

CITY OF MILFORD
NOTICE OF ORDINANCE ADOPTION

NOTICE IS HEREBY GIVEN that the following ordinance was adopted during a meeting of Milford City Council on January 24, 2022:

Ordinance 2022-05
Amendment to City of Milford Code
Chapter 200/Subdivision Code

WHEREAS, the Mayor and City Council of the City of Milford are charged with the protection of the public health, safety, and welfare of the citizens of the City of Milford; and

WHEREAS, the Mayor and City Council desire to update the City of Milford Code Chapter 200 Subdivision of Land to implement the goals and recommendations from the 2018 Comprehensive Plan, reduce the number of Board of Adjustment applications, standardize site plan, subdivision, and conditional use review procedures, and eliminate contradictory statements, erroneous language, and other items to improve the administration of Chapter 200 Subdivision of Land; and

WHEREAS, the Planning Commission of the City of Milford, along with the City Solicitor and Planning Director, reviewed each section of Chapter 200 Subdivision of Land during various workshops in 2021; and

WHEREAS, the City of Milford Planning Commission had a final review and recommendation during their meeting on Tuesday, January 18, 2022, at which time interested parties publicly commented on the amendments; and

WHEREAS, Milford City Council held a Public Hearing on January 24, 2022, to allow for additional public comment and further review of the amendments; and

WHEREAS, the Public Notice was published in the Milford Beacon on December 29, 2021; and

WHEREAS, City Council found that the amendments to Chapter 200 Subdivision of Land are in the best interest of the health, safety, convenience, and general welfare of the citizens of the City.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. Purpose: The Code of the City of Milford is amended to modify/clarify specific requirements within the City Code, Chapter 200, SUBDIVISION OF LAND.

Section 2. Sections 200-3, 200-4, and 200-8 are hereby amended.

Section 3. Strikethrough text denotes a deletion; underlined and bold text denotes an addition.

Chapter 200 - SUBDIVISION OF LAND

§ 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.

DEVELOPMENT ADVISORY COMMITTEE – A committee comprising of City Department staff, representatives of the Delaware Department of Transportation, Delaware Department of Natural Resources and Environmental Control, Conservation District, State Fire Marshal, and such other professional and technical representatives as may be deemed necessary by the Planning Director. The Committee shall function as an advisory body to the Planning Department with regard to design requirements, improvement specifications and other applicable standards relating to the design and construction of subdivisions and land developments.

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 **HOME**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-modal 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 ~~local~~ minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.
- C. ~~MINOR~~ **LOCAL** STREET — A street primarily used for access to the abutting properties.
- D. MARGINAL ACCESS STREET — A ~~local~~ 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~~ **STANDARD CONSTRUCTION SPECIFICATIONS** — The current

specifications regulating subdivision design and street, curbing, driveway, sidewalk, water utility, sewer utility, stormwater utility and general 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, **MAJOR** — 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 not meeting the definition of Minor Subdivision.

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 five 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.

§ 200-4. - Application procedure.

- A. Preliminary **Major Subdivision Review** approval.
 - (1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by the Planning Director, along with the appropriate fees, as specified in § 230-57. ~~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 Planning Director. The application shall be reviewed by the Planning Department and the City Engineer for general compliance with Chapter 230 Zoning, Chapter 200 Subdivision of Land, the Comprehensive Plan, the City Standard Construction Specifications and other City ordinances. Upon confirmation by the Planning Director that all DAC issues and plan review comments have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.
~~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) A public hearing on the preliminary plan shall be conducted by the Planning Commission. The Planning Commission shall review the application and shall recommend to City Council the approval of the application with or without conditions, denial of the application, or table the application. In case of an unfavorable recommendation for denial by the Planning Commission, such application shall not be approved except by a favorable vote of 3/4 of the City Council.
~~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) No hearing shall be held by the Commission until notice of time and place thereof has been provided to the applicant, property owners within 200 feet of the subject property, and to such other interested parties as may be determined by the Planning Director at least 10 days before the date of said hearing. Notice shall be provided as follows:
 - (a) The Planning Department shall notify by mail all property owners within 200 feet of the extreme limits of the subject parcel as their names appear in the City or County tax record at least 10 days prior to the hearing.
 - (b) The Planning Department shall provide notice to the general public of the public hearing before the Planning Commission by publishing the date, time, place and nature of the hearing at least 10 days before the hearing in a newspaper of general circulation in the City and posting the same information in City Hall and on the City website.
 - (c) The Planning Department will also post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. The published and posted notices shall contain reference to the time and place within the City where text, maps and plans for the proposal may be examined.
~~City Council shall grant preliminary approval of the application with or without conditions, deny the application, or table the application.~~
- (5) City Council shall review the application and shall approve the application with or without conditions, deny the application, or table the application.
~~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.~~
- (6) Preliminary approval from City Council shall be void after 24 months unless final major subdivision approval is obtained or an extension is requested by the owner and approved for good cause by the City Council prior to the expiration.

