010

David L. Edgell, AICP

Delaware Office of State Planning Coordination

Mary Ellen Gray, AICP

Kent County Department of Planning



# What is Open Space?

- DNREC's Definition:

- **Open Space** is defined as those areas with public value in a predominantly natural state and undeveloped condition. Such areas may contain, but are not limited to, wildlife and native plant habitat, forest, farmland, meadows, wetlands, floodplains, shorelines, stream corridors, steep slopes, and other areas that have species or habitats of conservation concern.
- Open Space may be preserved, enhanced and restored in order to maintain or improve the natural, ecological, hydrological, or geological values. An important design element to consider when incorporating Open Space in a development is to take maximum advantage of adjoining Open Space areas. This will advance the goal of an interconnected network of habitat corridors for wildlife and provide for future potential linkages.



# Open Space is NOT

- Impervious surfaces (e.g., roads, parking lots, sidewalks, buildings)
- Swimming pools or ponds that are lined or contain an impervious substrate
- Stormwater management structures
- Wastewater treatment systems

Unpublished guidelines from DNREC re: Open Space



# I would also add. . .

- Active Recreation Facilities
  - May not meet habitat goals, but important as a community amenity
- Public Space vs. Private Space
  - More on this in a minute
- Location relative to regional facilities
  - Are there larger parks near-by that the new community can benefit from?
  - How will the community be linked to these facilities?



# Passive Recreation

- Recreation areas include only low-impact activities having little or no disturbance on natural features
- Sensitive natural features should be preserved as passive recreation



Unpublished guidelines from DNREC re: Open Space

# I would also add. . .

- Passive enjoyment of the outdoors is an important activity.
- Some “infrastructure lands” can be integrated into open space design for scenic value
  - Stormwater Management Ponds



# Active Recreation

- Recreation requiring some constructed facilities and organized activities
- Examples include tennis courts, softball fields, soccer fields etc.
- Active recreation areas (e.g., ball fields, playgrounds) should be placed only in Open Space areas that do not already contain natural habitat.\*



\*Unpublished guidelines from DNREC re: Open Space

# Public vs. Private

- Public Open Space is available to the general public. Public parks are an example.
- Private Open Space is restricted to private membership clubs or other property owners. Example: golf course.
- Ownership of community facilities matters: i.e. will the “tot lot” in development be owned by HOA or dedicated to the City for public use?



# Types of Open Spaces in Communities

- Pocket Parks
- Tot Lots; Small Playgrounds
- Passive Open Spaces (should be natural features)
- Active Recreational Facilities
- Centrally Located Community Parks
- Regional Park and Recreation Facilities



# Design Matters

- Place open space where it will be utilized as a focal point for the community.
- Even a small area can be a great community enhancement, if well designed
- Avoid placing open space and recreation facilities on “left over” lands that can not otherwise be developed efficiently.
- Open space is a community amenity, and adds value to development projects when well designed.



# Look what can be done in a small area



Small park in alley, Baldwin Park, Orlando, FL



Delaware Office of  
State Planning  
Coordination

# Look what can be done in a small area



Combine small front yards into parkland, Baldwin Park, Orlando, FL

# Central Open Space



Delaware Office of  
State Planning  
Coordination

Central Community Green, Paynter's Mill, near Milton, DE

# Community Parks



Delaware Office of  
State Planning  
Coordination

Silver Lake Park, Dover, DE

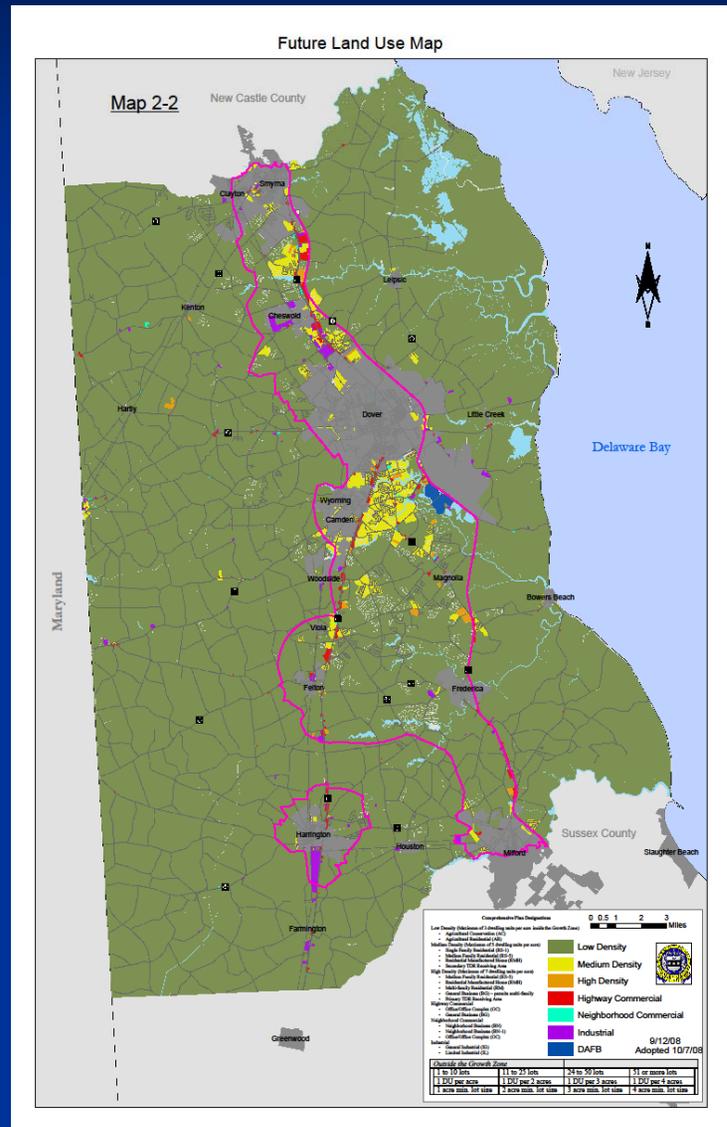


# Kent County - Open Space

- Required Improvements in Subdivision and Land Development Code
- Cluster Subdivisions
- Transfer Development Rights
- Comprehensive Plan



# Kent County – Land Use Map



# Required Improvements

- All residential developments reviewed by RPC
- Active Recreation (HOA required)
  - Purpose – provide a variety of recreational opportunities for residents at appropriate scale
  - Walking/jogging paths
  - Play sets
  - Tennis/basketball, volleyball courts etc.
  - Fitness/meeting rooms
  - Soccer/baseball fields
- Accessible throughout community
- 300 square feet per D.U. or 1/2 acre (whichever is >)
- Cash in lieu



# Required Improvements

- All residential developments reviewed by RPC
- Passive Recreation (HOA required)
  - Purpose –Preserve open space, preserve/enhance historic features and scenic corridors, provide wildlife habitat, establish network of open spaces, and provide passive recreational opportunities to residents
- Mature forests, hedgerows, riparian forest buffers, and groves
- Watercourses
- Historic, cultural, or archeological landmarks
- Landscape buffers and berms
- Storm water detention ponds
- 15%/35% of gross area (inside and outside of GZ)



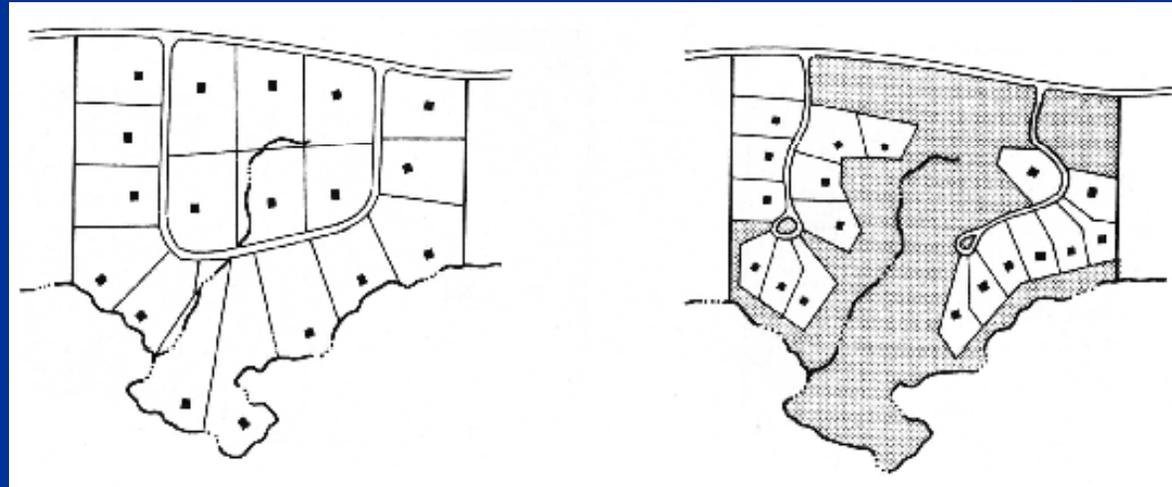
# Required Improvements - Other

- Optional dedication of public parkland and facilities
- Preservation of historic buildings and properties
- Existing Woodland preservation
  - Inside GZ (20%-60% preserved depending on density)
  - Outside GZ (70% preserved)
- No subdivision of Wetland and Floodplain



# Cluster Subdivisions

- Dwelling Units are grouped smaller area – density is the same
- Benefits
  - Preserving open space for community, agricultural, wildlife habitat use
  - Reduces construction cost



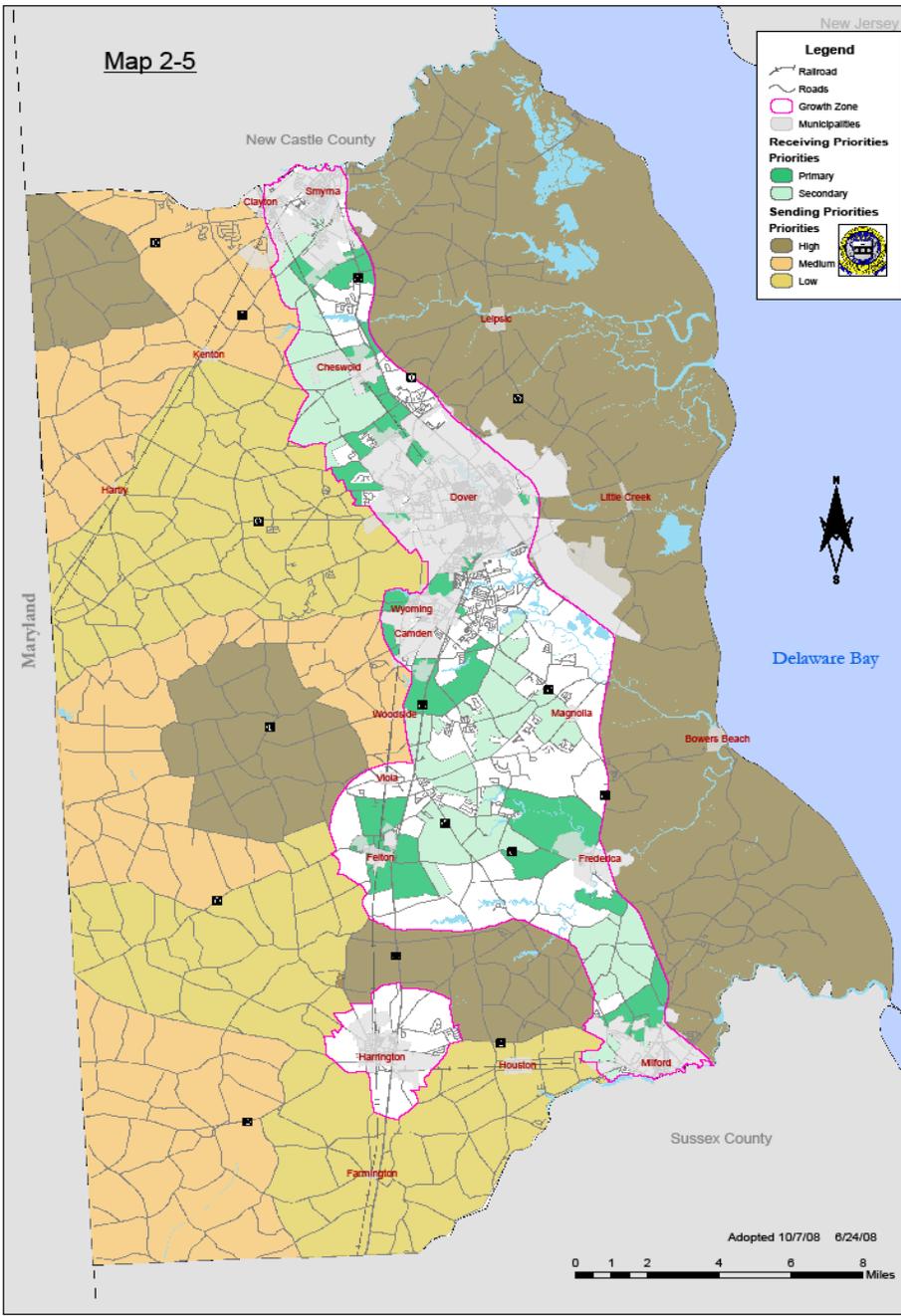
# Transfer Development Rights

The yielding of some or all of the right to develop one parcel of land in exchange for a right to develop another parcel of land more intensively



## Transfer of Development Rights Sending and Receiving Areas

Map 2-5



# Sending and Receiving Areas (Effective January 1, 2005)

Primary Sending Area = 1.5 dwelling unit credits per acre preserved

Secondary Sending Area = 1.0 dwelling unit credit per acre preserved

Tertiary Sending Area = 0.5 dwelling unit credits per acre preserved

Primary Receiving Area = 7 dwelling units per acre

Secondary Receiving Area = 5 dwelling units per acre

Conventional Subdivision = 3 dwelling units per acre



# TDR – Purpose and Intent

- Provide for farmland, open space, natural resource preservation, and public facility enhancement;
- Provide mixed use, integrated housing types for a variety of all lifestyles and income levels;
- Provide transit oriented, pedestrian friendly communities with parks, greenways, mixed uses, and interconnectivity thereby reinforcing community character;
- Provide adequate and efficient density to support infrastructure investment within certain areas of the Growth Zone; and
- Further discourage sprawling suburban development into rural areas.



