

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 March 28, 2022:

ORDINANCE 2022-14
Amending Chapter 197 Streets & Sidewalks

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 delete Chapter 197- Streets and Sidewalks in its entirety and replace with Chapter 197 - Streets, Sidewalks, Storm Sewers and Other Public Places to update regulations for the permanent and temporary use of the rights-of-way, construction of utilities and sidewalks, and establish procedures for the creation and abandonment of public rights-of-way; and

WHEREAS, the City of Milford Planning Commission had a review and recommendation during their meeting on Tuesday, March 14, 2022, at which time interested parties publicly commented on the amendment; and

WHEREAS, Milford City Council held a Public Hearing on March 28, 2022, to allow for additional public comment and further review of the amendment.

NOW, THEREFORE, the City of Milford hereby ordains: ~~Chapter 197 — STREETS, SIDEWALKS, STORM SEWERS AND OTHER PUBLIC PLACES~~

Section 1. Purpose: The Code of the City of Milford is hereby amended to repeal in its entirety, the current version of the Chapter 197, entitled Streets and Sidewalks.

Section 2. A new Chapter 197, entitled Streets, Sidewalks, Storm Sewers, and Other Public Places, will inserted.

Section 3. The new provisions of Chapter 197 will read as follows:

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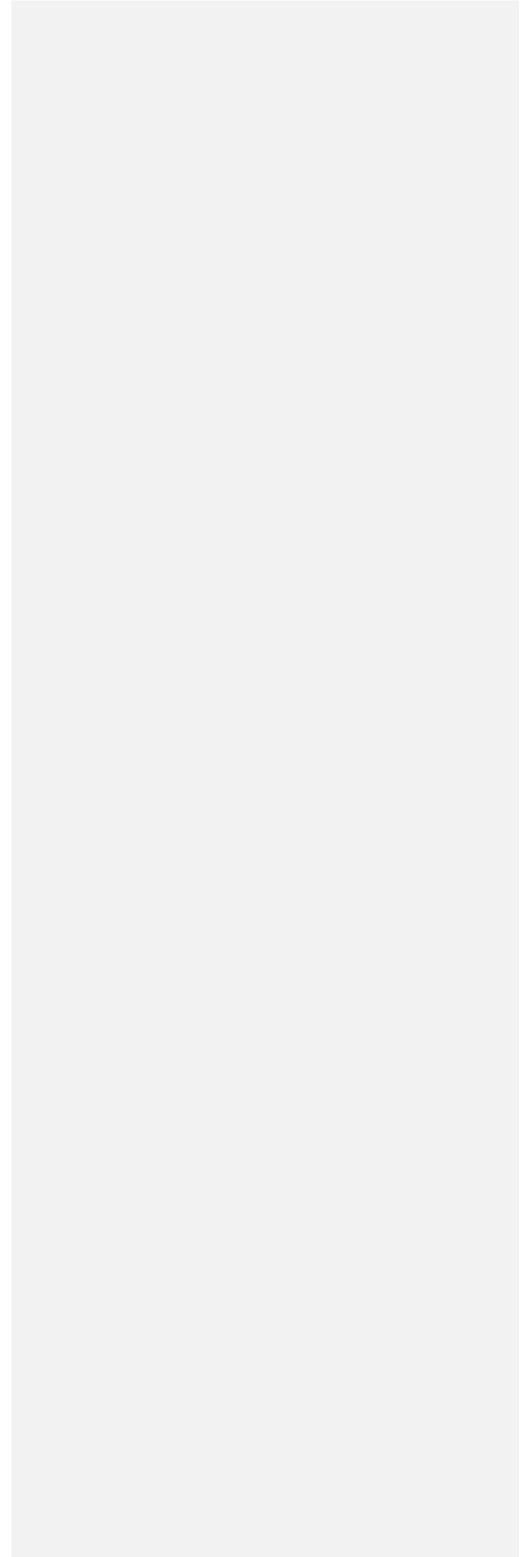
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Chapter 197 – STREETS, SIDEWALKS, STORM SEWERS AND OTHER PUBLIC PLACES

ARTICLE I - General Provisions



§ 197-1. - Purpose.

This chapter defines the use, maintenance and installation requirements of sidewalk, entrances, storm sewer, streets and alleyways.