B. Final Major Subdivision Review approval.

- (1) A final plat and construction documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by Planning Director City Planner, along with the appropriate fees, as specified in § 230-57.
- (2) The application shall be reviewed by the Planning Department and the City Engineer for compliance with Chapter 230 Zoning, Chapter 200 Subdivision of Land, the Comprehensive Plan, the City Standard Construction Specifications and other City ordinances. At this time, the applicant shall provide a digital copy of the subdivision plan to the City electric division in order for the City to begin designing the electric infrastructure for the subdivision. ~~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) A public hearing on the final major subdivision shall be conducted by the Planning Commission. The Planning Commission shall review the application and shall recommend to City Council the approval of the application with or without conditions, denial of the application, or table the application. In case of an unfavorable recommendation for denial by the Planning Commission, such application shall not be approved except by a favorable vote of 3/4 of the City Council. ~~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) No hearing shall be held by the Commission until notice of time and place thereof has been provided to the applicant, property owners within 200 feet of the subject property, and to such other interested parties as may be determined by the Planning Director at least 10 days before the date of said hearing. Notice shall be provided as follows:
 - (a) The Planning Department shall notify by mail all property owners within 200 feet of the extreme limits of the subject parcel as their names appear in the City or County tax record at least 10 days prior to the hearing.
 - (b) The Planning Department shall provide notice to the general public of the public hearing before the Planning Commission by publishing the date, time, place and nature of the hearing at least 10 days before the hearing in a newspaper of general circulation in the City and posting the same information in City Hall and on the City website.
 - (c) The Planning Department will also post a notice outlining the date, time, place, and nature of the hearing in a conspicuous location on the property. The published and posted notices shall contain reference to the time and place within the City where text, maps and plans for the proposal may be examined. ~~City Council shall approve the application with or without conditions, deny the application, or table the application.~~
- (5) City Council shall review the application and shall approve the application with or without conditions, deny the application, or table the application. ~~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) 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 Planning Director a receipt of the recordation including the deed book and page number. Prior to recording the plat, at least three copies of the record plat and three copies of the final construction plans must be submitted to the Planning Director for stamping and signing. Two sets will be retained by the City. The City Manager, Planning Director and City Engineer shall sign the approved record plats and construction plans. 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 90 days 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 preliminary 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.~~