# TDR - Design Criteria

- Diversity in housing types (required in primary receiving areas)
- Neighborhood Street System
- Pedestrian Amenities
  - Sidewalks on both sides of streets (based on density in conventional subdivisions)
- Landscape and Tree Planting
  - 1 tree per 3,000 sq. ft. of land area developed (1 per 10,000 sq. ft. in conventional subdivisions)



# TDR - Design Criteria (continued)

- Parks and Open Space
  - 450 sq. ft. of active recreation area per dwelling unit (300 sq. ft. in conventional subdivisions)
- Community Facilities/Nonresidential Uses
  - 15% of any project site
  - Area and bulk requirements
  - Landscaping
  - Parking lot design



# TDR - Design Criteria Example



## Pebble Creek Village

Kent County Delaware  
2006100.00 / 10.08.08

BECKETT  
MORGAN  
GROUP  
ARCHITECTURAL  
ENGINEERING



# TDR - Architectural Design Standards – Residential

- General
  - Variation in materials
  - Vertical and horizontal relief
  - Variation in styles/types
- Single-Family Attached
  - No more than 6 units
  - Alternating facades and offsets
- Multifamily
  - 60% masonry brick
  - Vertical offsets (2 for each long side, 5 ft. in depth)
  - Horizontal elements (masonry band courses, lintels, balcony projections, eaves, and cornices)



# TDR - Architectural Design Standards – Residential Example



CONDOMINIUMS - ELEVATION TYPE B

Pebble Creek Village  
Kent County Delaware  
2006100.00 / 10.08.08



CONDOMINIUMS - ELEVATION TYPE C

Pebble Creek Village  
Kent County Delaware  
2006100.00 / 10.08.08



CONDOMINIUMS - SIDE ELEVATION TYPE C

Pebble Creek Village  
Kent County Delaware  
2006100.00 / 10.08.08



CARRIAGE TWINS WITH ATTACHED GARAGE - ELEVATION TYPE A1

Pebble Creek Village  
Kent County Delaware  
2006100.00 / 10.08.08



# TDR - Architectural Design Standards – Nonresidential

- Architectural review – corridor elevation (blank walls prohibited)
- Corridor elevation must also include at least two of the following:
  - Primary entrance doors
  - Primary entrance feature
  - Integrated landscaping
  - Architectural relief
  - Screening of service bays, dumpsters, etc.



# TDR – Review Process

- 1<sup>st</sup> Step – Public Workshop
  - Applicant must notify property owners within 200 ft., post the property & publish notice
  
- 2<sup>nd</sup> Step – Public Hearing with Levy Court
  - Sketch plan and supporting materials provided
  - Determine whether the proposed project satisfies the purpose and intent of the TDR Ordinance and warrants further review by the RPC.
  
- 3<sup>rd</sup> Step – Preliminary Plan review by RPC
  - No additional hearing



# Comprehensive Plan – Open Space

- Revise TDR ordinance to shorten review time
- Develop new Kent County Open Space and Recreation Plan
  - Future land acquisition, construction of new parks and improvements to existing parks recreation facilities, bike/ped and greenway connections
- Set aside/acquire open space in new developments for parks
- Develop alternatives for open space management within communities emphasizing fee in lieu
- APFO for parks and recreation facilities



# Comprehensive Plan – Open Space (continued)

- Promote in-fill and compact development
- Reduce the amount of woodlands clearing permitted to 15% (outside GZ) and 50% (inside GZ)
- Begin developing Greenway system plan
- Increase buffer areas around wetlands, waterbodies and conveyance systems



# Conclusion – Kent County Open Space

- Preservation of open space can be accomplished and encouraged by:
  - Regulations
  - Encouraging compact and innovative design
  - Policy initiatives in Comprehensive Plan



**CITY OF MILFORD  
PLANNING COMMISSION**

*Minutes of Meeting  
November 16, 2010*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, November 16, 2010.

**PRESIDING:** Chairman Charles Rini  
**IN ATTENDANCE:** Commissioners Kim Stevenson, Karen McColley, George Pilla, Archie Campbell, Marvin Sharp, Jamie Burk, William Lane  
**ALSO:** City Planner Gary J. Norris, AICP, and Recording Secretary Christine Crouch

Mr. Rini called the meeting to order at 7:07 pm.

***APPROVAL OF MINUTES***

The minutes for the October 2010 regular monthly planning commission meeting were approved as submitted with a motion by Mrs. McColley, seconded by Mrs. Stevenson.

***CHAIRMAN MONTHLY REPORT***

Mr. Rini reported the Thomas annexation was heard by council and was annexed with an R-8 zoning designation, as recommended by the planning commission.

As a heads up, Mr. Rini reminded the commissioners they are an advisory body to the city council. Should any of them receive phone calls regarding the upcoming agendas to direct the caller to the City planning department.

Mr. Norris thanked Chairman Rini for his hard work, specifically as it relates to the Thomas annexation. Further, council passed a billboard ordinance that the commission worked very hard on. Mr. Norris feels what was ultimately adopted is adequate although it did not include everything the commission recommended.

Mr. Rini asked for a summary of the online planning course four of the planning commissioners were signed up for on behalf of the City. Mrs. Stevenson found the information very helpful but suggested if anyone takes it in the future to possibly meet at the library at a designated time together to ensure time is scheduled for the class. Mr. Pilla, Mr. Burk and Mr. Sharp did not complete the course. Mr. Rini asked if anyone else is interested in the City signing them up for the course, which the City pays for, to contact Mrs. Crouch.

***NEW BUSINESS***

**Davis, Bowen & Friedel on behalf of Shore Realty LLC; Project No 10-148  
Final Minor Subdivision  
941 N DuPont Blvd  
Tax Map MD-16-174.00-01-05.02, Area of Petition 6.71 +/- Acres; C-3 Zoning  
Adoption of Resolution PC10-018**

Mr. Rini thanked the applicants for providing the renderings and drawings to the commission. He appreciates it and deems the drawings necessary for approval.

Mr. Tim Metzner of Davis, Bowen and Friedel was present to represent the applicant. The subject parcel is beside Walmart. The owners simply wants to subdivide it for financing purposes and has not intentions of developing either parcel further than the existing Rita's and existing shopping center.

Mr. Norris asked if the City Engineer's comments were received. Mr. Metzner acknowledged the comments on the plans were an error and will be corrected per the City Engineer's comments.

Mr. Campbell questioned how much would the city collect in taxes based on subdividing the parcel. Mr. Metzner was unsure to the exact amount but it would be in the City's favor.

Mrs. Mccolley confirmed the two lots being created are conforming per the code and the entrance is conforming as well.

Mr. Sharp has hard time believing this is so the owner can pay more taxes. Mr. Metzner explained it is for financing purposes.

Mr. Rini called for public comments. Hearing none he asked for a motion.

A motion by Mr. Campbell to approve the subdivision provided the note on the plans is changed per the City Engineer's comments and to approve resolution PC10-018 was seconded by Mr. Sharp. Motion carried unanimously following a poll of the commission.

### ***CITY PLANNER MONTHLY REPORT***

Mr. Norris had no report this month.

Mr. Sharp thanked Mr. Pikus for his support recently. Mr. Sharp had been feeling like the council was not recognizing the hard work the commission dedicates, and Mr. Pikus recently took the time to recognize the commission.

Mr. Rini stated Mr. Willard will be in attendance at the December commission meeting because there is a conditional use for a billboard on the agenda.

Mrs. Stevenson added one of the things that came up in online class she took was including a purpose or intent statement in all ordinances. She requested the commissioners look at adding a purposes statement to the PUD section of the code. Mr. Norris would like additional things added as part of a PUD request as well. Mrs. Mccolley agreed adding whatever the City wants needs to be upfront and clear from the beginning of the process.

Mr. Rini questioned whether or not a plan reviewed by the commission that complies with the code could be denied or tabled. Mr. Norris could not see how it could be tabled or denied. If the applicant has met the code, then what condition could it be tabled or denied upon. If the

commission adds conditions to the recommendation, then council may be able to table or deny the applicant if they do not comply with the conditions.

Mr. Pikus reported he had a visitor earlier this week. The owner of the property that is on Warner Road adjacent to the old Wal Mart site. The owner has serious concerns regarding the drainage at their property. Mr. Pikus looked at the property and confirmed there are signs of high water that still remain from the winter. Mr. Pikus only asks that the commission give due consideration to this issue if and when construction is done on that road in the future.

With no further business, a motion to adjourn by Mr. Pilla was seconded by Mr. Campbell. The meeting adjourned at 7:36 pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Christine Crouch". The signature is written in a cursive, flowing style.

Christine R. Crouch

Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD  
PLANNING COMMISSION**

**RESOLUTION NO. PC10-018**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,  
DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF  
MILFORD**

**THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR  
SHORE REALTY LLC  
AT 941 NORTH DUPONT BLVD  
FOR A TWO LOT SUBDIVISION  
IN A C-3 ZONING DISTRICT  
TAX MAP MD-16-174.00-01-05.02**

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on November 16, 2010; and,

WHEREAS, by a vote of 8-0 recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1. The note on the plan be changed to reflect that all streets and parking shown on the plan are private.

APPROVED: \_\_\_\_\_  
Charles Rini,  
Planning Commission Chairman

SIGNED: \_\_\_\_\_  
Christine Crouch,  
Planning Commission Rec Secretary



# Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

*Town of Bethany Beach*

*Town of Bethel*

*Town of Blades*

*Town of Bridgeville*

*Town of Dagsboro*

*Town of Delmar*

*Town of Dewey Beach*

*Town of Ellendale*

*Town of Fenwick Island*

*Town of Frankford*

*Town of Georgetown*

*Town of Greenwood*

*Town of Henlopen Acres*

*Town of Laurel*

*City of Lewes*

*City of Milford*

*Town of Millsboro*

*Town of Millville*

*Town of Milton*

*Town of Ocean View*

*City of Rehoboth Beach*

*City of Seaford*

*Town of Selbyville*

*Town of Slaughter Beach*

*Town of South Bethany*

*Sussex County Council*

## **MEETING NOTICE**

**LOCATION:** The Brick Restaurant and Tavern  
The Circle, Georgetown

**DATE:** Wednesday, January 5, 2011

**TIME:** 6:00 p.m. – Social  
6:30 p.m. – Dinner

### **Social Hour – Compliments of Comcast**

**HOST:** Town of Georgetown

**PROGRAM:** ShoreScan - Secure Web-Based  
Document Archiving Technology

**COST:** \$30.00

**MENU:** Anthony's Salad  
Chicken Piccata with Capers, Fresh Lemon and Butter  
Braised Short Ribs  
Yukon Gold Potatoes with Sweet Onions and Fresh Herbs  
Oven Roasted Malibu Carrots with Olive Oil  
Flourless Chocolate Torte  
Cheesecake with a Raspberry Coulis

For reservations, please call Angie Townsend at Georgetown Town Hall at 856-7391 no later than **THURSDAY, DECEMBER 30TH.**

Please make checks payable to the Town of Georgetown.

### **IMPORTANT NOTICE: LIMITED SEATING**

Maximum capacity is 85!

Only the first 85 reservations will be taken!

No Walk-Ins!

# PUBLIC NOTICE

Notice is hereby given the following ordinance is under review by Milford City Council:

## ORDINANCE 2010-20 Chapter 222-Water

### AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 222 THEREOF, ENTITLED WATER, For the purpose of PROHIBITING CERTAIN TYPES OF PRIVATE WATER WELLS.

WHEREAS, water services are available to businesses and residences within the City of Milford;  
and,

WHEREAS, it is necessary that these services be utilized and that for health and safety purposes,  
persons within the City of Milford are not allowed to build and maintain separate water wells except  
as defined herein.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. Subsection 3 of Chapter 222, Water, of the Code of the City of Milford is hereby amended  
by adding the following definitions:

**AGRICULTURAL WELL**— A well used for the watering of livestock, poultry, aquaculture uses, or  
solely for the watering of household yards and gardens or for other purposes related to farming in  
general but not including the irrigation of lands or crops. Water is not used for human consumption  
or to service a dwelling.

**DEWATERING WELL**—A well used to remove ground water for construction of footings, sewer  
lines, building foundations, elevator shafts, etc.

**DOMESTIC WELL**—A well primarily used for potable non-public water supply purposes and  
which may be used for non-potable purposes, excluding heat pump supply.