§ 197-2. - Definitions.

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

ALLEY APPROACH — That portion of an alley between the curb and property line side of the sidewalk or right-of-way.

AWNING - A piece or several pieces of canvas, plastic, metal or similar material joined together and stretched over or attached to a frame to be affixed to the exterior of a building in front of a window or doorway for the purposes of providing protection from the sun or weather, for ornamentation of the building and/or for display of a business name or logo type.

CANOPY - A roof-like structure, projecting from a wall or supported on pillars, for the purposes of providing protection from the sun or weather, ornamentation of the building and/or display of a business name or logo type.

CITY ENGINEER — The City Engineer of the City of Milford or their duly authorized representative.

CITY MANAGER – The City Manager or their duly authorized representative.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer of the City of Milford or their duly authorized representative.

DRAIN – means any pipe which carries water in a drainage system.

DRIVEWAY APPROACH — That portion of the driveway between the curb and the property line.

PANEL — Any defined section by joints, or score marks or an approximate square when joints do not exist.

PRIVATE STORM SEWER – means any storm sewer not within the City ROW or otherwise dedicated to and accepted by the City.

PROPERTY OWNER — Any natural individual or individuals, firm or firms, company or companies or corporation owning real estate in the City of Milford.

PUBLIC — Any facility within the public right-of-way between the property line and street curb and surfacing.

PUBLIC STORM SEWER – means any storm sewer owned by the City.

STORM SEWER – means any system used for conveying rain water, stormwater, surface water, condensate, cooling water or similar liquid wastes, exclusive of sewage.

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§ 197-3. Authority to temporarily close streets and sidewalks.

- A. The City Manager shall have the authority to temporarily close or block streets, sidewalks or private entrances onto public streets to vehicular and pedestrian traffic when necessary for the public's safety or to conduct work on streets or sidewalks.
- B. Notification shall be provided to Milford Police Department, City Departments and the Carlisle Fire Company.
- C. Any street or sidewalk closure that occurs requires proper maintenance of traffic, pursuant to the guidelines in the most recently amended Delaware Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD), and sidewalk accessibility, pursuant to the guidelines laid out by the Americans with Disabilities Act.
- D. Any roadway, lane or sidewalk closure request having direct and indirect impacts on a State of Delaware right-of-way must inform the Special Events Manager with the Delaware Department of Transportation Traffic Safety Section.
- E. Emergency closures performed by emergency personnel including Police, Fire and Ambulatory Services are not required to gain permission from the City Manager to obstruct streets and sidewalks immediately preceding, during and shortly following emergency circumstances but shall strive to maintain traffic control in a safe manner.

§ 197-4. Right of Way Use and Construction Permits.

- A. Temporary occupation of the right of way. No person shall occupy or place any object, building or structure that occupies the right of way on a temporary basis without first obtaining written approval from the City Manager or designee for that purpose.
- B. Permanent occupation of the right of way.
 - (1) No person shall occupy or place any object, building or structure that occupies the right of way on a permanent basis without first obtaining written approval from the City Manager for that purpose. The right of way may not be permanently occupied for any reason except for provision of proper access to buildings or improvements to protect buildings after gaining written approval from the City Manager.
 - (2) Placement of canopies and awnings within rights-of-way.
 - (a) APPLICABILITY – The provisions of this section shall apply only to commercial establishments located within commercial zoning districts.
 - (b) WRITTEN APPROVAL REQUIRED – It shall be unlawful for any person to construct, erect or affix any canopy or awning which is situated within or encroaches upon any right-of-way owned or maintained by the city, unless and until such canopy or awning placement shall have been approved by the city manager. Prior to review and action by the city manager, the department of planning shall review each application. Concluding its review, the department of planning shall make a recommendation on each application under this section and forward its findings and recommendation to the city manager, in writing, for review and consideration.
 - (c) MAINTENANCE – Any such canopy or awning shall be maintained in good condition. If, upon inspection by the building inspector, such canopy or awning is determined by the building inspector to be in a state of disrepair or is otherwise in violation of the original approval, the applicant, owner or other responsible person shall be given reasonable notice by the building inspector to undertake corrective action. Failure to restore such canopy or awning to an acceptable condition or to otherwise comply with the original approval may, upon order of the city council, result in the removal of the canopy or awning at the property owner's expense.