C. Construction Procedures.

- (1) Prior to commencement of construction, the developer shall request a pre-construction meeting with the City Engineer. Payment of the required development inspection fee, as adopted by City Council and found in the City Fee Schedule, shall be made prior to the scheduling of the pre-construction meeting.
- (2) Improvements within the development shall be constructed per the approved construction plans and the City's Standard Construction Specifications. Any deviations from the construction plans must be submitted to the City Engineer in writing for review and approval.
- (3) A performance bond in the amount of 125% of the cost of installation shall be required for the construction of recreational and open space amenities, including but not limited to community buildings, playgrounds, walking paths, landscaping and landscape screening. The performance bond shall be posted prior to the issuance of the first building permit.
- (4) Conditional Acceptance of Infrastructure by City Engineer.
 - (a) Prior to the issuance of building permits, the developer shall obtain conditional acceptance from the City Engineer as outlined in the City's Standard Construction Specifications.
 - (b) A maintenance bond shall be provided by the developer in the amount of 10% of the improvements to be taken over and maintained by the City.
 - (c) A performance bond shall be provided by the developer in the amount of 125% of the cost of the top coat and any other item that has not been satisfactorily completed as approved by the City Engineer.
- (5) Final Acceptance of Infrastructure by City Council.
 - (a) Final top coat shall be paved after 75% of building permits have been issued for a project or phase of a project and prior to 90% of building permits having been issued for a project or phase of a project.
 - (b) Final acceptance of utilities shall not occur until after the paving top coat has been completed.
 - (c) Upon completion of the top coat paving, the City Engineer may release the top coat performance bond. The 10% maintenance bond will remain in place until one-year after acceptance of the final top coat paving.

(d) Upon completion of the required one-year maintenance period, the right-of-way improvements may be accepted by City Council by resolution.

(e) Upon acceptance by City Council, the maintenance bond shall be released by the City Engineer in its entirety.

§ 200-5. - Administrative approvals.

The following land use actions may be approved administratively, unless otherwise determined by the Planning Director or designee.

A. Minor subdivision.

(1) A minor subdivision is one that creates a total of five or fewer parcels of land (including any residual) either on an existing public roadway or on a private road and may be approved administratively, provided:

- (a) Minor subdivision shall be subject to the process and procedures in Section 200-8(E).
- (b) Minor subdivision plans shall contain all information as required by Section 200-8(E).

B. Minor lot line adjustment.

(1) Minor lot line adjustments or the sale or exchange of part of a lot between owners of adjacent lots for the purpose of small adjustments in boundaries may be approved administratively, provided:

- (a) The total area of the adjustment does not exceed 10% of the combined area of the lots affected by the adjustment;
- (b) No additional lots are created;
- (c) The adjusted lot line is approximately parallel with the original lot line, when appropriate, or, if it is proposed to intersect with the original line, it does not significantly change the shape of the lots involved;
- (d) The owner submits a survey plan for review and approval by the Planning Director.

(2) Approval of the record plan does not automatically transfer a property. A separate deed must also be recorded simultaneously to transfer the property being conveyed.

(3) The Planning Director may permit an increase in the percentage of the combined area of the lots affected by the lot line adjustment following a request for such with justification from the applicant.

C. Consolidation of lots.

(1) The consolidation of two or more lots may be approved administratively, provided;

- (a) Any conditions applicable to any applicable original subdivision remain in full force and effect;
- (b) The consolidation of lots, including those within major subdivisions, shall be recorded as provided in in Section 200-8(E) below and may not be re-subdivided except through minor subdivision.
- (c) A revised deed must also be recorded simultaneously with the consolidation describing the lots as one lot; and
- (d) The owner submits a survey record plan for review and approval by the Planning Director.

D. Change in ownership, mortgage, or lease line.

- (1) The creation of mortgage, or lease line within a commercial, industrial or multifamily residential lot does not require the approval of a new subdivision plan. At the owner's discretion, a plan depicting the creation or deletion of internal lots to reflect a new mortgage or lease line may be recorded after administrative approval, provided:
 - (a) All prior conditions of approval for the original subdivision remain in full force and effect;
 - (b) Any necessary cross-easements, covenants, or other deed restrictions necessary to perpetuate previous approvals must be executed prior to recording the record plat;
 - (c) The owner submits a survey plan for review and approval by the Planning Department.