**HEAT PUMP CLOSED LOOP WELL**—A sealed and pressurized loop of pipe containing a heat  
exchange solution which is circulated below the earth's surface and utilizes groundwater for the  
purpose of heat transfer.

**HEAT PUMP RECHARGE WELL**—A well constructed and primarily used for injecting ground  
water source heat pump effluent back into an aquifer, and which may be used for other non-potable  
water supply purposes provided prior written approval is obtained from the City.

**HEAT PUMP SUPPLY WELL**—A well constructed primarily to obtain ground water as a source  
for heat pump supply purposes and which may not be used for other purposes such as domestic  
water supply.

**INDUSTRIAL WELL**—A well which is used in the processing, washing, packaging, or  
manufacturing of a product excluding food and beverages.

**IRRIGATION WELL**—A well which is used for the watering of lands or crops other than household  
lawns and gardens.

**MONITOR WELL**—A well installed for the sole purpose of the determination of subsurface conditions and collecting ground water samples.

**OBSERVATION WELL**—A well used for the sole purpose of determining ground water levels.

**POTABLE WATER**--Any water which is in compliance with all the primary health related drinking water standards specified in the Delaware Regulations Governing Public Drinking Water Systems and the US EPA Safe Drinking Water Act, and is acceptable for human consumption.

**PUBLIC WELL**—A well which is used to supply water to more than three dwelling units; twenty-five (25) or more employees; in the manufacture of ice, foods, or beverages; to the public in food washing, processing, or preparation in a plant, restaurant, or other facility.

**TEST WELL**—A well installed to ascertain the lithology and water transmission properties of an aquifer or geologic materials and which may be used to determine water quality; a well which is not used on a permanent basis.

Section 2. Chapter 222, Water, of the Code of the City of Milford is hereby amended by adding the following section:

§222-32 Wells.

A. Except as provided in this section, no person shall install, construct, develop, maintain, or use any type of well within the City limits and/or the area served by the City's water system.

B. Upon the issuance of a permit by the City, the following types of wells are allowed to be installed, constructed, developed, maintained and used within the City limits and/or the area served by the City's water system.

1. Any well lawfully in existence at the time of enactment of this ordinance, provided, however, the size of such wells shall not be expanded.
2. Agricultural wells on properties of three or more acres (The intended use of agricultural wells in the City of Milford is for irrigation of open space, public grounds, school grounds, parks and recreational playing fields)
3. Domestic wells when the property is not located within 200 feet of the City's water system.
4. Heat pump wells are permitted for the conservation of natural resources and energy.
5. Dewatering, observation, monitoring and test wells are permitted in accordance with State regulations.
6. Public, Industrial or Irrigation wells are permitted upon approval of City Council.

Section 3. Dates.

Introduction to City Council: 12-13-10

Projected Adoption Date: 12-28-10

Projected Effective Date: 01-07-11

(This ordinance shall take effect and be in force ten days after its adoption.)

Ordinance 2010-20 is scheduled for adoption, with or without amendments, at the Council Meeting on December 28, 2010, to be effective January 7, 2011. Should you have questions, please contact the City of Milford Public Works Department at 302-422-6616 Extension 100.

**THE CITY OF MILFORD CAFETERIA PLAN**

**AS AMENDED AND RESTATED 2010**

THIS PLAN is adopted this \_\_\_\_ day of December, 2010, by the City of Milford, Delaware (the “City”).

WHEREAS, the City makes various employee benefits available to its employees on an optional basis; and

WHEREAS, the City believes it is in the best interests of the City and its employees to provide the employees the opportunity to choose whether to participate in the various employee benefits made available by the City;

NOW, THEREFORE, the City hereby adopts this amended and restated City of Milford Cafeteria Plan, effective January, 1, 2011.

**ARTICLE I:  
PURPOSE**

This Plan is intended to provide Employees of the City of Milford, Delaware an opportunity to select among the various employee benefits made available by the City to its Employees. It is believed that this opportunity will allow each Employee to best utilize the resources available in his or her own best interests and in the best interests of his or her family. It is the intention of the City that this Plan qualify as a Cafeteria Plan pursuant to Code Section 125 and that medical insurance benefits paid pursuant to this Plan be eligible for exclusion from a Participant’s income pursuant to Code Section 105 and Code Section 106. The City presently provides, and may continue to provide, other employee benefits to some or all of its employees on a nonelective basis. The benefits provided under this Plan shall be in addition to and not in lieu of such other benefits, and such other benefits shall not constitute a part of this Plan.

**ARTICLE II:  
DEFINITIONS**

The following words and phrases shall have the meaning set forth below:

- A. “Administrator” shall mean the City of Milford, Delaware.
- B. “Change in Status” shall mean marriage, divorce, legal separation, annulment, death of a spouse or Dependent, birth or adoption of a child, termination or commencement of employment of the Employee, spouse or Dependent, a reduction or increase in hours of employment by the Employee, spouse or Dependent, a change in the place of residence or work of the Employee, spouse, or Dependent, entitlement to coverage under COBRA, Medicare or Medicaid by the Employee, the Employee’s spouse or Dependent; a dependent satisfies or ceases to satisfy the requirements for unmarried dependents, such as attainment of age, student status, or any similar circumstance as provided in the accident or health plan under which the Employee receives coverage; and such other events that the Administrator determines will permit a change

or revocation of an election during a Plan Year under regulations and rulings of the Internal Revenue Service.

C. “COBRA” shall mean the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

D. “Code” shall mean the Internal Revenue Code of 1986, as it may be amended from time to time. Reference to a section of the Code shall include that section and any comparable section or sections of any future legislation that amends, supplements or supersedes that section.

E. “Dependent” shall mean a Participant’s spouse, or children or other qualifying Dependents as defined in Code Section 152.

F. “Effective Date” shall mean August 1, 1991. This amendment and restatement shall be effective January 1, 2011.

G. “Election Form” shall mean the form a Participant submits to elect to receive benefits under the Plan.

H. “Employee” shall mean any person who is employed by the City.

I. “Employer” or “City” shall mean the City of Milford, Delaware.

J. “FMLA” shall mean the Family and Medical Leave Act of 1993, as amended.

K. “Health Insurance Benefits” shall mean the City’s Health Insurance Plan coverage for purposes of this Plan.

L. “Health Insurance Plan” shall mean the plan(s) that the City maintains for its Employees (and/or spouses and/or Dependents, as the case may be), providing major medical benefits through a group insurance policy or policies. The City may substitute, add, subtract or revise, at any time, such plan(s) and/or the benefits, terms and conditions of any such plan(s). Any such substitution or revision will be communicated to the Participants and shall be automatically incorporated by reference into this Plan.

M. “Optional Benefit Plans” shall mean the “Medical Plan,” “Dental Plan,” and/or other such plan intended to designate benefits being made available from time to time by the City to its employees and which are more fully described in separate written documents.

N. “Participant” shall mean any individual who has met the eligibility requirements and participates in the Plan as provided hereunder.

O. “Plan” or “Cafeteria Plan” shall mean the City of Milford Cafeteria Plan as set forth herein, as it may be amended from time to time.

P. “Plan Year” means the calendar year.

Q. “Salary Reduction” shall mean the amount by which the Participant’s compensation is reduced and applied by the City under this Plan to pay for the benefit elected, before any applicable state and/or federal taxes have been deducted from the Participant’s compensation.

**ARTICLE III:  
ELIGIBILITY**

Each full-time Employee is eligible to participate in the Plan on the later of: (a) the Effective Date, or (b) the date the Employee begins participation in the City’s health insurance plan. Notwithstanding the foregoing, a Participant’s right to select various Optional Benefits are further limited and governed by the eligibility provisions set forth in such Optional Benefit Plans.

**ARTICLE IV:  
FMLA LEAVES OF ABSENCE**

A. Notwithstanding any provision to the contrary in this Plan, if a Participant engages in a qualifying leave under the FMLA, then to the extent required by the FMLA, the City will continue to maintain the Participant’s Health Insurance Benefits on the same terms and conditions as if the Participant were still an active Participant.

B. Each Participant may elect to continue his or her coverage under this Plan during the FMLA leave. If the Participant elects to continue coverage while on leave, then the Participant may pay his or her share of the premium in one of the following ways:

(1) with after-tax dollars, by sending monthly payments to the City by the due date established by the City; or

(2) with pre-tax dollars, by pre-paying all or a portion of the premium for the expected duration of the leave on a pre-tax Salary Reduction basis out of pre-leave compensation. To pre-pay the premium, the Participant must make a special election to that effect prior to the date that such compensation would normally be made available (pre-tax dollars may not be used to fund coverage during the next Plan Year); or

C. If a Participant’s coverage ceases while on FMLA leave, the Participant will be permitted to re-enter the Plan upon return from such leave on the same basis the Participant was participating in the Plan prior to leave, or as otherwise required by the FMLA.

**ARTICLE V:  
OPTIONAL BENEFITS**

A. Optional Benefits. A Participant may choose under this Plan to not participate in any of the Optional Benefit Plans, in which case the Participant will be paid his or her full compensation for any Plan Year in cash. Alternatively, a Participant may elect to have a portion of his or her compensation applied by the City toward the cost of one or more of the Optional Benefits made available from time to time by the City. The benefits available to the Participant are:

- (1) Health Insurance Plan benefits
- (2) Medical Expense Reimbursement benefits
- (3) Dependent Care Assistance benefits

From time to time the City may add additional plans or programs that will be included as Optional Benefits.

B. Optional Benefit Plans. Notwithstanding that the Participant may elect to receive one or more of the Optional Benefits set forth in Section 5.A. above, the benefits will not be provided by this Plan but by the specific Optional Benefit Plan made available by the City and selected by the Participant. A detailed description of the benefits available under each Optional Benefit Plan, the participation requirements for such Optional Benefit Plan, and the other terms and conditions of coverage and benefits under such Optional Benefit Plan are as set forth from time to time in the Optional Benefit Plan and in the group insurance contracts and prepaid health plan contracts that constitute such plans.

C. Election to Participate. One or more of the Optional Benefits set forth in Section 5.A. above (or subsequently added as Optional Benefits) may be elected by a Participant in accordance with the procedure described in Section 5.D. below. If an election for an Optional Benefit is made under this Plan, cash compensation of the Participant will be reduced, and an amount equal to the reduction will be contributed by the City under the selected Optional Benefit Plan or Plans to cover all or a portion of the cost of such benefit. No election shall be available with respect to any benefit which, but for the adoption of this Plan, the City would have provided to the Participant on a non-elective basis, and such benefit shall continue to be provided on a non-elective basis.

D. Manner of Electing Optional Benefits. Prior to the commencement of each Plan Year, each Participant will be provided with a written Election Form. The Election Form shall be effective as of the first day of the Plan Year. Each Participant who intends to receive benefits under any of the Optional Benefits shall specify on the Election Form one or more of the Optional Benefit coverages described in Article V A. (or subsequently added) for the Plan Year and his or her compensation shall be reduced accordingly. Participants must complete and return their Election Form to the Administrator on or before December 31st.

A Participant who has never elected to participate in any of the Optional Benefit Plans and who fails to timely return a completed Election Form to the Administrator shall be deemed to have elected to continue to receive his or her full compensation in cash. A Participant who had previously elected to participate in an Optional Benefit Plan and who fails to timely return a completed Election Form to the Administrator for any subsequent Plan Year shall be deemed to have made the same election as was in effect for the Plan Year just prior to the end of the preceding Plan Year.

E. Reduction in Compensation. The City shall reduce the Participant's compensation for the Plan Year by an amount determined based upon the Participant's selection of Optional Benefit Plans as indicated on the Election Form. The amount of reduction in the

Participant's compensation resulting from various elections is indicated on the Election Form. A Participant who had previously elected to participate in one or more Optional Benefit Plans and who fails to timely return an Election Form shall be deemed to have agreed to a reduction in his or her compensation for the subsequent Plan Year equal to the cost during such the subsequent Plan Year of each Optional Benefit he or she is deemed to have elected.

F. Termination of Participation. Elections made under this Plan or deemed to be made under Article V D. shall automatically terminate on Cessation of Participation. A Participant will cease to be a Participant as of the earlier of (a) the date on which the Plan terminates, or (b) the first day of the month following his or her termination of employment. Notwithstanding the foregoing, although the terminated Participant will no longer be a Participant in the Cafeteria Plan, coverage or benefits under the Optional Benefit Plans may continue if and to the extent provided by such plans and as required by applicable law.

#### **ARTICLE VI: IRREVOCABILITY OF ELECTIONS; EXCEPTIONS**

A. Elections Irrevocable; Exceptions. Except as described in this Article VI, elections made under the Plan shall be irrevocable by the Participant during the Plan Year to which it relates. Accordingly, unless an exception applies, the Participant may not change any elections for the duration of the Period of Coverage regarding:

- (1) participation in this Plan;
- (2) Salary Reduction amounts; or
- (3) election of particular Optional Benefits.

B. Events Permitting Exception to Irrevocability Rule for Optional Benefits. A Participant may change an election as described below upon the occurrence of the stated events for the applicable component of this Plan:

(1) Open Enrollment Period. A Participant may change an election during the Open Enrollment Period.

(2) Termination of Employment. A Participant's election will terminate under the Plan upon termination of employment.