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(d) CONDITIONS – The city council may impose any additional conditions as it may deem necessary to protect the best interests of the city, its citizens and surrounding properties.

(e) RESPONSIBILITY – The applicant, owner or other responsible person shall enter into a written agreement with the city council to accept full responsibility for persons or property injured as a result of the canopy or awning and to completely indemnify and save harmless the city from any liability of any nature whatsoever regarding the canopy or awning.

C. Entrance Construction.

- (1) It shall be unlawful for any person to alter the curb of any street so as to create a curb depression for the purpose of permitting vehicles to enter onto or exit from the city streets, without a permit issued by the City Manager.

D. Sidewalk Construction.

- (1) Installation of all curbs, sidewalks, and gutter shall be made in compliance with the City of Milford Standard Construction Specifications, most recent edition, available on the City website. Written approval from the City shall be required prior to any work being performed.

E. Excavation or Placement of Utilities.

- (1) No person shall injure or tear up any pavement, dig any hole, ditch or drain in, or dig or remove any soil, stone, earth, sand, or gravel from any street, public alley or public ground in the city, without having first obtained a written permit from the City Manager given in accordance with the provisions of this chapter.

F. Permit or License Fee. A person desiring a permit required by the provisions of this chapter shall pay such fee as may be established by the City Council.

G. No permit shall be issued to any person permitting or allowing the opening or the making of an excavation in any street, sidewalk, public alley or public place, or any part thereof, until the person making application for such permit shall have first executed to the city a good and sufficient bond in the amount of 100% of the cost of the construction work, with sureties to be approved by the City Manager, conditioned to indemnify and keep harmless the City from any and all loss, cost, damage, expense or liability of any kind whatsoever, which the City may suffer or to which it may be put or which may be recovered from it or on account of the issuance of such permit or from or on account of any act or thing done by virtue of the authority given in such permit or by reason of careless or improper guarding of said openings or excavation, or for any damage, loss or expense to any person caused by or on account of the obstruction of any street, sidewalk, public alley, or public space, or the tearing up, repairing or removing of such street, sidewalk, public alley or public place, or part thereof. Upon satisfactory completion of construction work, a maintenance bond in the amount of 10% shall be retained for a period of one-year for the completed work within the right-of-way.

§ 197-5. Responsibilities of Property Owners or Tenants.

A. Property owners shall be responsible for maintaining, repairing, or replacing sidewalks adjacent to their property, and for keeping sidewalks in good repair, in safe condition, free of snow, ice, and vegetation, and shall not permit hazards to either pedestrian or vehicular traffic to exist. All sidewalks within, adjacent to, or approximately parallel to an owner's property line, although it may be situated partially or wholly in a City right-of-way or easement, shall be considered the property owner's responsibility. The City is responsible for repair of ADA curb ramp at intersections; however, the property owner is responsible for the clearing snow, ice, and vegetation.

B. It shall be unlawful for the owner or occupant of any premises abutting upon a sidewalk to permit or allow snow or ice to remain thereon for longer than 12 hours of daylight after it has ceased snowing, or to

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permit debris or other materials to accumulate at any time so that pedestrians cannot conveniently and safely pass.