E. Process and procedures.

- (1) The application must be submitted by the legal owner of the subject property, or a representative authorized by the legal owner, to the Department and must consist of the following:
 - (a) Two paper prints of the subdivision plan and any attachments, including the approved checklist;
 - (b) A review fee, as outlined in Chapter 230-57;
 - (c) Parcels created that do not meet the minimum requirements for building lots must be incorporated into an adjacent property. Such incorporation must be indicated on the plan and the following note shall be added to the plan: "The approval of this subdivision plan does not constitute a separate building lot but is intended to be combined with an adjacent property;"
 - (d) Neither landlocked parcels nor parcels not meeting the requirements for a buildable lot according to Chapter 230, Zoning, may be created without designation of conveyance to another parcel. A deed for the conveyance must be submitted with the record plan and recorded simultaneously with the plan;
 - (e) For minor subdivisions, letters of "no objection to recordation" may be required or a stamp of approval may be required on the record plat from, but not limited to, the following agencies:
 1. The Kent or Sussex Conservation District; and
 2. The Delaware Department of Transportation.
 - (f) A set of deed restrictions and/or perpetual maintenance agreement that clarifies and controls the operation and maintenance of any private facilities (private streets, access easements, etc.); and
 - (g) Any additional information that the Department deems pertinent to this subdivision plan.
- (2) If the subdivision plan is approved by the Department, the plan will be signed by the City Manager, City Engineer and Planning Director and returned to the applicant for recordation. Two copies of the approved plan will be retained by the City.
- (3) A final record plat must be submitted to Department within 90 days of approval or the approval is no longer valid.
- (4) Transactions involving acquisitions of public rights-of-way pursuant to 17 Del. C. 137 and all land acquired by the exercise of the power of eminent domain or by voluntary agreement in lieu of the exercise of the power of eminent domain are exempt from the provisions of this article.

§ 200-6. - Revisions to recorded subdivision plats.

- A. For rerecording of previously subdivided and recorded major subdivision and minor subdivision, the revised plat must be signed by all lot owners within the subdivision who are adjacent to or share a common boundary line with the area of proposed change in addition to 75% of all lot owners within the entire subdivision. The adjacent property owners shall be included as a part of the required 75% of required signatures.
 - (1) A copy of the subdivision deed restrictions must accompany the application to revise a recorded subdivision plat. If there are procedures regarding revisions to the subdivision outlined in the deed restrictions, the applicant must meet the stricter of the two requirements.
- B. Prior to seeking approval of any rerecording, the owner/applicant shall give notice to all persons indicated by assessment records to be lot owners within the subdivision. The owner/applicant shall provide proof of notification in the form of certified mail receipts for each lot owner to the Department.
- C. With the exception of Subsections D and E below, new letters of "No objection" from all agencies granting original approval of a project must be submitted.
- D. The following are exempt from the rerecording signature requirements:
 - (1) Administratively approved applications such as lot line adjustments where no additional lots are proposed; and
 - (2) Cases where utility easements are added to a subdivision plan.
- E. For minor changes or alterations to recorded subdivision plats, in lieu of formal plan review by the Planning Commission and City Council, said minor changes may be administratively approved at the discretion of the Planning Director or designee, provided that such changes or amendments:
 - (1) Do not increase density;
 - (2) Do not substantially alter the road design or layout;
 - (3) Do not substantially alter the original conditions for approval;
 - (4) Involve no changes in permitted use of the property;
 - (5) Do not conflict with the specific requirements of this chapter or Chapter 230, Zoning;
 - (6) Do not change the general character or content of an approved plan in a material way;
 - (7) Have no adverse effect on adjoining or surrounding property;
 - (8) Do not result in any substantial change of major external access points;
 - (9) Do not decrease the minimum specified yards, setbacks, and open spaces; and
 - (10) Have no adverse effects on traffic operations.

§ 200-7. - Expiration of approved subdivision development plans.