(3) Leaves of Absence. A Participant may change an election under the Plan upon FMLA leave in accordance and upon non-FMLA leave.

(4) Change in Status. A Participant may change his or her actual or deemed election under the Plan upon the occurrence of a Change in Status, but only if such election change is made on account of and corresponds with a Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer (referred to as the general consistency requirement). A Change in Status that affects eligibility for coverage under a plan of the Employer or a plan of the Spouse's or Dependent's employer includes a Change in Status that results in an increase

or decrease in the number of an Employee's family members (i.e., a Spouse and/or Dependents) who may benefit from the coverage.

(5) **HIPAA Special Enrollment Rights.** If a Participant or his or her Spouse or Dependent is entitled to special enrollment rights under a group health plan (other than an excepted benefit), as required by HIPAA under Code Section 9801(f), then a Participant may revoke a prior election for group health plan coverage and make a new election (including, when required by HIPAA, an election to enroll in another benefit package under a group health plan), provided that the election change corresponds with such HIPAA special enrollment rights. As required by HIPAA, a special enrollment right will arise in the following circumstances:

(a) a Participant or his or her Spouse or Dependent declined to enroll in group health plan coverage because he or she had coverage, and eligibility for such coverage is subsequently lost because: (1) the coverage was provided under COBRA and the COBRA coverage was exhausted; or (2) the coverage was non-COBRA coverage and the coverage terminated due to loss of eligibility for coverage or the employer contributions for the coverage were terminated;

(b) a new Dependent is acquired as a result of marriage, birth, adoption, or placement for adoption;

(c) the Participant's or Dependent's coverage under a Medicaid plan or state children's health insurance program is terminated as a result of loss of eligibility for such coverage; or

(d) the Participant or Dependent becomes eligible for a state premium assistance subsidy from a Medicaid plan or through a state children's health insurance program with respect to coverage under the group health plan.

An election to add previously eligible Dependents as a result of the acquisition of a new Spouse or Dependent child shall be considered to be consistent with the special enrollment right. An election change on account of a HIPAA special enrollment attributable to the birth, adoption, or placement for adoption of a new Dependent child may, subject to the provisions of the underlying group health plan, be effective retroactively (up to 30 days).

The term "loss of eligibility" includes (but is not limited to) loss of eligibility due to legal separation, divorce, cessation of dependent status, death of an employee, termination of employment, reduction of hours, or any loss of eligibility for coverage that is measured with reference to any of the foregoing; loss of coverage offered through an HMO that does not provide benefits to individuals who do not reside, live, or work in the service area because an individual no longer resides, lives, or works in the service area (whether or not within the choice of the individual), and in the case of HMO coverage in the group market, no other benefit package is available to the individual; a situation in which an individual incurs a claim that would meet or exceed a lifetime limit on all benefits; and a situation in which a plan no longer offers any benefits to the class of similarly situated individuals that includes the individual.

(6) Certain Judgments, Decrees and Orders. If a judgment, decree, or order (collectively, an “Order”) resulting from a divorce, legal separation, annulment, or change in legal custody (including a QMCSO) requires accident or health coverage (including an election for Health FSA Benefits) for a Participant’s child (including a foster child who is a Dependent of the Participant), then a Participant may (1) change his or her election to provide coverage for the child (provided that the Order requires the Participant to provide coverage); or (2) change his or her election to revoke coverage for the child if the Order requires that another individual (including the Participant’s Spouse or former Spouse) provide coverage under that individual’s plan and such coverage is actually provided.

(7) Medicare and Medicaid. If a Participant or his or her Spouse or Dependent who is enrolled in a health or accident plan under this Plan becomes entitled to (i.e., becomes enrolled in) Medicare or Medicaid (other than coverage consisting solely of benefits under Section 1928 of the Social Security Act providing for pediatric vaccines), then the Participant may prospectively reduce or cancel the health or accident coverage of the person becoming entitled to Medicare or Medicaid and/or the Participant’s Health FSA coverage may be canceled (but not reduced). Notwithstanding the foregoing, such cancellation will not become effective to the extent that it would reduce future contributions to the Health FSA to a point where the total contributions for the Plan Year are less than the amount already reimbursed for the Plan Year. Furthermore, if a Participant or his or her Spouse or Dependent who has been entitled to Medicare or Medicaid loses eligibility for such coverage, then the Participant may prospectively elect to commence or increase the accident or health coverage of the individual who loses Medicare or Medicaid eligibility and/or the Participant’s Health FSA coverage may commence or increase.

(8) Change in Cost. For purposes of this Section, “similar coverage” means coverage for the same category of benefits for the same individuals (e.g., family to family or single to single). For example, two plans that provide major medical coverage are considered to be similar coverage. For purposes of this definition, (1) a health FSA is not similar coverage with respect to an accident or health plan that is not a health FSA; (2) an HMO and a PPO are considered to be similar coverage; and (3) coverage by another employer, such as a Spouse’s or Dependent’s employer, may be treated as similar coverage if it otherwise meets the requirements of similar coverage.

(a) Increase or Decrease for Insignificant Cost Changes. Participants are required to increase their elective contributions (by increasing Salary Reductions) to reflect insignificant increases in their required contribution for their Optional Benefits, and to decrease their elective contributions to reflect insignificant decreases in their required contribution. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will determine whether an increase or decrease is insignificant based upon all the surrounding facts and circumstances, including but not limited to the dollar amount or percentage of the cost change. The Plan Administrator, on a reasonable and consistent basis, will automatically effectuate this increase or decrease in affected employees’ elective contributions on a prospective basis.

(b) Significant Cost Increases. If the Plan Administrator determines that the cost charged to an Employee of a Participant's Optional Benefit(s) (such as the PPO for the Medical Insurance Plan) significantly increases during a Period of Coverage, then the Participant may (a) make a corresponding prospective increase in his or her elective contributions (by increasing Salary Reductions); (b) revoke his or her election for that coverage, and in lieu thereof, receive on a prospective basis coverage under another Optional Benefit that provides similar coverage (such as an HMO, but not the Health FSA); or (c) drop coverage prospectively if there is no other Optional Benefit available that provides similar coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost increase is significant in accordance with prevailing IRS guidance.

(c) Significant Cost Decreases. If the Plan Administrator determines that the cost of any Optional Benefit (such as the PPO for the Medical Insurance Plan) significantly decreases during a Period of Coverage, then the Plan Administrator may permit the following election changes: (a) Participants enrolled in that Optional Benefit may make a corresponding prospective decrease in their elective contributions (by decreasing Salary Reductions); (b) Participants who are enrolled in another Benefit Package Option (such as an HMO, but not the Health FSA) may change their election on a prospective basis to elect the Optional Benefit that has decreased in cost (such as the PPO for the Medical Insurance Plan); or (c) Employees who are otherwise eligible under Article III may elect the Optional Benefit that has decreased in cost (such as the PPO) on a prospective basis, subject to the terms and limitations of the Optional Benefit. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a cost decrease is significant in accordance with prevailing IRS guidance.

(d) Limitation on Change in Cost Provisions for DCAP Benefits. The above "Change in Cost" provisions apply to DCAP Benefits only if the cost change is imposed by a dependent care provider who is not a "relative" of the Employee. For this purpose, a relative is an individual who is related as described in Code Sections 152(d)(2)(A) through (G), incorporating the rules of Code Sections 152(f)(1) and 152(f)(4).

(9) Change in Coverage. The definition of "similar coverage" under Section (8) above applies also to this Section (9).

(a) Significant Curtailment Without Loss of Coverage. If the Plan Administrator determines that a Participant's coverage under an Optional Benefit Plan under this Plan (or the Participant's Spouse's or Dependent's coverage under his or her employer's plan) is significantly curtailed without a Loss of Coverage (for example, when there is a significant increase in the deductible, the co-pay, or the out-of-pocket cost-sharing limit under an accident or health plan, such as the PPO under the Medical Insurance Plan) during a Period of Coverage, the Participant may revoke his or her election for the affected coverage, and in lieu

thereof, prospectively elect coverage under another Optional Benefit that provides similar coverage (such as the HMO, but not the Health FSA). Coverage under a plan is deemed to be “significantly curtailed” only if there is an overall reduction in coverage provided under the plan so as to constitute reduced coverage generally.

(i) **Significant Curtailment With a Loss of Coverage.** If the Plan Administrator determines that a Participant’s Optional Benefit (such as the PPO under the Medical Insurance Plan) coverage under this Plan (or the Participant’s Spouse’s or Dependent’s coverage under his or her employer’s plan) is significantly curtailed, and if such curtailment results in a Loss of Coverage during a Period of Coverage, then the Participant may revoke his or her election for the affected coverage and may either prospectively elect coverage under another Optional Benefit that provides similar coverage (such as the HMO, but not the Health FSA) or drop coverage if no other Optional Benefit providing similar coverage is offered by the Employer.

(ii) **Definition of Loss of Coverage.** For purposes of this Article VI B.(9), a “Loss of Coverage” means a complete loss of coverage (including the elimination of an Optional Benefit, an HMO ceasing to be available where the Participant or his or her Spouse or Dependent resides, or a Participant or his or her Spouse or Dependent losing all coverage under the Optional Benefit by reason of an overall lifetime or annual limitation). In addition, the Plan Administrator, in its sole discretion, on a uniform and consistent basis, may treat the following as a Loss of Coverage:

- a substantial decrease in the medical care providers available under the Optional Benefit (such as a major hospital ceasing to be a member of a preferred provider network or a substantial decrease in the number of physicians participating in the PPO for the Medical Insurance Plan or in an HMO);
- a reduction in benefits for a specific type of medical condition or treatment with respect to which the Participant or his or her Spouse or Dependent is currently in a course of treatment; or
- any other similar fundamental loss of coverage.

(iii) **DCAP Coverage Changes.** A Participant may make a prospective election change that is on account of and corresponds with a change by the Participant in the dependent care service provider. For example: (a) if the Participant terminates one dependent care service provider and hires a new dependent care service provider, then the Participant may change coverage to reflect the cost of the new service provider; and (b) if the Participant terminates a dependent care service

provider because a relative becomes available to take care of the child at no charge, then the Participant may cancel coverage.

(b) Addition or Significant Improvement of an Optional Benefit. If during a Period of Coverage the Plan adds a new Optional Benefit or significantly improves an existing Optional Benefit, the Plan Administrator may permit the following election changes: (a) Participants who are enrolled in an Optional Benefit Plan other than the newly added or significantly improved Optional Benefit Plan may change their elections on a prospective basis to elect the newly added or significantly improved Optional Benefit Plan; and (b) Employees who are otherwise eligible under Article III may elect the newly added or significantly improved Optional Benefit Plan on a prospective basis, subject to the terms and limitations of the Optional Benefit Plan. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether there has been an addition of, or a significant improvement in, an Optional Benefit in accordance with prevailing IRS guidance.

(c) Loss of Coverage Under Other Group Health Coverage. A Participant may prospectively change his or her election to add group health coverage for the Participant or his or her Spouse or Dependent, if such individual(s) loses coverage under any group health coverage sponsored by a governmental or educational institution, including (but not limited to) the following: a state children's health insurance program under Title XXI of the Social Security Act; a medical care program of an Indian Tribal government (as defined in Code Section 7701(a)(40)), the Indian Health Service, or a tribal organization; a state health benefits risk pool; or a foreign government group health plan, subject to the terms and limitations of the applicable Optional Benefit Plan(s).

(d) Change in Coverage Under Another Employer Plan. A Participant may make a prospective election change that is on account of and corresponds with a change made under an employer plan (including a plan of the Employer or a plan of the Spouse's or Dependent's employer), so long as (a) the other cafeteria plan or qualified benefits plan permits its participants to make an election change that would be permitted under applicable IRS regulations; or (b) the Plan permits Participants to make an election for a Period of Coverage that is different from the plan year under the other cafeteria plan or qualified benefits plan. For example, if an election is made by the Participant's Spouse during his or her employer's open enrollment to drop coverage, the Participant may add coverage to replace the dropped coverage. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, will decide whether a requested change is on account of and corresponds with a change made under the other employer plan, in accordance with prevailing IRS guidance.

Election changes may not be made to reduce Health FSA coverage during a Period of Coverage; however, election changes may be made to cancel Health FSA coverage completely due to the occurrence of any of the following events:

death of a Spouse, divorce, legal separation, or annulment; death of a Dependent; change in employment status such that the Participant becomes ineligible for Health FSA coverage; or a Dependent's ceasing to satisfy eligibility requirements for Health FSA coverage. Notwithstanding the foregoing, such cancellation will not become effective to the extent that it would reduce future contributions to the Health FSA to a point where the total contributions for the Plan Year are less than the amount already reimbursed for the Plan Year. The Plan Administrator, in its sole discretion and on a uniform and consistent basis, shall determine, based on prevailing IRS guidance, whether a requested change is on account of and corresponds with a Change in Status. Assuming that the general consistency requirement is satisfied, a requested election change must also satisfy the following specific consistency requirements in order for a Participant to be able to alter his or her election based on the specified Change in Status:

(i) **Loss of Spouse or Dependent Eligibility; Special COBRA Rules.** For a Change in Status involving a Participant's divorce, annulment or legal separation from a Spouse, the death of a Spouse or a Dependent, or a Dependent's ceasing to satisfy the eligibility requirements for coverage, a Participant may only elect to cancel accident or health insurance coverage for (a) the Spouse involved in the divorce, annulment, or legal separation; (b) the deceased Spouse or Dependent; or (c) the Dependent that ceased to satisfy the eligibility requirements. Canceling coverage for any other individual under these circumstances would fail to correspond with that Change in Status. Notwithstanding the foregoing, if the Participant or his or her Spouse or Dependent becomes eligible for COBRA (or similar health plan continuation coverage under state law) under the Employer's plan because of a reduction of hours or because the Participant's Dependent ceases to satisfy the eligibility requirements for coverage (and the Participant remains a Participant under this Plan in accordance with Article III), then the Participant may increase his or her election to pay for such coverage.