- C. It is the responsibility of the owner or occupant of any premises abutting upon a sidewalk to keep the landscaped area between the sidewalk and the curbline, or where no sidewalk exists between the property line and curbline or paved street, maintained in accordance with the standards set forth in the Property Maintenance Code of the City of Milford Chapter 174.
- D. It shall be unlawful to sweep, blow or otherwise discharge grass clippings into any street, sidewalk, storm drain, or water course more than incidental amounts of grass.
- E. All persons occupying commercial establishments or premises fronting on any street or public place shall keep the sidewalk immediately front of the premises clear of debris or other materials so that pedestrians may conveniently pass, and shall not sell, display or advertise goods or services on the sidewalk. Further, upon obtaining special permission from the City Manager (or his/her designee), such persons may utilize, for the display of merchandise, areas within the sidewalk right-of-way.
- F. It shall be unlawful and a nuisance for any person to obstruct or obscure, or permit to be obstructed or obscured, the light from any streetlight erected by the authority of the city, by erecting any object upon or over any street or sidewalk. If, within five days after receiving a notice from the City Manager to remove the obstruction, the violator fails to comply with the notice, the City Manager shall proceed to have the obstruction removed and shall charge the cost of removal to the violator.
- G. The following clearances must be maintained for the proper flow of vehicular and pedestrian traffic along all streets and sidewalks.
 - (1) Vision Clearance Areas. Vision clearance areas are triangular-shaped areas located at the intersection of any combination of right-of-ways, alleys, or driveways. The sides of the triangle extend 25 feet from the intersection of the right-of-way, alley or driveway in either/each direction. Trees, bushes and other vegetation shall be maintained as to not obscure an intersection vision clearance. No fences or other structures shall be erected as to interfere with the required vision clearance.
 - (2) Vehicle Area Clearances. Trees, bushes and other vegetation shall be maintained to provide at least 14 feet of vertical clearance between the street and the bottom of the vegetation to allow the safe passage of vehicular traffic.
 - (3) Pedestrian Area Clearances. Trees, bushes and other vegetation shall be maintained to provide at least 8 feet of vertical clearance between the sidewalk and the bottom of the vegetation to allow the safe passage of pedestrians and a minimum passing area the width of the sidewalk or 3 feet whichever is greater.
- H. Violations; penalties. Any person(s) violating any provision of this section shall be fined as provided for in the Code of the City of Milford, Chapter 1, General Provisions.

§ 197-6. Speed reduction devices.

- A. Prohibited. Any device used as a means of speed reduction on a city street, drive, parking lot, or any other driven surface, which causes a change in elevation is prohibited unless permission from the City Manager is obtained.
- B. Permitted. Speed cushions may be installed on privately owned commercial property, at the owner's expense.
- C. Installation and Design Standards. Installation and design standards for speed reduction devices shall be in accordance with the Delaware Traffic Calming Design Manual.

§ 197-7. - Litter, refuse, and debris.

A. It shall be unlawful for any person to cast, throw, drop, place, or otherwise cause or permit to be located upon, in, or about any public street, sidewalk, alley or any private or public property adjacent thereto, any litter, refuse, or debris.

(1) Exception. Items permitted and regulated in Chapter 193.

§ 197-8. - Throwing and kicking objects and playing games in streets.

A. It shall be unlawful for any person to throw, kick or project, in any manner whatsoever, any stone, ball or other object in the city streets, or to play or practice athletic games, pitching pennies and like games on the city streets, unless a specific area has been officially designated for those purposes by the city manager. Basketball hoop standards, skate board ramps, hockey nets, soccer goals, and other such devices shall not be placed within the street or right-of-way.

ARTICLE II – Streets and Right of Way

§ 197-9. Street Design.

A. All streets construction, including pavement section, curb ramps, curb cuts and other right-of-way improvements shall be in accordance with Chapter 200 Subdivision of Land and the City’s Standard Construction Specifications.

§ 197-10. Street name change procedure

A. Recognizing that changing the name of a city street already named is a complicated and expensive procedure affecting many departments and many persons, the following procedure is adopted:

- (1) PETITION – In order to initiate the procedure for changing the name of an existing street, a petition of other formal request must be received from a majority of the property owners abutting on the street in question, which documentation must be submitted to the Planning Director for further processing. The Planning Director shall verify that the requirements of a majority of the owners has been met. If the petition or other documentation does not meet this requirement, then the request shall be summarily dismissed by the city clerk and the person or persons presenting such request shall be notified.
- (2) COMMENTS TO COMMITTEE – Once the requirements of subsection (1) of this section have been met, the Planning Director shall refer the request to the development advisory committee (DAC) to obtain comments of all involved parties, specifically including the police department, fire department, public works department, department of planning and city manager. The response from the DAC shall be submitted to the city clerk.
- (3) PLANNING COMMISSION REVIEW – The Planning Director shall refer the petition and the DAC comments directly to the planning commission for its review and recommendation regarding the request. No public hearing is required before the planning commission and the planning commission shall recommend approval of the change of name or disapproval of the change of name, along with its reasons.
- (4) NOTICE OF HEARING – Upon recommendation from the Planning Commission, a public hearing shall be scheduled for a regular council meeting regarding the request, and notice of the public hearing shall be given by placing such notice in one edition of a local newspaper, to be published at least ten days prior to the date of the public hearing before the city council.
- (5) COUNCIL HEARING – The council shall hear public comments, and shall, at the conclusion of the public hearing, vote to approve the change of name or to disapprove the change of name. An affirmative vote to change the name shall require an affirmative vote of two-thirds of all persons

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ected to the council. If the change of name is granted, then notifications thereof shall be given to the city manager to implement the name change.