- A. The following regulations concerning expiration of recorded and approved plans are applicable to major subdivisions and minor subdivisions.
- B. Construction of improvements shown on recorded subdivision plans shall commence within five years of the original recordation date and continue progressing toward completion.
- C. The Department shall notify by certified mail, return receipt requested, applicants and landowners of properties involving approved plans where construction has not commenced one year prior to the expiration date and again six months prior to the expiration date that they are subject to the expiration provisions and identify their options for possible reapproval.
- D. For the purpose of this section, "commencement of construction" shall mean:

- (1) That a building permit or such other permit or approval by City of Milford or an applicable state agency has been issued and construction commenced under such permit which is visible on an inspection of the property by a representative of City. Such construction must be intended to accomplish the installation of improvements under Section 200-6, General Requirements and Design Standards, but excludes general earthmoving activities, and such work must have been started with a good-faith intention and purpose then formed to continue the work until completion.
 - (2) That all financial obligations associated with a City approved public works utility agreement have been satisfied and the improvements pursuant to said agreement have been completed, provided that the construction described in Subsection D(1) above shall commence within 10 years from receipt by the City of the final monetary contribution required under said agreement.
- E. Construction shall be deemed to be progressing toward completion so long as there is no cessation in construction activity longer than 12 consecutive months. The City shall inspect sites semiannually to determine the progress of construction. If the City determines that construction activity has ceased for a period of 12 consecutive months or more, the staff shall notify the applicant and landowners by certified mail, return receipt requested, that construction shall recommence within 30 days or the subdivision shall be considered expired.
- F. For subdivisions and land developments in which a certificate of occupancy has been issued for a dwelling, the subdivision shall no longer be subject to expiration.
- G. The applicant and/or landowner shall bear the burden of providing evidence to the City establishing that construction has commenced within the five-year period and is progressing toward completion.
- H. Applicants and/or landowners who have been notified that their projects may be subject to expiration have the following courses of action available to them:
- (1) The applicant has the opportunity to provide evidence to the City establishing that construction has commenced;
 - (2) The applicant may apply to the City for reapproval of the project for an additional five-year period in accordance with the following procedures:
 - (a) The City shall review the original (i.e, initial) recorded and/or approved plan for consistency with all current provisions of this chapter, Chapter 230 Zoning, and the Comprehensive Plan. Such review may involve coordination with and review by applicable Development Advisory Committee (DAC) agencies. Based upon that review, the Planning Director will determine if the original recorded plan meets current standards, or if the original recorded plan requires minor revisions in order to comply with current standards, or if the original recorded plan must be resubmitted as a new application subject to all appropriate review procedures, regulations, and fees.
 - (b) In the event that the Planning Director determines that the original recorded plan is consistent with current policies and regulations, he/she shall reapprove the plan and provide written notice to the owner of reapproval. Such approval shall allow the issuance of building permits in accordance with all conditions of approval. The owner shall then have five years from the date of such notice of reapproval to obtain building permits and commence construction.
 - (c) Should the Planning Director determine that the plan requires minor revisions in order to comply with current policies and regulations, such notice shall be provided in writing and the applicant shall make such adjustments for administrative approval. Once the required minor revisions are completed, the plan may be reapproved administratively by the City Planning Department allowing the issuance of building permits subject to the provisions of

the original record subdivision plan and/or any recorded resubdivision plans. The owner shall then have five years from the date of such notice of reapproval to obtain building permits and commence construction.

- (d) Should the Planning Director determine that the plan would involve considerable revision to an extent that would change the scope of the project, the plan must be resubmitted for review by the Planning Commission and City Council for compliance with current policies and regulations. The City shall provide written notice to the owner of the specific areas of noncompliance. The landowner shall have the opportunity to make the necessary modifications to the plan and apply to the City as a new application in accordance with this chapter. Should new plans compliant with all current Code provisions be submitted, they must receive approval from the Planning Department, City Engineer, Planning Commission, and/or City Council, as applicable. Once reapproved, subdivision plans shall be recorded and shall have the effect of superseding the original record major subdivision plan. The owner/applicant shall then have five years from the date of reapproval to obtain building permits, commence construction, and progress toward completion.

- (3) All of the above-referenced reviews, determinations, and reapprovals must be completed prior to the expiration of the five-year period.

- I. Minor plan revisions, as described in Section 200-8, subsection E and F, that do not achieve full compliance with all current subdivision and land development provisions shall not reset the five-year time frame for commencement of construction and shall remain subject to expiration.
- J. Should the five years lapse without the owner pursuing any of the options described in Subsections H(2)(a) through (d) above, the plan shall be considered expired. Expired subdivision plans shall be deleted from the City and County property records by deleting individual subdivision lots from the official City and County Tax Map and by eliminating the undeveloped parcels from the assessment records.