(ii) **Gain of Coverage Eligibility Under Another Employer's Plan.** For a Change in Status in which a Participant or his or her Spouse or Dependent gains eligibility for coverage under a cafeteria plan or qualified benefit plan of the employer of the Participant's Spouse or Dependent as a result of a change in marital status or a change in employment status, a Participant may elect to cease or decrease coverage for that individual only if coverage for that individual becomes effective or is increased under the Spouse's or Dependent's employer's plan. The Plan Administrator may rely on a Participant's certification that the Participant has obtained or will obtain coverage under the Spouse's or Dependent's employer's plan, unless the Plan Administrator has reason to believe that the Participant's certification is incorrect.

(iii) **Special Consistency Rule for DCAP Benefits.** With respect to the DCAP Benefits, a Participant may change or terminate his or her

election upon a Change in Status if (a) such change or termination is made on account of and corresponds with a Change in Status that affects eligibility for coverage under an employer's plan; or (b) the election change is on account of and corresponds with a Change in Status that affects eligibility of Dependent Care Expenses for the tax exclusion under Code Section 129.

A Participant entitled to change an election as described in this Article VI must do so in accordance with the procedures described in Article VI B.

C. **Modifications Required by Administrator.** The Administrator may, at any time, require any Participant or class of Participants to amend the amount of his or her salary reductions for a Plan Year if the Administrator determines that such action is necessary or advisable in order to: (a) satisfy any of the Code's nondiscrimination requirements applicable to this Plan or other cafeteria plan; (b) prevent any Employee or class of Employees from having to recognize more income for federal income tax purposes from the receipt of benefits hereunder than would otherwise be recognized; (c) maintain the qualified status of benefits received under this Plan; or (d) satisfy Code nondiscrimination requirements or other limitations applicable to the City's qualified plans. In the event that contributions need to be reduced for a class of Participants, the Administrator will reduce the salary reduction amounts for each affected Participant, beginning with the Participant in the class who had elected the highest salary reduction amount, continuing with the Participant in the class who had elected the next-highest salary reduction amount, and so forth, until the defect is corrected.

## **ARTICLE VII: LIMITATIONS ON OPTIONAL BENEFITS.**

A. **Changes to Ensure Compliance.** If the Administrator determines that the Plan may fail to satisfy for any Plan Year any nondiscrimination requirement imposed by the Code or any limitation on benefits provided to Highly Compensated Individuals or Key Employees, the Administrator shall take such action as the Administrator deems appropriate, under rules applicable to similarly situated Participants, to assure compliance with such requirement or limitation. Such action may include, without limitation, a modification of elections by Highly Compensated Individuals or Key Employees, with or without the consent of such Employees. For purposes of this Article VII A., Highly Compensated Individual and Key Employee shall have the meanings set forth in Code Section 125(e)(2) of the Code and Key Employee shall have the meaning set forth in Code Section 416(i)(1) of the Code and the applicable Treasury Regulations interpreting such Code provisions.

B. **Maximum Contribution.** The maximum amount of elective contributions under the Plan for any Participant shall be the costs from time to time of the most expensive benefits available to the Participant under the Optional Benefit Plans, less the amount by which the Participant's compensation will be reduced.

## **ARTICLE VIII: ADMINISTRATION**

A. Plan Administrator. The City is the Plan Administrator. The City shall have the right to designate individuals to perform various Plan duties on its behalf. It shall be the duty of the Administrator to see that the Plan is operated in accordance with its terms and in compliance with all applicable laws. The Plan shall be operated for the exclusive benefit of the Participants. In administering this Plan, the Administrator shall administer the same for the benefit of all Participants and their beneficiaries as herein provided, without discrimination in favor of one or some Participants or beneficiaries as against one or some other Participants or beneficiaries. Whenever action is required by the Administrator, the same may be taken by any individual designated as agent for the purpose.

B. Powers of the Administrator. The Administrator may authorize any person or persons having duties in connection with administration of the Plan or any agent to execute or deliver any instrument or make any payment on its behalf. The Administrator may retain such legal counsel and accountants, who may or may not be in the employ of the City, actuaries, and such clerical services as it may require in carrying out the provisions of the Plan.

C. The Administrator may from time to time establish rules for the administration of the Plan. Except as otherwise herein expressly provided, the Administrator shall have the exclusive right to interpret the Plan and to decide any matters arising hereunder in the administration and operation of the Plan. Notwithstanding the foregoing, any claim which arises under the Optional Benefit Plans shall not be subject to review under this Plan, and the Administrator's authority under this Article VIII shall not extend to any matter as to which an administrator under any such other plan is empowered to make determinations under such plan.

D. The Administrator will make available to each Participant such of its records under the Plan as pertain to such Participant, for examination at reasonable times during normal business hours. In administering the Plan, the Administrator will be entitled to rely conclusively on all tables, valuations, certificates, opinions and reports which are furnished by, or in accordance with the instructions of, the administrators of the Optional Benefit Plans, or by accountants, counsel or other experts employed or engaged by the Administrator.

E. Limitation of Liability; Compensation; and Expenses. The Administrator shall be free from all liability, joint or several, for its acts as Administrator.

F. All reasonable and necessary costs, expenses and liabilities incurred by the Administrator in the supervision of the administration of the Plan and the Optional Benefit Plans shall be paid by the City separate and apart from the contributions to the Plan.

**ARTICLE IX:  
PROTECTED HEALTH INFORMATION (“PHI”)**

A. Use and Disclosure of Protected Health Information. The Plan will use PHI to the extent of and in accordance with the uses and disclosures permitted by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). Specifically, the Plan will use and disclose PHI for the purposes described below:

(1) Treatment. The Plan may use and disclose to a health care provider an individual’s PHI for the provision, coordination or management of health care and related services to the individual and for consultations and referrals between one or more of the individual’s health care providers.

(2) Payment includes activities undertaken by the Plan to obtain premiums or determine or fulfill its responsibility for coverage and provision of Plan benefits that relate to an individual to whom health care is provided. These activities include, but are not limited to, the following:

- (a) determination of eligibility, coverage and cost sharing amounts (for example, cost of a benefit, plan maximums and copayments as determined for an individual’s claim);
- (b) coordination of benefits;
- (c) adjudication of health benefit claims (including appeals and other payment disputes);
- (d) subrogation of health benefit claims;
- (e) establishing employee contributions;
- (f) risk adjusting amounts due based on enrollee health status and demographic characteristics;
- (g) billing, collection activities and related health care data processing;
- (h) claims management and related health care data processing, including auditing payments, investigating and resolving payment disputes and responding to participant inquiries about payments;
- (i) obtaining payment under a contract for reinsurance (including stop loss and excess of loss insurance);
- (j) medical necessity reviews or reviews of appropriateness of care or justification of charges;
- (k) utilization review, including precertification, preauthorization, concurrent review and retrospective review;

(l) disclosure to consumer reporting agencies related to the collection of premiums or reimbursement (the following PHI may be disclosed for payment purposes: name and address, date of birth, Social Security number, payment history, account number and name and address of the provider and/or health plan); and

(m) reimbursement to the Plan.

(3) Health Care Operations include, but are not limited to, the following activities:

(a) quality assessment;

(b) population based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, disease management, contacting health care providers and patients with information about treatment alternatives and related functions;

(c) rating provider and Plan performance, including accreditation, certification, licensing or credentialing activities;

(d) underwriting, premium rating and other activities relating to the creation, renewal or replacement of a contract of health insurance or health benefits, and ceding, securing or placing a contract for reinsurance of risk relating to health care claims (including stop loss insurance and excess of loss insurance);

(e) conducting or arrangement for medical review, legal services and auditing functions, including fraud and abuse detection and compliance programs;

(f) business planning and development, such as conducting cost management and planning related analyses related to managing and operating the Plan, including formulary development and administration, development or improvement of payment methods or coverage policies;

(g) business management and general administrative activities of the Plan, including, but not limited to:

(i) management activities relating to the implementation of and compliance with HIPAA's administrative simplification requirements, or

(ii) customer service, including the provision of data analyses for policyholders, plan sponsors or other customers;

(h) resolution of internal grievances;

(i) due diligence in connection with the sale or transfer of assets to a potential successor in interest, if the potential successor in interest is a "covered

entity” under HIPAA or, following completion of the sale or transfer, will become a covered entity;

(j) use for the health care operations of the organized health care arrangement of this Plan.

(4) Business Associates. The Plan may disclose PHI to a business associate of the Plan who provides legal, actuarial, accounting, consulting or administrative services to the Plan provided that a business associate agreement is in place between the Plan and the business associate.

(5) Plan Sponsor. The Plan may disclose PHI to the City for purposes of administering the Plan provided that the City certifies compliance with the Privacy Rule. Such purposes include: claims appeals, case management, participant claim resolution, enrollment/disenrollment, obtaining premium bids, modifying or terminating the Plan.

(6) Regulatory or Legal Proceedings. The Plan may disclose PHI in response to a court or administrative order. The Plan may also disclose such information in response to a subpoena, discovery request, or other lawful legal process but efforts will be made to contact the individual to tell them about the request or to obtain an order protecting the information requested.

(7) Worker’s Compensation. The Plan may release PHI about an individual for worker’s compensation or similar programs that provide benefits for work-related injuries or illness.

(8) Health Oversight Activities. The Plan may disclose PHI to a health oversight agency for activities authorized by law. These oversight activities include: audits, investigations, and inspections.

(9) Public Health Activities. The Plan may disclose PHI for public health activities. These activities generally include the following:

(a) to prevent or control disease, injury or disability;

(b) to report abuse, neglect or domestic violence;

(c) to report to the Food and Drug Administration reactions to medications or problems with products;

(d) to report disease or infection exposure.

(10) Serious Threat to Health or Safety. The Plan may use and disclose PHI when necessary to prevent a serious threat to the health and safety of an individual or another person.

(11) Law Enforcement or Specific Government Functions. The Plan may also release PHI to law enforcement officials for the following purposes:

- (a) Pursuant to a court order, warrant, subpoena/summons;
- (b) Identifying or locating a suspect, fugitive, material witness or missing person; or
- (c) For reporting suspected criminal activity.

(12) Treatment Alternatives and Health-Related Services. The Plan may use and disclose PHI to inform an individual about or recommend possible treatment options or alternatives or health-related benefits or services that may be of interest to the individual.

(13) Individuals Involved in Your Care or Payment for Your Care. Unless the individual objects, the Plan may release an individual's PHI to a friend or family member who is involved in the individual's medical care or to someone who is involved in payment of the individual's medical care.

(14) Coroner, Medical Examiners, Funeral Homes. The Plan may release PHI to a coroner, medical examiner, or funeral director as necessary for them to carry out their duties. The Plan may also release PHI to an organization involved in the donation of organs if the individual is an organ donor.

B. The Plan Will Use and Disclose PHI as Required by Law and as Permitted by Authorization of the Participant or Beneficiary. With an authorization, the Plan will disclose PHI to other benefit plans for purposes related to administration of such other benefit plans.

C. With Respect to PHI, the Plan Sponsor Agrees to Certain Conditions.

The City agrees to:

(1) not use or further disclose PHI other than as permitted or required by the Plan document or as required by law;

(2) ensure that any agents, including a subcontractor, to whom the City provides PHI received from the Plan agree to the same restrictions and conditions that apply to the City with respect to such PHI;

(3) not use or disclose PHI for employment-related actions and decisions unless authorized by an individual;

(4) not use or disclose PHI in connection with any other benefit or employee benefit plan of the City unless authorized by an individual;

(5) report to the Plan any PHI use or disclosure that is inconsistent with the uses or disclosures provided for of which it becomes aware;

(6) make PHI available to an individual in accordance with HIPAA's access requirements;

(7) make PHI available for amendment and incorporate any amendments to PHI in accordance with HIPAA;

(8) make available the information required to provide an accounting of disclosures;

(9) make internal practices, books and records relating to the use and disclosure of PHI received from Plan available to the Secretary of HHS for the purposes of determining the Plan's compliance with HIPAA; and

(10) if feasible, return or destroy all PHI received from the Plan that the City still maintains in any form, and retain no copies of such PHI when no longer needed for the purpose for which disclosure was made (or if return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction infeasible).

D. Adequate Separation Between the Plan and the Plan Sponsor Must be Maintained. In accordance with HIPAA, only the following employees or classes of employees may be given access to PHI:

- (1) Chief Financial Officer
- (2) Accounting and Benefits Administrator
- (3) Executive Administrator/Insurance Administrator
- (4) Accounting Manager
- (5) Accounting Clerk

E. Limitations of PHI Access and Disclosure. The persons described in Article IX D. may only have access to and use and disclose PHI for Plan administration functions that the City performs for the Plan.