§ 197-11. Street Abandonment, Vacation, Auction or Sale

- A. Definition. For purposes of this section, “Street” or “Public Street” shall consist of the entire right-of-way, whether or not improved, including sidewalks, curbs, lanes, alleys, roadways, streets, or other highways owned by, titled in the name of, or under the jurisdiction and control of the City of Milford. “Street” does not include any road, street, highway, or other public way under the jurisdiction and control of the Delaware Department of Transportation (or any successor state agency).
- B. Power of the City Council to Abandon, Vacate, Sell or Auction Public Streets. City Council has the power and authority to abandon, vacate, sell or auction public streets or parts thereof, whenever City Council may deem it to be in the best interest of the City of Milford. The adjacent landowners of record have the first right to purchase or acquire any street being sold or auctioned by the City of Milford.
- C. Procedure. For any action taken under this section, the procedure to be followed is as follows.
 - (1) Upon its own motion, or upon a petition of the majority of the adjacent landowners to the street, the City Council may adopt a Resolution that identifies the street or any portion thereof and states the action being considered. The Resolution must include a general description of the street, and the time, place and date of the hearing when City Council will consider the matter and allow any interested parties to appear and comment thereon.
 - (2) A copy of said Resolution shall be sent via certified mail to all adjacent landowners of record, the county in which the street is located, and the Delaware Department of Transportation at least 10 days before the scheduled hearing.
 - (3) A copy of the Resolution shall be published in a newspaper of general circulation within the City of Milford once a week for two consecutive weeks prior to the date fixed for the hearing.
 - (4) City Council may, following the hearing affording any interested persons an opportunity to be heard, take any such action by adoption of a resolution that must provide a legal description of such street or portion thereof and state whether such street or portion thereof to be abandoned, vacated, sold or auctioned.
 - (5) Upon adoption of the resolution, the street as described will cease to exist as a public street. If the action taken involves the vacation or abandonment of the street, the persons entitled to enclose the street may proceed to use and occupy the vacated street. The City of Milford may convey to any purchaser or adjacent landowner any interest the City of Milford may have in the street.

Article III – Curb Cuts.

§ 197-12. Entrance Permit Required.

- A. It shall be unlawful for any person to alter the curb of any street without a permit issued by the city manager or designee.
- B. Entrances shall comply with the requirements of Chapter 230 Zoning and the City’s Standard Construction Specifications.

Article IV – Sidewalks.

§ 197-13. Sidewalk Specifications.

- A. Sidewalks shall be located as outlined in Chapter 200 Subdivision of Land and meet the requirements of the City’s Standard Construction Specifications.
- B. The City Engineer shall maintain specifications regarding the installation of sidewalks and inspect and approve all construction of sidewalks.

§ 197-14. - Responsibility of installation.

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- A. In all new construction sites and subdivisions, the City shall require the builder or developer to install curb, gutter and sidewalk in cases where no such improvements previously existed or where, if in existence, they are in need of repair. Issuance of a certificate of occupancy by the City will be contingent upon compliance. In proposed developments, the City Council may, at its discretion, waive the requirement to install curb, gutter and sidewalk.
- B. Existing residences and commercial establishments which are desirous of having curb, gutter and sidewalk installed where no such improvements currently exist may petition the City Engineer for permission to install said improvements. The City, at its own discretion, may install curb and gutter at the City's expense. Upon approval of the City Engineer, the property owner may install sidewalks at their own expense. The City Engineer shall provide lines and grades, in writing, for said installations.
- C. The City Council may order the installation of sidewalks at existing residents and commercial businesses, where sidewalks do not exist, at the property owner's expense, and the property owner shall, within 365 days, shall make the improvements.

§ 197-15. - Responsibility for costs; financing.