§ 200-8. - 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~~ **Local** 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 **interconnected streets** ~~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 ~~500~~**750** feet on arterial streets, 300 feet on collector streets and 100 feet on **local** ~~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.~~ **Street rights-of-way and roadway widths shall be as shown on the official map or development plan and, if not shown thereon, said widths for the various street types, shall not be less than as follows:**
 - (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)		<u>Pavement Width with Parking One- Side (feet)</u>	<u>Pavement Width with Parking Both Sides (feet)</u>
	<u>Right-of- Way</u>	<u>Pavement Width (feet)</u>		

	<u>Width (feet)</u>			
Arterial	80 to 110	As required by DelDOT <u>60 to 80</u>	<u>N/A</u>	<u>N/A</u>
Collector	60	<u>38</u> 28	<u>38</u>	<u>38</u>
Minor, for townhouses and apartments <u>Local for all residential areas</u>	60	<u>24</u> 30	<u>30</u>	<u>36</u>
Minor, for other residences <u>Local for commercial areas</u>	<u>60</u> 50	<u>26</u> 25	<u>32</u>	<u>38</u>
<u>Cul-de-sac and Dead-ends</u>	<u>60</u> 50	<u>24</u> 22	<u>30</u>	<u>36</u>
Marginal access	<u>60</u> 30	<u>24</u> 16	<u>30</u>	<u>36</u>
*Alley, <u>one-way</u>	20	12	<u>18</u>	<u>24</u>

Note:

* If utilities are present in an alley, ~~the~~ The City reserves the right to modify the minimum right-of-way and roadway widths where utilities or other items exist which would necessitate a wider access.

- (b) Proposed subdivision streets serving lots with a lot width of less than 60 feet shall be required to provide on-street parking as outlined Chapter 200-8(A)(14)(a). On-street parking for each side of the street shall be determined based on the proposed minimum lot width for each side of the street. ~~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 ~~80~~76 feet and a street right-of-way diameter of 100 feet. Dead-end streets are prohibited in alleys where public services are to be provided.
- (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
Arterial Streets shall be named Boulevards		

(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 City's Standard Construction Specifications as issued by the City Engineer.

B. Sidewalks and curbs and shared-use paths.

- (1) Sidewalks shall be required in all subdivisions on both sides of the street and shall have a minimum width of 5 feet. 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~~ to ensure proper drainage of stormwater.
 - (a) Where rolled curb is proposed, a minimum 3-foot-wide reserve grass strip shall be required between the sidewalk and the curb.
 - (b) Sidewalk may be placed directly against upright curb.
- (3) All required sidewalks shall be constructed in accordance with the City's Standard Construction Specifications as issued by the City Engineer.
- (4) Shared-use paths shall be connected with existing paths and shall be consistent with the City's Bicycle Master Plan and Comprehensive Plan.

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.~~

- (1) A stormwater or drainage right-of-way with adequate width shall be provided where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream. Parallel streets, parkways or greenways may be required in relation thereto.
- (2) Each lot in a proposed subdivision shall provide a 5-foot-wide general utility easement on each side lot line, a 10-foot-wide general utility easement along the rear property line, and a 15-foot

general utility easement along the frontage of the lot for the installation of City utilities and conveyance of drainage.

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 **or be less than 500 feet in length between street lines.**
- (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 **those adjacent to** 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 **five** ~~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 **meeting the minimum lot width requirements of the zoning code.**
- (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 **by the 100-year flood elevation** 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.~~²⁴ ~~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.~~
- (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.~~

GF. General grading.

- (1)** 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.

HG. Improvements.