F. Noncompliance Issues. If the persons described in Article IX D. do not comply with this Article IX, the City shall provide a mechanism for resolving issues of noncompliance, including disciplinary sanction.

## **ARTICLE X: NO GUARANTY OF EMPLOYMENT**

Nothing contained in this Plan shall be construed as a contract of employment between the City and any Employee or Participant, or as a right of any Employee to be continued in the employment of the City, or as a limitation of the right of the City to discharge any Employee.

**ARTICLE XI:  
AMENDMENT AND TERMINATION OF PLAN**

The Plan may be amended or terminated at any time by action of the City. Any such amendment or termination shall be communicated to Participants in the Plan. Any amendment which is necessary to bring this Plan into conformity with government laws or regulations may be made retroactively.

**ARTICLE XII:  
NO TAX ADVICE**

While it is the intention of the City that a portion of the benefits payable to a Participant under this Plan be considered to be non-taxable for federal income tax purposes, no guaranty can be made and no representation, warranty or covenant is hereby made by the City, the Administrator or the Plan regarding the taxability of any amounts paid pursuant to this Plan.

**ARTICLE XIII:  
GOVERNING LAW**

This Plan shall be construed, administered and enforced according to the laws of the State of Delaware.

**ARTICLE XIV:  
STATUS OF PLAN**

This Plan is intended to qualify as a "cafeteria plan" under Code Section 125 and is to be interpreted and administered in a manner consistent with the provisions of Code Section 125.

IN WITNESS WHEREOF, this Plan has been executed by the City, this \_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF MILFORD, DELAWARE

By: \_\_\_\_\_

**THE CITY OF MILFORD**  
**DEPENDENT CARE ASSISTANCE PLAN**

**As Amended and Restated 2010**

**PREAMBLE**

THIS INSTRUMENT made and published by The City of Milford, Delaware (hereinafter the “City”) on \_\_\_\_\_, 2010, amends and restates The City of Milford Dependent Care Assistance Plan, as follows:

**ARTICLE I**  
**GENERAL**

A. Purpose of Plan

This Plan has been established to reimburse the eligible employees of the Employer for the cost of dependent care expenses incurred by them incidental to their being employed. It is intended that the Plan meet the requirements for qualification under Section 129(d)(1) of the Code, and that benefits paid employees hereunder be excludible from their gross incomes by virtue of Section 129(a) of the Code.

**ARTICLE II**  
**DEFINITIONS**

The following words and phrases as used herein shall have the following meanings, unless a different meaning is plainly required by the context:

A. “Benefits” means any amounts paid to a Participant in the Plan as reimbursement for Qualifying Employment Related Expenses paid or incurred by the Participant during a Plan Year.

B. “Code” means the Internal Revenue Code of 1986, as amended.

C. “Dependent” means any individual who is a dependent of the Participant within the purview of Section 152(a) of the Code.

D. “Dependent Care Expense Reimbursement Account” is the account maintained by the Plan Administrator on behalf of a Plan Participant that represents the Participant’s annual election of Dependent Care Expense Reimbursement benefits under this Plan for a particular Plan Year.

E. “Earned Income” means all income derived from wages, salaries, tips, self-employment, and other employee compensation (such as disability or wage continuation benefits), but does not include (a) any amounts received pursuant to this Plan or any other dependent care assistance program under Code Section 129; (b) any amount received as a pension or annuity, or (c) workers compensation.

F. “Educational Institution” means any college or university, the primary function of which is the conduct of formal instruction, and which routinely maintains a regular faculty and curriculum and normally has an enrolled student body in attendance at the location where its educational activities are regularly presented.

G. “Effective Date” means October 1, 1995. This amendment and restatement shall be effective January 1, 2011.

H. “Eligible Employment Related Expenses” means those Qualifying Employment-Related Expenses (as defined below) paid or incurred incident to maintaining employment, other than amounts paid to:

- (1) an individual with respect to whom a deduction is allowable under Code Section 151(e) to the Participant or his spouse;
- (2) the Participant’s spouse; or
- (3) a child of the Participant who is under nineteen (19) years of age.

I. “Employee” means any individual who is considered to be in a legal employer-employee relationship with the Employer for federal income tax purposes. Such term includes “former employees” for the limited purpose of allowing continued eligibility for benefits hereunder for the remainder of the Plan Year in which an employee ceases to be employed by the Employer.

J. “Employer” means the City of Milford, or any affiliate or successor thereof that subsequently adopts this Plan.

K. “Married” for purposes of determining the maximum amount of available benefits under this Plan, means not legally separated or divorced from a spouse, but does not include the situation where the Participant, although legally married, provides more than one-half (1/2) the cost of maintaining the principal abode of the Qualifying Individual or Individuals, the person to whom the Participant is legally married maintains a separate residence for the last six months of the taxable year, and the Participant files a separate federal income tax return.

L. “Participant” means any Employee who has met the eligibility requirements contained in Article III, below.

M. “Plan Administrator” means the person appointed by the Company having the authority and responsibility to manage and direct the operation and administration of the Plan.

N. “Plan Year” means the annual accounting period of the Plan, which begins on January 1 which and ends on December 31.

O. “Qualifying Daycare Center” means (a) a child daycare center which complies with all applicable state and local licensing laws and regulations of the jurisdiction in which it is operated; (b) provides care for more than six (6) individuals (other than individuals who reside at

such daycare center); and (c) receives a fee, payment or grant in return for services to individuals for whom it provides services, without regard to whether such facility is operated for a profit.

P. “Qualifying Employment-Related Expenses” means those expenses that would be considered to be employment-related expenses under Code Section 21(b)(2) (relating to expenses for household and dependent care services necessary for gainful employment) if paid for by the Employee. For purposes of this Plan, the terms “Qualifying Employment-Related Expenses” and “Qualifying Expenses” have the same meaning.

Q. “Qualifying Individual” means:

- (1) a Dependent of the Participant who is under the age of thirteen (13);
- (2) a Dependent of a Participant who is mentally or physically incapable of caring for himself; or
- (3) the Spouse of a Participant who is mentally or physically incapable of caring for himself.

R. “Qualifying Services” means services performed:

- (1) in the Participant’s home; or
- (2) outside the Participant’s home for (1) the care of a Dependent of the Participant who is under age thirteen (13), or (2) the care of any other Qualifying Individual who resides at least eight (8) hours per day in the Participant’s household.

S. “Services” means the services performed relating to the care of a Qualifying Individual that enable the Participant or his spouse to remain gainfully employed.

T. “Spouse” means an individual who is legally married to a Participant, but shall not include an individual legally separated from the Participant under a divorce or separate maintenance decree, nor shall it include an individual who, although married to the Participant, files a separate federal income tax return, maintains a separate, principal residence from the Participant during the last six months of the taxable year, and does not furnish more than one-half of the cost of maintaining the principal place of abode of the qualifying individual.

U. “Student” means an individual who, during each of five (5) or more calendar months during the Plan Year, is a full time student at an Educational Institution.

### **ARTICLE III ELIGIBILITY**

A. Eligibility to Participate

Each full-time Employee who is eligible to participate in the City’s health insurance plan and who has entered into a Salary Reduction Agreement that provides funding for the Employee’s Dependent Care Assistance Benefits shall automatically be a Participant in this

Plan as of the date that the Employee's participation in the health insurance plan becomes effective.

#### **ARTICLE IV BENEFITS**

A. Eligibility for Benefits

Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Employment Related Expenses incurred by him on or after the effective date of participation, subject to the limitations contained in paragraph F of this Article IV and Article V, below.

B. Claims for Benefits

No benefit shall be paid hereunder unless a Participant has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in the Employer's Flexible Benefit Plan. Upon receipt of a properly documented claim, the Employer shall pay the Participant the benefits provided under this Plan within the time specified for payment under such Flexible Benefit Plan. A Participant may submit a claim for reimbursement for a Qualifying Expense arising during the Plan Year at any time during the period that begins when the expense is incurred, and ends ninety (90) days after the close of the Plan Year.

C. Required Information

Each Participant's claim for benefits shall contain a written statement containing the following information:

- (1) the Dependent or Dependents for whom services are to be or have been performed;
- (2) the nature of the services performed on behalf of the Participant;
- (3) the amount of the requested reimbursement;
- (4) the relationship of the service provider to the Participant, if any;
- (5) if the services are performed by a child of the Participant, the age of such child;
- (6) the place where any services are being or will be performed;
- (7) if services are to be performed outside the Participant's household, a statement as to whether the Dependent being provided with such services spends at least eight (8) hours per day in such household;
- (8) if services are being or are to be performed in a daycare center that regularly provides dependent care services for more than six (6) individuals on a

nonresident basis, a statement the such facility meets the criteria for qualification set out in paragraph P of Article II, above, and Code Section 21(b)(1)(C); and

(9) if the Participant is married, a statement of (1) the Spouse's salary or wages, if employed, or (2) if the Spouse is not employed, a statement that (i) he is incapacitated, or (ii) he is a full time student at an Educational Institution and the months of the Plan Year that such Spouse will be in attendance at such Institution.

D. Payment of Benefits

The Plan Administrator shall make the reimbursement payments provided herein to a Participant as soon as is administratively feasible.

E. Repayment of Excess Reimbursements

If, as of the end of any Plan Year, it is determined that a Participant has received payments under this Plan that exceed the amount of Qualifying Expenses that have been substantiated by such Participant during the Plan Year, the Plan Administrator shall give the Participant prompt written notice of any such excess amount, and the Participant shall repay the amount of such excess to the Employer within sixty (60) days of receipt of such notification.

F. Unused Year-End Account Balances

A Participant may be reimbursed from his Dependent Care Expense Reimbursement Account only for those Qualifying Expenses incurred during the Plan Year for which a particular benefit amount was elected. Any amounts leftover after reimbursement of the Participant's allowable claims shall be forfeited and remain the funds owned by the Employer.

G. Termination Benefits

If a Participant ceases to be an employee of the Employer, such Participant shall continue to be treated as an active Participant for the remainder of the Plan Year in which termination occurs to the extent of any outstanding credit balance remaining in such Employee's Reimbursement Account. Such Participant shall have the right to submit a claim for reimbursement for any Eligible Dependent Care Expense arising during the Plan Year of termination at any time prior to the expiration of the ninety (90) day period following the close of such Plan Year.

**ARTICLE V**  
**BENEFIT LIMITATIONS**

A. Source of Payments

All benefits derived hereunder shall be paid exclusively from the Participant's Dependent Care Expense Reimbursement Account under the Employer's Flexible Benefit Plan. In no event shall benefit payments hereunder exceed the amounts available for reimbursement under such Dependent Care Expense Reimbursement Account, net of any required administrative service fees and charges.

B. Earned Income Limitation

(1) No payment otherwise due a Participant hereunder shall exceed the lesser of:

- (a) the Participant's earned income for the applicable month;
- (b) the earned income of the Participant's Spouse for such month; or
- (c) the balance standing to the Participant's credit in his Dependent Care Expense Reimbursement Account under the Employer Cafeteria Plan.

(2) For purposes of paragraph (a), a Spouse of a Participant who is not employed during a month in which the Participant incurs Eligible Employment Related Expenses and which Spouse is either incapacitated or is a Student shall be deemed to have earned income for such month equal to:

- (a) \$200, if there is one (1) Qualifying Individual for whom the Participant incurs Eligible Employment Related Expenses, or
- (b) \$400, if there are more than one Qualifying Individuals for whom the Participant incurs Eligible Employment Related Expenses.

C. Dollar Limitation

In no event may benefits provided for any Participant during any Plan Year exceed \$5,000, or, if the Participant is married (as defined in Code Section 21(e)(3)-(4)) and files a separate income tax return, \$2,500.

**ARTICLE VI  
PLAN ADMINISTRATION**

A. Administrative Functions

The Plan Administrator shall be responsible for the day-to-day operation of the Plan, including verification of Eligible Employment Related Dependent Care Expenses, and determine the amounts that are eligible for reimbursement. The Plan Administrator may retain such consultants, actuaries, legal counsel and third party administrators as it deems necessary to fulfill its administrative functions hereunder.

B. Annual Statements

The Plan Administrator shall indicate the amount of reimbursement benefits made pursuant to this Plan during the preceding calendar year on the Form W-2 Wage and Tax Statement of each Participant electing benefits hereunder on or before January 31 of each year that this Plan is in effect.

## **ARTICLE VII CLAIMS PROCEDURE**

### **A. Procedure if Benefits are Denied Under the Plan**

Any Participant, beneficiary, or his duly authorized representative may file a claim for a plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a Benefit Claim Form and delivered to the Plan Administrator, in person or by mail, postage paid. Within ninety (90) days after receipt of such claim, the Plan Administrator shall send to the claimant, by mail, postage prepaid, notice of the granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed ninety (90) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial ninety (90) day period. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this paragraph, the claim shall be deemed denied and the claimant shall be permitted to exercise his right to review pursuant to paragraphs C and D below.

### **B. Requirement for Written Notice of Claim Denial**

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- (1) The specific reason or reasons for the denial;
- (2) Specific reference to pertinent Plan provisions on which the denial is based;
- (3) A description of any additional material of information necessary for the claimant to perfect the claim and an explanation of why such material is necessary, and
- (4) An explanation of the Plan's claim review procedure.