- A. In all areas of new construction, the full cost of installation of curb, gutter and sidewalk shall be borne by the property owner, builder or developer at the time of construction. Where the City Council has waived the requirement for sidewalk installation a fee shall be assessed in the approximate amount of installation costs to be placed into escrow for construction by the City at a future date.
- B. In instances where sidewalk installation, repair or replacement is required, the property owner shall be given the opportunity to finance such improvements through a method of reimbursement to the City, which shall not exceed 60 equal consecutive monthly payments.
- C. Owners who are in arrears on said payments for a period of 90 days will be subject to legal action and/or a lien being placed upon the property where improvements were made.
- D. Property owners who meet the low-income criteria may apply for financial assistance, provided the City funding is available, for the cost of sidewalk repair or replacement.

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§ 197-16. - Specifications

Installation of all curbs, sidewalks, and gutter shall be made in compliance with Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design, most recent edition.

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§ 197-17. - Conditions requiring repair or removal and replacement of sidewalks.

All City sidewalks shall be maintained in compliance with current American with Disabilities Act requirements. In addition, sidewalks exhibiting a likelihood of failure within a 4 year period such as those with extensive cracking or heaving may require replacement prior to falling out of ADA compliance. The repair of a sidewalk shall be at the City Engineer's discretion to determine if a sidewalk requires repair.

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§ 197-18. - City to perform work.

- A. Upon the neglect of any property owner to comply with any of the requirements provided in the preceding sections, the City may, after 90 days and after duly notifying the property owner, cause the repairing, removal and replacement, or removal of obstructions and/or guttering to be done at the cost of such owner and may collect the cost thereof, from such owner, and may file a municipal lien therefor or collect the same by an action in assumpsits.
- B. All such notices shall be served upon the owner of the premises to which the notice refers. If the owner is not a resident, such notice may be served upon the agent or tenant of the owner or upon the occupant

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of such premises. If the owner, agent or tenant cannot be located, then service shall be by notice posted on the premises.

- C. The property owner is to contact the City Engineer within 30 days of receipt of the notice with a schedule of work, the name of the contractor, a cost estimate and any other information.
- D. Upon receiving the notice, the property owner is required to obtain the appropriate permit for construction or reconstruction of said sidewalks and pay the appropriate fees as established by City Council.

§ 197-19. - Stop orders.

If any property owner shall commence, or permit others to commence, the repair or removal and replacement of any sidewalk not in compliance with this chapter or not in compliance with specifications provided by the City Engineer, said Code Enforcement Officer is authorized to issue a stop order directed to the property owner and serve it upon the property owner. Upon service of such stop order, all repair or removal and replacement shall immediately cease.

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§ 197-20. - Liability.

Nothing in this chapter, including the issuing of a permit or a compliance certificate, shall be construed to hold the City of Milford liable for any failure due to faulty construction or any other act in connection with sidewalk construction.

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ARTICLE V - Storm Sewers

§ 197-21. General

- A. It shall be unlawful for any person to tap or have tapped any public storm sewer without a permit from the City Manager.
- B. Public storm sewers shall be designed and constructed according to the City's Construction Standards and Specifications and Delaware Stormwater Management Regulations.

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§ 197-22. Prohibited discharges into system.

- A. It shall be unlawful for any person or group of persons to throw, place or deposit, or attempt to throw, place or deposit, or cause to be thrown, placed or deposited, any article, object or substance in any of the storm sewers or into any of the inlets into the storm sewers of the city, or into any of the streets, lanes, alleys or gutters of the streets in the city from which such article, object or substance would be likely to enter into the storm sewers of the city, which object, or substance would injure in any manner said storm sewer system or area into which such storm sewers empty.

§ 197-23. Authority to enter and inspect private property.

- A. The City Manager and their authorized agents shall have the authority to enter upon any lands as may reasonably be necessary to discharge their duties pursuant to this chapter. Pursuant to the entry, the city manager and their authorized agents shall properly discharge their duties, which may include inspection, conveyance or removal of materials necessary for construction upon the land or improvement or repair of any drain, gutter, storm sewer, manhole or natural watercourse.

§ 197-24. Violations.

- A. Whenever the City Manager or their authorized agents shall determine that a condition exists which violates any portion of this chapter, the City Manager or their authorized agents shall notify the property owner or occupant of the specific violation.
- B. Unless the condition is remedied within ten days after notice is given, the city may cause the condition to be remedied and assess the cost thereof against the property owner.
- C. Any person violating any of the provisions of this chapter shall, upon conviction therefore, pay to the city the cost of any of the repairs resulting from the violation and be subject to the penalty provided in Chapter 1 General Provisions.