- (1) In major subdivisions the following improvements are required:
- (a) Paved streets.
 - (b) Street signs **meeting the State of Delaware, Department of Transportation, Manual on Uniform Traffic Control Devices, latest edition.**
 - (c) Curbs and gutters, ~~or roadside swales.~~ **Curbs shall be required on both sides of proposed streets as per the City Standard Construction Specifications.** ~~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 **or shared use paths located on both sides of the street.**
 - (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 **a Registered Landscape Architect** ~~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. **Permanent monuments shall be placed on each corner of any building lot by the developer and along the project boundary and the right-of-way at all corners and tangent points prior to final settlement for the property.** 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] **Water and sewer services shall be made available to all adjacent properties.** 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.
- [4] No underground utility installation shall be covered until inspected and approved by the City.**
- ~~(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 **City Council** the Commission in accordance with **the City's Standard Construction Specifications** as issued by the City Engineer and with any additional requirements specified by the **City Council**. 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, Zoning and Engineering Fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.~~

§ 200-9. - 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.

§ 200-10. - Transfer of development rights.

A. Purpose and intent. This section is intended to promote more efficient utilization of land resources through the creation of a transfer of development rights program available to land owners. The transfer of development rights program enables developers of land within receiving areas the ability to purchase development credits to be used to increase the number of residential units per acre for development within the receiving areas. Funds paid by developers of land within receiving areas would be utilized to purchase the development rights of property owners of certain land designated as sending areas. This option was conceived in response to increasing pressure to develop rural agricultural areas where essential infrastructure and support services necessary to sustain suburban and urban land uses do not exist and are not planned. This section endeavors to achieve well designed and efficient communities inside the City of Milford while preserving, protecting and enhancing precious agricultural lands and rural and natural landscapes from encroachment by sprawl development that threatens the unique character and quality of life that Milford citizens enjoy and expect. The purpose of this section is further described as follows;

- (1) Enables the purchase of transfer credits by developers of land within designated receiving areas;
- (2) Enables the purchase of development rights for willing land owners within designated sending areas;
- (3) Provides for farmland, open space and natural resource preservation through the transfer of development rights that permits an increased density on a receiving parcel and preservation of a sending parcel;
- (4) Provides transit oriented, pedestrian friendly communities with parks, greenways, mixed uses and interconnectivity thereby reinforcing community character;
- (5) Provides adequate and efficient density to support infrastructure investment within the City.
- (6) To further discourage sprawling of urban development into rural areas; and
- (7) Ensures that development credits be utilized for properties that are in areas that have adequate support facilities, including, but not limited to, transportation, water, sewer, employment, recreation and commercial services to accommodate additional development.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

DEVELOPMENT RIGHTS — The rights of the owner of a parcel of land to develop or use the parcel in accordance with Chapters 230 and 200 of the City of Milford Code.

RECEIVING AREA — One or more designated areas within which the development credits from sending areas may be purchased for use within development projects.

RECEIVING PARCEL — A parcel of land in a receiving area that is the recipient of development credits for the purpose of development with an increase in the number of dwelling units equivalent to the number of development credits purchased in addition to the number of dwelling units that would otherwise be permitted on the parcel.

SENDING AREA — One or more areas in which the development rights of parcels may be purchased from for the use in one or more receiving areas.

SENDING PARCEL — A parcel of land in a sending area from which development rights are being transferred for use on a parcel within a designated receiving area, and upon which a legally binding and irrevocable preservation easement has been placed and recorded that would prohibit the future development of such parcel.

TRANSFER OF DEVELOPMENT RIGHTS — The procedure prescribed by this section whereby the owner of a parcel in the sending area may convey development rights in perpetuity to the City and State of Delaware, Department of Agriculture, and the owner of a parcel in a receiving area may purchase development credits from the City to be utilized on the receiving parcel in addition to the development rights already existing on the parcel.

