



Milford City Hall Council Chambers 201 South Walnut Street Milford DE 19963

CITY COUNCIL AGENDA September 25, 2024

Attendees are welcome to participate virtually as well. Public Comments are encouraged on the agenda items designated with a Ⓢ. Virtual attendees may alert the City Clerk that they wish to speak by submitting their name, address, and agenda item via the Zoom Q&A function or by using the Raise Your Hand function during the meeting.

Those attending in person may comment when the floor is opened for that purpose.
All written public comments received prior to the meeting will be read into the record.

This meeting is available for viewing by the public by accessing the following link:

<https://zoom.us/j/95859380584>

or

<http://www.cityofmilford.com/553/Watch-Public-Meetings>

Members of the public may also dial in by phone using the following number:

Call 301 715 8592 Webinar ID: 958 5938 0584

6:00 PM

15-Minute Public Comment Period

All interested parties are invited to speak during the public comment portion of the Meeting. Discussion of those items appearing on the agenda as a public hearing is prohibited during the Public Comment Period, as an opportunity will be provided at the time it is being considered. Virtual attendees must register prior to start time of the meeting by calling 302-422-1111 Extension 1142 or 1303, or by sending an email to cityclerk@milford-de.gov and providing their name, address, phone number, and item name and/or description you wish to comment on. Persons in attendance wishing to speak must sign up prior to the start of the Meeting. Citizen comments are limited to three (3) minutes. Council and Committee Members are prohibited from responding or taking action since this is not an official session; however, items may be considered for placement on a future agenda.

WORKSHOP

Historic Preservation Ordinance Update
Property Maintenance Code Review
Zoning Restrictions/Marijuana Sales¹
Land Use Training

ALL SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING. NO PAPER DOCUMENTS WILL BE ACCEPTED, DISTRIBUTED, OR PRESENTED AT MEETING ONCE PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE. ANY MATERIALS UTILIZED DURING THE MEETING SHALL BE FROM THE COUNCIL PACKET AND REFERENCED BY PRESENTER USING AUDIO AND VISUAL MEANS TO ENSURE VIRTUAL PARTICIPATION BY ALL IN ATTENDANCE.

*Time Limit is three minutes per speaker, not to exceed a total of fifteen minutes for all speakers prior to start of meeting/workshop.

Ⓢ Designated Items only; Public Comment, up to three minutes per person will be accepted.

091624

¹091824 Late Addition by City Manager

091924 Items reordered



Historic Preservation Ordinance Update

City Council Workshop

September 25, 2024



Historic Preservation Ordinance Purpose

- ▶ To provide for the identification, evaluation, designation and protection of designated historic resources.
- ▶ Preserve and rehabilitate eligible historic properties.
- ▶ Safeguard the heritage of Milford as represented by those buildings, districts, sites and structures which reflect significant elements of Milford's history.
- ▶ Stabilize or improve the aesthetic and economic vitality and values of such sites.
- ▶ Foster civic and neighborhood pride in the beauty and accomplishments of the past and a sense of identity based on Milford's history.



2018 Comprehensive Plan

▶ 2018 Comprehensive Plan, Chapter 2 - Community Character

▶ Objectives

- ▶ Consider an updated survey of municipal lands within Sussex County that may be eligible for the National Registry of Historic Places.
- ▶ Investigate the development of architectural design standards for new projects, specifically those within the City's designated historic districts.
- ▶ Consider pursuing Certified Local Government status to potentially access technical and financial assistance through the national CLG Program, administered by SHPO.



2008 Comprehensive Plan

- ▶ 2008 Comprehensive Plan, Objective 6.4
 - ▶ Assist in the development of a historical district ordinance which will enhance the rehabilitation of all buildings located in the three historical districts. (Draft included in 2008 Comp Plan, Book Four)
 - ▶ Draft ordinance was presented to City Council on February 25, 2008 but no formal action was taken.



2023-2028 Strategic Plan

▶ Neighborhoods & Community Services

- ▶ Goal: Encourage a Balanced Range of Housing Types and Home-Ownership Opportunities for Existing and Future Residents.
- ▶ Objective: Ensure a variety of housing options in varying affordability ranges are available throughout the City, in order to encourage residents of all socioeconomic backgrounds to reside in the City.
- ▶ Strategies: Consider implementing a Historic Preservation ordinance to protect buildings from destruction or insensitive rehabilitation.



2022 National Citizen Survey (Randomly Selected Households - 432 Responses)

- ▶ The City is considering a historic preservation ordinance. This ordinance would create a review board for building demolitions, alterations, and new construction within the City's historic districts. How much would you support this ordinance?
 - ▶ 45% Strongly Support
 - ▶ 40% Somewhat Support
 - ▶ 9% Somewhat Oppose
 - ▶ 6% Strongly Oppose



2022 National Citizen Survey (Open Survey - 30 Responses)

- ▶ The City is considering a historic preservation ordinance. This ordinance would create a review board for building demolitions, alterations, and new construction within the City's historic districts. How much would you support this ordinance?
 - ▶ 67% Strongly Support
 - ▶ 27% Somewhat Support
 - ▶ 0% Somewhat Oppose
 - ▶ 7% Strongly Oppose

Milford Historic Districts

- ▶ North Milford Historic District
- ▶ Vinyard Shipyard Historic District
- ▶ Victorian Historic District





Code Enforcement & Economic Development Committee

- ▶ Discussed the ordinance preparation process at the March 25, 2024 Committee Meeting.