### **C. Right to Request Hearing on Benefit Denial**

Within sixty (60) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing.

### **D. Disposition of Disputed Claims**

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt decision on the review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent plan or insurance policy provisions on which the decision is based. The decision on review shall be made not later than sixty (60) days after the Plan

Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this paragraph D, the claim shall be deemed denied and the Claimant shall be permitted to exercise his right to legal remedy pursuant to paragraph E below.

E. Preservation of Other Remedies

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

**ARTICLE VIII  
AMENDMENT OR TERMINATION OF PLAN**

A. Permanency

While the Employer fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the Employer's right to amend or terminate the Plan, as provided in paragraphs B and C, below.

B. Employer's Right to Amend

The Employer reserves the right to amend the Plan at any time and from time-to-time, and retroactively if deemed necessary or appropriate to meet the requirements of Code Section 129, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan; provided, however, that no such modification or amendment shall make it possible for any Expense Reimbursement Account Balance to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their beneficiaries under the Plan. This Plan may be amended by a written resolution adopted by the City.

C. Employer's Right to Terminate

The Employer reserves the right to discontinue or terminate the Plan at any time without prejudice. This Plan may be terminated by a written resolution adopted by the City. This Plan also shall terminate automatically if the City (1) is legally dissolved, (2) makes a general assignment for the benefit of its creditors, (3) files for liquidation under the Bankruptcy Code, (4) merges or consolidates with any other entity and it is not the surviving entity, or if it sells or transfers substantially all of its assets, or goes out of business, unless the City's successor in interest agrees to assume the liabilities under this Plan as to the Participants and Eligible Dependents.

D. Determination of Effective Date of Amendment or Termination

Any such amendment, discontinuance or termination shall be effective at such date as the Board of Directors of the Employer shall determine. Subject to paragraph F of Article IV, no amendment, discontinuance or termination shall allow the return to any Employer of any Account Balance nor its use for any purpose other than for the exclusive benefit of Participants and their beneficiaries.

**ARTICLE IX  
GENERAL PROVISIONS**

A. No Employment Rights Conferred

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the Employer.

B. Post-Mortem Payments

Any Benefit payable under the Plan after the death of a Participant shall be paid to his surviving spouse (if any), otherwise, to his estate. If there is doubt as to the right of any person to receive any amount, the Administrator may retain such amount until the rights thereto are determined, without liability for any interest thereon, or it may pay such amount into any court of appropriate jurisdiction, in either of which events neither the Administrator, nor any Employer, shall be under any further liability to any person.

C. Nonalienation of Benefits

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements or torts of the person entitled to any such benefit, except as specifically provided in the Plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent or beneficiary of such person, in such manner and proportion as he may deem proper.

D. Mental or Physical Incompetency

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, as established by a court of competent jurisdiction, the Administrator may cause all payments thereafter becoming due to such person to be made to any other person for his benefit, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the Employer.

E. Inability to Locate Payee

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be forfeited seven (7) years after the date such payment first became due.

F. Requirement of Proper Forms

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

G. Source of Payments

The Employer shall be the sole source of benefits under the Plan. No Employee or beneficiary shall have any right to, or interest in, any assets of the Employer upon termination of employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable under the Plan to such Employee or beneficiary.

H. Tax Effects

Neither the Employer nor the Plan Administrator makes any warranty or other representation as to whether or any payments received by a Participant hereunder will be treated as includible in gross income for federal or state income tax purposes.

I. Multiple Functions

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

J. Gender and Number

Masculine pronouns include the feminine as well as the masculine gender, and the singular shall include the plural, unless indicated otherwise by the context.

K. Headings

The Article and Section headings contained herein are for convenience of reference only, and shall not be construed as defining or limiting the matter contained thereunder.

L. Applicable Laws

This Plan shall, as to matters not otherwise preempted by federal law, be construed according to the laws of the State of Delaware.

M. Severability

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

IN WITNESS WHEREOF, we have executed this Plan Agreement the date and year first written above.

THE CITY OF MILFORD, DELAWARE

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**THE CITY OF MILFORD**  
**HEALTH FLEXIBLE SPENDING ARRANGEMENT**  
**Amended and Restated 2010**

**ARTICLE I**  
**PREAMBLE**

THIS INSTRUMENT made and published by the City of Milford, Delaware (the “City”) on \_\_\_\_\_, 2010, amends and restated the City of Milford Medical Expense Reimbursement Plan, as follows:

A. Purpose of Plan

This Plan is intended to qualify as a medical expense reimbursement plan under Section 105 of the Internal Revenue Code of 1986, as amended, and is to be interpreted in a manner consistent with the requirements of Section 105 of the Internal Revenue Code. The purpose of the Plan is to enable Participants to elect to receive payments or reimbursements of their medical expenses that are excludable from the Participants gross income under Section 105 of the Code.

**ARTICLE II**  
**DEFINITIONS**

A. “Benefits” means any amounts paid to a Participant in the Plan as reimbursement for Eligible Medical and Dental Expenses incurred by the Participant during a Plan Year by the Participant, his spouse, or dependents (as defined by Code Section 152).

B. “City” means the City of Milford, Delaware.

C. “Code” means the Internal Revenue Code of 1986, as amended.

D. “Coverage Period” means the Plan Year, during which period the benefits provided by this Plan shall be available to a Participant hereunder.

E. “Dependent” means any individual who is a dependent of the Participant within the purview of Code Section 152.

F. “Effective Date” means October 1, 1995. This amendment and restatement shall be effective January 1, 2011.

G. “Eligible Medical or Dental Expenses” means those expenses incurred by the Employee, or the Employee’s Spouse or Dependents, after the Effective Date of the Employee’s participation herein and during the Plan Year for medical care, as defined by Code Section 213(d) (including expenditures for nonprescription medicines and drugs purchased to treat or remedy a medical condition), but shall not include an expense incurred for:

- (1) the payment of premiums under a health insurance plan not sponsored by the City;
- (2) an illness or injury (or aggravation of an illness or injury) incurred by an Employee during a period of duty with the Uniformed Services; or
- (3) any prescription drug obtained outside of the United States.

For purposes of this Plan, an expense is “incurred” when the Participant or beneficiary is furnished the medical care or services giving rise to the claimed expense.

For expenses incurred after December 31, 2010, “eligible medical expenses” include reimbursements for medicines or drugs only for prescribed drugs and insulin, and over-the-counter drugs that are prescribed by the Employee’s or Dependent’s health care provider.

H. “Employee” means any individual who is considered to be in a legal employer-employee relationship with the City for federal withholding tax purposes. Such term includes “former employees” for the limited purpose of allowing continued eligibility for benefits hereunder for the remainder of the Plan Year in which an employee ceases to be employed by the City, or, if longer, the period during which a former employee has elected to continue coverage following termination of employment, as provided by Code Section 4980B. (See Article VI, below, for the rules applicable to continuation of coverage by certain former employees and their dependents.)

I. “Health FSA Account” means the individual Participant’s account that represents the annual benefit amount the Participant has elected for a particular Plan Year out of which reimbursements for Eligible Medical and Dental Expenses are made.

J. “Participant” means any full-time Employee who has met the eligibility requirements contained in the City’s health insurance plan and who has elected to receive benefits under this Plan.

K. “Plan Administrator” means the City of Milford, Delaware.

L. “Plan Year” means the annual accounting period of the Plan, which shall be the calendar year.

M. “Spouse” means an individual who is legally married to a Participant, but shall not include an individual separated from the Participant under a legal separation decree.

### **ARTICLE III ELIGIBILITY**

A. Each full-time Employee who is eligible to participate in the City’s health insurance plan and who has entered into a Salary Reduction Agreement that provides funding for the Employee’s Health FSA Benefits shall automatically be a Participant in this Plan as of the date that the Employee’s participation in the health insurance plan becomes effective.

B. No reentry eligibility requirements will be imposed on any Employee who returns to active employment within 90 days of completing a period of absence from employment for duty in the Uniformed Services other than execution of a new Salary Reduction Agreement.

C. Termination of a Participant's Coverage. Except as provided in Article VI, coverage of a Participant shall terminate automatically on the date that the Participant –

(1) no longer is actively engaged in working for the City for at least thirty (30) hours per week. Unless the Participant's employment is terminated because of gross misconduct (in the event of which City-provided coverage ceases upon such termination), the end of the calendar month following the first calendar month in which the Participant no longer works for the City for at least 30 hours per week shall be considered the date of the termination of coverage;

(2) is absent from employment of at least 30 hours per week for more than 31 days for a period of duty in the Uniformed Services;

(3) is no longer in a class of Employees that is eligible for Plan coverage; or

(4) is not covered because the provisions of the Plan terminated.

D. Termination of Coverage of an Eligible Dependent. Except as provided in Article VI, an Eligible Dependent's coverage shall terminate –

(1) on the dates described in paragraph C, above as if the references to "Participant" were to "Eligible Dependent";

(2) for an Eligible Dependent other than the Spouse of a Participant, coverage shall automatically terminate when an individual who had been an Eligible Dependent no longer qualifies as such.

E. Certificates of Coverage

The Plan normally will provide a Certificate of Coverage to any Participant or Dependent automatically after the individual loses coverage in the Plan. For the applicable timeframes when the Participant or Dependent has the right to elect Continuation Coverage, see Article VI. In addition, a Certificate will be provided upon request, if the request is made within 24 months after the individual loses coverage under the Plan. In that case, the Certificate will be provided at the earliest time that the Plan, acting in a reasonable and prompt fashion, can furnish it. In either case, the Certificate will contain the following information:

(1) the date the Certificate was issued;

(2) the name of the group health plan that provided the coverage;

(3) the name of the Participant or Dependent to whom the certificate applies;

(4) the name, address, and telephone number of the Plan Administrator or

issuer providing the certificate;

(5) a telephone number for further information (if different);

(6) either (i) a statement that the Participant or Dependent has at least 18 months (546 days) of Creditable Coverage, not counting days of coverage before a Significant Break in Coverage (which means a period of 63 or more consecutive days during all of which an individual did not have any Creditable Coverage, exclusive of waiting periods and affiliation periods); or (ii) the date any waiting period (and affiliation period, if applicable) began and the date Creditable Coverage began; and

(7) the date Creditable Coverage ended, unless the Certificate indicates that coverage is continuing as of the date of the Certificate.

For Dependents, the Plan will make reasonable efforts to locate and provide that person's name if the Plan is requested to provide a Certificate for a Dependent. The Plan will not issue an automatic Certificate for Dependents until the Plan has reason to know that a Dependent has lost coverage under the Plan.

For these purposes: (1) "Certificate of Coverage" means a written certification of the period of creditable coverage of the individual under the Plan and the coverage (if any) under COBRA continuation described in Article VI, and the waiting period (if any) (and affiliation period, if applicable) imposed with respect to the individual for any coverage under this Plan; and (2) "Creditable Coverage" means prior medical coverage that an individual had from any of the following sources: a group health plan (including this Plan), health insurance coverage, Medicare, Medicaid, medical and dental care for members and former members of the Uniformed Services and their dependents, a medical care program of the Indian Health Service or a tribal organization, a state health benefits risk pool, certain other state-sponsored arrangements established primarily to provide medical benefits to persons who have difficulty in obtaining affordable coverage because of a medical condition, a health plan offered under the Federal Employees Health Benefits Program, a public health plan, or a health benefit plan under the Peace Corps Act.

#### **ARTICLE IV COVERAGE AMOUNTS AND PREMIUMS**

##### **A. Available Levels of Benefits; Premiums**

A Participant may elect to receive up to \$3,000, or such other amount as determined from time to time by the City, of medical expense reimbursement under this Plan by filing an election and Compensation Reduction Agreement, if applicable, in accordance with the procedures established under the Plan. An election to receive medical expense reimbursement and the corresponding Compensation Reduction Agreement shall be irrevocable during the Plan Year, subject to a change in family status, as provided in the Cafeteria Plan.

##### **B. Required Premiums**

As a condition to continued eligibility to receive benefits under this Plan, a

Participant shall pay the premiums corresponding to the benefit level selected by the Participant.

C. Payment of Premiums

The normal mode of payment of premiums due for a Plan Year shall be by deduction of an equal amount from each of the Participant's paychecks during the Coverage Period, pursuant to the Participant's Election of Benefits and Salary Reduction Agreement. However, at the request of the Participant, the Plan Administrator shall permit a Participant to accelerate the annual premium due to the Plan in one or more additional cash installments.

D. Return of Unused Premiums

If the Participant revokes an election of benefits under this Plan by virtue of termination of employment, the Plan Administrator shall refund that portion of previously-paid premiums relating to the period after the date of the Participant's separation from service.

**ARTICLE V  
BENEFITS**

A. Eligibility for Benefits

Each Participant in the Plan shall be entitled to a benefit hereunder for all Eligible Medical and Dental Expenses incurred by him on or after the effective date of his participation, (and after the effective date of the Plan) subject to the limitations contained below.

B. Claims for Benefits

No benefit shall be paid hereunder unless a Participant has first submitted a written claim for benefits to the Plan Administrator on a form specified by the Plan Administrator, and pursuant to the procedures set out in the City's Cafeteria Plan. Upon receipt of a properly documented claim, the City shall pay the Participant the benefits provided under this Plan within the time specified for payment under such Cafeteria Plan. A Participant may submit a claim for reimbursement for an Eligible Medical or Dental Expense arising during the Plan Year at any time during the period that begins when the expense is incurred, and ends 90 days after the end of the Plan Year.