C. General Provisions.

- (1) A system of transferable development rights credit for properties situated within designated sending areas is established in Subsection D, Sending areas.
- (2) A system of limitations on the quantity of development rights credits that may be imported into designated receiving areas is established in Subsection E, Receiving areas.
- (3) The designation, tabulation, tracking, recordkeeping, management and transfer of development rights shall be under the direction of the City Manager or designee in accordance with the provisions of this section, and procedures established by the Planning Department.
- (4) All sending parcels shall be encumbered in perpetuity by an irrevocable preservation easement of the development rights. Such preservation easement shall be recorded and become codicil to the property deed of the sending parcel, and shall have the effect of limiting in perpetuity the future construction of dwellings on the sending parcel to a maximum allowed by the State of Delaware, Department of Agriculture preservation program.
- (5) All properties to which development rights are planned to be transferred shall comply with the provisions of Subsection E Receiving Areas, of this section and shall be subject to the plan review and approval processes set forth in Chapter 200 and Chapter 230 of the City Code.

D. Sending areas.

- (1) All areas designated as TDR Sending Areas in the adopted City of Milford Comprehensive Plan shall be considered sending areas.
- (2) Sending area value. Sending areas are assigned a value of transferable development right credits that may be transferred for utilization within a designated receiving area. The sending area value is determined by the development potential based on the property's current zoning classification, exclusive of undevelopable land such as wetlands, floodplain or other natural features.
- (3) Sending parcels shall convey all of their available transfer credits at the time of preservation easement dedication.
- (4) Lands for which the State of Delaware, or any other entity, such as the federal government, a nature conservancy, or any other nongovernmental agency has purchased or otherwise secured the development rights, either through fee simple acquisition, condemnation, eminent domain, deed restriction, easement or any other legal means for the expressed purpose of preventing the development of such lands, shall be ineligible for participation in the City's Transfer of Development Rights Program. Examples of such lands include any state or federal owned property and lands on which agricultural preservation easements have been purchased.

- (5) Property owners who have transferred development rights from their land forfeit the ability to use the land for any purpose or use other than those permitted by right in the underlying zoning district, except that such property shall not be subdivided for residential development.

E. Receiving areas.

- (1) All areas designated as TDR Receiving Areas in the adopted City of Milford Comprehensive Plan shall be considered receiving areas. The receiving area acreage and number of TDR credits shall be limited to what is provided in the Comprehensive Plan; however, the City of Milford shall have the flexibility to determine the exact location on the receiving parcel where the TDR credits may be applied based on the availability of public utilities, road and traffic considerations, availability of public transportation, environment considerations, proximity to public services and existing density.
- (2) Receiving area value. The maximum gross development densities shall be limited to eight dwelling units per acre.
- (3) Receiving areas may be rezoned to R-8 Garden Apartment and Townhouse District in accordance with Chapter 230-58 if the developer participates in the TDR program and purchases TDR credits.
- (4) Developers may purchase available credits from the TDR bank at a value per transfer credit established by the City in accordance with Section G.

F. Irrevocable preservation easement.

- (1) Preparation of irrevocable preservation easement. Prior to the purchase of transfer credits, the State of Delaware, Department of Agriculture shall prepare an irrevocable preservation easement for the purposes of establishing a perpetual restriction upon the sending area property from which development credits are being purchased. The irrevocable preservation easement shall be prepared by and at the expense of the State of Delaware, Department of Agriculture and shall be subject to review and approval of the Planning Department.
- (2) Recordation of irrevocable preservation easement. Such preservation easement shall be recorded in the Office of the Recorder of Deeds for the County at the time of purchase of any development credits, and shall become a permanent, perpetual preservation easement on the deed of the sending property. No such preservation easement shall be recorded without the signature of the City Manager and Planning Director.

G. Administration.

- (1) A value for each transfer credit shall be established by a licensed and certified Delaware real estate appraiser and adopted by resolution by the City Council. The value shall be reviewed every two years.
- (2) The City may include the cost of administering the TDR program, including but not limited to, the performance of appraisals, in the value per unit established by City Council.

Section 4. Dates.

Introduction to City Council: January 10, 2022

Planning Commission Review/Recommendation/Public Hearing: January 18, 2022

City Council Review/Public Hearing/Determination: January 24, 2022

Effective: February 3, 2022

A complete copy of the Code of the City of Milford is available by request through the City Clerk's office at cityclerk@milford-de.gov or by accessing the city website at www.cityofmilford.com.