ARTICLE VI - Excavations.

§ 197-25. Interference with traffic or property.

- A. The holder of a permit issued pursuant to this chapter shall take all appropriate measures to ensure that, during the performance of the excavation work, traffic conditions shall be maintained as nearly normal as practical at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public.

§ 197-26. Fire hydrants.

- A. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants.

§ 197-27. Drainage.

- A. The holder of a permit issued pursuant to this chapter shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from the excavation or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

§ 197-28. Barricades.

- A. All street and sidewalk excavations shall be properly protected by a fence or suitable barrier, and if left open at night, in order to prevent injury to pedestrians or vehicles using the street or sidewalks, by proper lights.

§ 197-29. Repair of excavated areas.

- A. When any excavation is made in a street or sidewalk, all earth and other materials taken up shall, when the work is completed, be replaced by the person making the excavation. The earth shall be rammed solid so as to be even with the street level and all paving shall be replaced so that the street or sidewalk shall be in as good or better condition than before the excavation. Replacement work shall be under the supervision of the city manager and, if he deems that it is improperly done, he shall cause it to be properly done, charging the costs thereof to the person responsible.

§ 197-30. Required Inspections.

- A. The City Manager shall make such inspections as are reasonably necessary to enforce this chapter. He shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

ARTICLE VII – Wireless Facilities within Rights-of-Way.

§ 197-31. Applicability. The provisions of this section shall apply to the use of rights-of-way as dedicated to the city or as otherwise maintained by the city.

§ 197-32. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

WIRELESS COMMUNICATIONS FACILITY (WCF) – An antenna facility or a wireless support structure that is used for the provision of wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

WIRELESS SUPPORT STRUCTURE – A freestanding structure, pole, tower, or other building, whether or not it has an existing antenna facility, that is used or to be used to support the placement or installation of a wireless communication facility for the provision of wireless service (whether on its own or comingled with other types of services).

§ 197-33. Permit Required.

- A. It shall be unlawful for any person to construct, erect or affix any wireless support structure within or that encroaches upon any right-of-way owned or maintained by the city, unless and until such use of the right-of-way shall have been approved. A rights-of-way use permit shall be obtained from the city manager or their designee.
- B. Each application for permit shall be accompanied by a fee as provided for in the Planning Department Fee Schedule as adopted by City Council.
- C. Each wireless support structure not owned or maintained by the city located within or that encroaches upon any right-of-way owned or maintained by the city shall be subject to an annual fee as provided for in the Planning Department Fee Schedule as adopted by City Council.
- D. Construction, erection or placement of any wireless communication facility or wireless support structure within or that encroaches upon any right-of-way owned or maintained by the city shall be in accordance with the provisions of Chapter 230 Zoning, Chapter 88 Building Construction, Appendix A Electric Rules and Regulations and other applicable City, State or Federal Regulations.

ARTICLE VIII – Public Utilities

§ 197-34. Public Utilities.

- A. Placement of any public utilities within the public right-of-way, either underground or overhead, shall obtain a permit from the Public Works Department as outlined in Article I of this Chapter.
- B. Public utilities shall be subject to a franchise agreement as approved by City Council.
- C. It shall be unlawful for any person, company, city employee, or any employee of a contractor engaged by the city, to make an attachment to or within Milford Electric Division (MED) facilities without a valid, existing pole, duct, or conduit license agreement. All new or renewed pole, duct, or conduit license agreements with the MED shall be adopted pursuant to this chapter. The provisions of this chapter shall be deemed incorporated in each such agreement and shall be limited in scope or application only to the extent agreed by the parties or required by applicable federal or Delaware law. Notwithstanding the foregoing, MED may at its option enter into a joint use agreement with another utility that owns or controls poles that are utilized by MED; in such instances the terms of such joint use agreement may vary from the specifications of this section to the extent reasonable to reflect the reciprocal nature of the joint use agreement.

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Section 4. Dates.

City Council Introduction: March 14, 2022

Planning Commission Review & Public Hearing: March 15, 2022

City Council Public Hearing: March 28, 2022

Effective: April 7, 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.

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