C. Required Information

Each Participant's claim for benefits shall contain a written statement containing the following information:

- (1) the person or persons on whose behalf Eligible Medical or Dental Expenses have been incurred;
- (2) the nature of the expenses so incurred; and
- (3) the amount of the requested reimbursement;

(4) a statement that such expenses have not otherwise been paid through insurance or reimbursed from any other source.

D. Termination of Benefits

In the event a Participant ceases to be an Employee of the City, his participation in the Plan shall continue until the last day of the month in which his employment terminated. The Plan shall reimburse any eligible expenses (up to the amount of the Participant's annual benefit, less prior benefits paid during the Plan Year) that are incurred during the Plan Year period of participation that ends on the last day of the month in which the Participant terminates. However, no reimbursement will be made for any expense incurred during a period for which the Participant has not paid the required premiums under the Plan. The Participant shall be entitled to submit a claim for reimbursement of Eligible Medical or Dental Expenses at any time before the 90th day after the end of the Plan Year.

Notwithstanding the preceding paragraph, the Participant (and his Dependents) shall have the right to elect continuation coverage under Article VI, below.

**ARTICLE VI  
CONTINUATION COVERAGE**

If a Participant terminates employment and has funds remaining in his or her Health Care FSA and has not incurred any medical services prior to termination for which reimbursed can be made, the Participant may be entitled to continue your Health Care FSA eligibility under COBRA for the rest of the Plan Year during which his or her employment terminates. To be eligible to continue Health Care FSA eligibility under COBRA, the Participant's remaining benefits available under the Health Care FSA must exceed the cost of maintaining the coverage for the rest of the Plan Year, which are equal to the Participant's monthly deferrals plus a 2% administrative fee. If a Participant is eligible for COBRA benefits under the FSA, the Participant will be provided a COBRA Notice and election form at the time that his or her employment terminates.

If a Participant is absent from employment due to service in the uniformed services pursuant to the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), COBRA continuation coverage may also be available.

**ARTICLE VII  
BENEFIT LIMITATIONS**

A. Source of Payments

All benefits derived hereunder shall be paid exclusively from the Participant's Health FSA Account (if any) under the City's Cafeteria Plan. The amount available for reimbursement shall, at all times during the Plan Year, be equal to the amount of coverage purchased by the Participant, less any previous reimbursements made during the Plan Year coverage period. However, no benefits will be payable with respect to a coverage period for which the Participant has failed to make required contributions.

B. Dollar Limitation

In no event may the annual value of benefits provided hereunder for any Participant pursuant to the Participant's Benefit Election and Salary Reduction Agreement exceed \$3,000.

C. Automatic Adjustments

Before or during the Plan Year, the Plan Administrator shall have the right to make automatic, downward adjustments to the benefit election made by any Participant who is considered to be "Highly Compensated" within the meaning of Code Section 414(q) in order to prevent this Plan from becoming discriminatory within the meaning of Code Section 125(b).

**ARTICLE VIII  
UNUSED BENEFITS**

A. Unused Coverage at Plan Year End

No Participant shall have the right to receive a benefit from the Plan in the form of cash or other taxable or nontaxable benefit (including health coverage for an additional period) from the Plan that reflects the amount by which the level of coverage selected by the Participant prior to the beginning of the coverage period exceeds the Participant's Medical and Dental Expenses incurred during such Year. The Participant shall forfeit any claim to any unreimbursed amounts left in his Health FSA Account representing his election of benefits for the prior Plan Year after the end of the Plan Year, subject to paragraph B, below. If the unused balances are less than the amount of the Eligible Expenses incurred during the Plan Year, the excess unreimbursed amount shall be charged against the Participant's current year's elected Health FSA benefit amount (if any).

B. Determination and Declaration of Experience Dividends

If the Plan pays out less benefits and operating expenses than total premiums received with respect to the Plan Year coverage period, within 90 days after the close the Plan Year, the Plan Administrator shall determine the excess of premiums received over claims paid during the preceding Plan Year, and shall declare an "experience dividend" to the extent of such excess.

C. Allocation of Experience Dividends

The experience dividend so determined according to paragraph B above shall be allocated and distributed to each Participant in cash in the proportion that the annual benefit elected by each Participant bears to the aggregate annual benefit amounts elected by all Participants as a whole. Only those Participants who are actively employed by the City (or who are active Participants under the Continuation Coverage provisions of Article VI) will be taken into account either for the purposes of determining an individual allocation amount, aggregate benefits elected by all Participants, or for eligibility to receive a pro rata share of the experience dividend determined in this Article.

**ARTICLE IX  
PLAN ADMINISTRATION**

A. Administrative Functions

The Plan Administrator shall be responsible for the day-to-day operation of the Plan, including verification of Reimbursable Expenses, and determine the amounts that are eligible for reimbursement. The Plan Administrator may retain such consultants, actuaries, legal counsel, and third party administrators as it deems necessary to fulfill its administrative functions hereunder.

B. Annual Statements

The Plan Administrator shall furnish each Participant with an annual statement of his Health FSA Account within ninety (90) days after the close of each Plan Year.

**ARTICLE X  
CLAIMS PROCEDURE**

A. Procedure if Benefits are Denied Under the Plan

Any Participant, beneficiary, or his duly authorized representative may file a claim for a Plan benefit to which the claimant believes that he is entitled. Such a claim must be in writing on a Benefit Claim Form and delivered to the Plan Administrator, in person or by mail, postage prepaid. Within ninety (90) days after receipt of such claim, the Plan Administrator shall send to the claimant, by mail, postage prepaid, notice of the granting or denying, in whole or in part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed ninety (90) days from the end of the initial period. If such extension is necessary, the claimant will be given a written notice to this effect prior to the expiration of the initial 90-day period. The Plan Administrator shall have full discretion to deny or grant a claim in whole or in part. If notice of the denial of a claim is not furnished in accordance with this section, the claim shall be deemed denied.

B. Requirement for Written Notice of Claim Denial

The Plan Administrator shall provide, to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- (1) The specific reason or reasons for the denial;
- (2) Specific reference to pertinent Plan provisions on which the denial is based;
- (3) A description of any additional material of information necessary for the claimant to perfect the claim and an explanation of why such material is necessary, and
- (4) An explanation of the Plan's claim review procedure.

C. Right to Request Hearing on Benefit Denial

Within sixty (60) days after the receipt by the claimant of written notification of the denial (in whole or in part) of his claim, the claimant or his duly authorized representative, upon written application to the Plan Administrator, in person or by certified mail, postage prepaid, may: (1) request a review of such denial; (2) review pertinent documents; and (3) submit issues and comments in writing.

D. Disposition of Disputed Claims

Upon its receipt of notice of a request for review, the Plan Administrator shall make a prompt decision on the review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The decision on review shall be made not later than sixty (60) days after the Plan Administrator's receipt of a request for a review, unless special circumstances require an extension of time for processing, in which case, a decision shall be rendered not later than one hundred-twenty (120) days after receipt of a request for review. If an extension is necessary, the claimant shall be given written notice of the extension prior to the expiration of the initial sixty (60) day period. If notice of the decision on the review is not furnished in accordance with this section the claim shall be deemed denied

E. Preservation of Other Remedies

After exhaustion of the claims procedures provided under this Plan, nothing shall prevent any person from pursuing any other legal or equitable remedy otherwise available.

**ARTICLE XI  
AMENDMENT OR TERMINATION OF PLAN**

A. Permanency

While the City fully expects that this Plan will continue indefinitely, due to unforeseen, future business contingencies, permanency of the Plan will be subject to the City's right to amend or terminate the Plan, as provided below.

B. City's Right to Amend

The City reserves the right to amend the Plan at any time and from time-to-time, and retroactively if deemed necessary or appropriate to meet the requirements of Code Section 105, or any similar provisions of subsequent revenue or other laws, or the rules and regulations in effect under any of such laws or to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan; provided, however, that no such modification or amendment shall make it possible for any Health FSA Account Balance to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their beneficiaries under the Plan. This Plan may be amended by a written resolution adopted by the City.

C. City's Right to Terminate

The City reserves the right to discontinue or terminate the Plan at any time without prejudice. This Plan may be terminated by a written resolution adopted by the City.

**ARTICLE XII  
GENERAL PROVISIONS**

A. No Employment Rights Conferred

Neither this Plan nor any action taken with respect to it shall confer upon any person the right to be continued in the employment of the City.

B. Payments to Beneficiary

Any benefits otherwise payable to a Participant following the date of death of such Participant shall be paid to his spouse, or, if there is no surviving spouse, to his estate.

C. Nonalienation of Benefits

No benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to do so shall be void. No benefit under the Plan shall in any manner be liable for or subject to the debts, contracts, liabilities, engagements, or torts of any person. If any person entitled to benefits under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge any benefit under the Plan, or if any attempt is made to subject any such benefit to the debts, contracts, liabilities, engagements, or torts of the person entitled to any such benefit, except as specifically provided in the Plan, then such benefit shall cease and terminate in the discretion of the Plan Administrator, and he may hold or apply the same or any part thereof to the benefit of any dependent or beneficiary of such person, in such manner and proportion as the Administrator may deem proper.

D. Mental or Physical Incompetency

If the Plan Administrator determines that any person entitled to payments under the Plan is incompetent by reason of physical or mental disability, he may cause all payments thereafter becoming due to such person to be made to any other person for his benefit, without responsibility to follow the application of amounts so paid. Payments made pursuant to this Section shall completely discharge the Plan Administrator and the City.

E. Inability to Locate Payee

If the Plan Administrator is unable to make payment to any Participant or other person to whom a payment is due under the Plan because he cannot ascertain the identity or whereabouts of such Participant or other person after reasonable efforts have been made to identify or locate such person (including a notice of the payment so due mailed to the last known address of such Participant or other person as shown on the records of the Employer), such payment and all subsequent payments otherwise due to such Participant or other person shall be

forfeited seven (7) years after the date such payment first became due.

F. Requirement of Proper Forms

All communications in connection with the Plan made by a Participant shall become effective only when duly executed on forms provided by and filed with the Plan Administrator.

G. Tax Effects

Neither the City nor the Plan Administrator makes any warranty or other representation as to whether any payments received by a Participant hereunder will be treated as includible in gross income for federal or state income tax purposes.

H. Multiple Functions

Any person or group of persons may serve in more than one fiduciary capacity with respect to the Plan.

I. Gender and Number

Masculine pronouns include the feminine as well as the neuter gender, and the singular shall include the plural, unless indicated otherwise by the context.

J. Headings

The Article and Section headings contained herein are for convenience of reference only and shall not be construed as defining or limiting the matter contained thereunder.

K. Applicable Laws

The provisions of the Plan shall be construed, administered, and enforced according to applicable Federal law and the laws of the State of Delaware.

L. Severability

Should any part of this Plan subsequently be invalidated by a court of competent jurisdiction, the remainder thereof shall be given effect to the maximum extent possible.

**IN WITNESS WHEREOF**, we have executed this Plan Agreement the date and year first written above.

THE CITY OF MILFORD, DELAWARE

By: \_\_\_\_\_

FUQUA, YORI AND WILLARD, P.A.

ATTORNEYS AT LAW  
28 THE CIRCLE  
P.O. BOX 250  
GEORGETOWN, DELAWARE 19947

JAMES A. FUQUA, JR.  
JAMES A. YORI  
TIMOTHY G. WILLARD  
TASHA MARIE STEVENS  
MARGARET R. COOPER

PHONE 302-856-7777  
FAX 302-856-2128  
www.fywlaw.com

December 17, 2010

The Honorable Ronnie Rogers  
Mayor, City of Milford  
201 South Walnut Street  
Milford, Delaware 19963

**RE: Solicitor**

Dear Mayor Rogers:

For the good part of the last decade I have served as Milford's City Solicitor. The winds have shifted so that I must step down from this post as of January 1<sup>st</sup>, 2010.

I have a great deal of respect for the City of Milford employees that I have got to know over the years; they are truly hard working and dedicated to the future of the City. Likewise, the Council members I have come to know are inspiring public servants, and I am grateful for having worked along their side. It has been especially, very refreshing to see some younger members of Council run, get elected and serve.

Good luck to you all. I will work with Mr. Baird and your new Solicitor for a smooth transition.

Very truly yours,

FUQUA, YORI AND WILLARD, PA



---

Timothy G. Willard, Esq.

Pc: Mr. David Baird

# CITY OF MILFORD

## BOARD OF ADJUSTMENT MEMBERS

---

Sam Johnson  
3 Year Term  
Appointed: 02/2010  
Term Expiration: 02/28/2013

Frank Bason  
2 Year Term  
Appointed: 02/2010  
Term Expiration: 02/28/2012

Keith Gramling  
1 Year Term  
Appointed: 02/2010  
Term Expiration: 02/28/2011

Vacant Position

Vacant Position

Tim Willard  
City Solicitor

Christine Crouch  
Recording Secretary

\*All terms begin 03/01

*All correspondence is to be mailed to:*

*Planning Commission  
c/o Planning Department  
201 S Walnut Street  
Milford, DE 19963*