Planning Commission Workshops

- ▶ Workshop #1 - April 14, 2024 - Introduction
- ▶ Workshop #2 - May 21, 2024 - Review draft ordinance.
- ▶ Workshop #3 - July 16, 2024 - Review draft ordinance, secretary guidelines.



Draft Ordinance - Progress

- ▶ Planning Commission workshops were used to identify number of members, qualifications, frequency of meetings and other framework language.
- ▶ General functions of the Historic District Commission.
- ▶ Began reviewing design criteria.



Draft Ordinance - Challenges

- ▶ Architectural Review Standards
 - ▶ The Secretary of the Interior's Standards for the Treatment of Historic Properties.
- ▶ Planning Commission was introduced to this at the third workshop.
- ▶ Developing and understanding the review criteria will be labor intensive and will require significant training of the Planning Commission.
- ▶ Staff has concerns that the City will train the Planning Commission on the review standards, develop a draft ordinance for adoption, appoint members to the Historic District Commission, and then have to perform the same training with the members of the HDC.



Draft Ordinance - Recommendation

- ▶ Staff recommends moving forward with developing a draft ordinance amendment to establish a Historic District Commission, then allow the HDC to work on creating the rules and regulations.
- ▶ The rules and regulations developed by the HDC would need to be approved by the Planning Commission and City Council by ordinance at a later date.
- ▶ This would eliminate the need to train the Planning Commission and then train the Historic District Commission, and would give some ownership of the standards to the HDC who will be tasked with enforcing them.



Feedback & Next Steps

- ▶ Questions/Feedback?
- ▶ Staff would proceed with developing a draft amendment for Planning Commission and City Council consideration this Fall that does not include the regulatory language, would only include the establishment and purpose of the Historic District Commission.



Property Maintenance & Rental Operating Licenses

Planning Department

September 25, 2024



Chapter 174 Property Maintenance

- ▶ Adopts the 2015 International Property Maintenance Code.
- ▶ Includes some insertions, deletions and additions.
- ▶ Deals with the interior and exterior structure and exterior areas.



Chapter 180 - Residential Rental Operating Licenses

- ▶ Residential rental licensing program - \$50 yearly registration per unit.
- ▶ Units are inspected on a 4-year cycle (by Ward).
- ▶ Inspections are for compliance with Chapter 174 Property Maintenance, Chapter 88 Building Construction and Chapter 230 Zoning.

THE CITY OF Milford DELAWARE
CITY OF MILFORD Date: _____
RENTAL UNIT INSPECTION FORM Appt. Time: _____

Pass/Fail: _____ Ward: _____ Inspector: _____
 Contact Name: _____ Phone #: _____
 Rental Property Location: _____
 Street Address _____ Apt. Complex/Unit _____
 Email Address: _____ Inspection #: _____ Bed/Bath#: _____

GENERAL EXTERIOR	PASS	FAIL	NOTES
PM.302.4 Weeds	<input type="checkbox"/>	<input type="checkbox"/>	
PM.308.1 Accumulation of Rubbish and Garbage	<input type="checkbox"/>	<input type="checkbox"/>	
PM.302.3 Sidewalks and Driveways	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.7 Roofs and Drainage	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.11 Chimneys and Towers	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.9 Overhang Extensions	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.2 Protective Treatment	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.13 Windows, Skylight, and Door Frames	<input type="checkbox"/>	<input type="checkbox"/>	
PM.304.18.1 Access Doors	<input type="checkbox"/>	<input type="checkbox"/>	

THE CITY OF Milford DELAWARE
 PUBLIC WORKS FACILITY
 180 Vickers Drive
 Milford, DE 19963
 www.cityofmilford.com

PLANNING DEPARTMENT
 Planning, Economic Development,
 Enforcement, and Inspections Office
 O 302.424.8396 | F 302.424.3559

RESIDENTIAL RENTAL INSPECTION PROGRAM PRE-INSPECTION CHECKLIST

Chapter 180 – Residential Rental Operating Licenses states the Code Official reserves the right to inspect property at any time to ensure compliance with all property maintenance (Chapter 174), Building Construction (Chapter 88), Zoning (Chapter 230) and other City Codes. Below is more information on the more common property maintenance inspection items. This document should be reviewed by the property owner prior to an inspection taking place to ensure these items are in good repair and in working order.

PM.302.4 Weeds YES NO
 The property should not contain grass over 6 inches in height and should be free from vines and overgrowth on fences, houses and accessory structures.

PM.302.7 Accessory Structures YES NO
 Accessory Structures, including sheds, detached garages, fences, etc, shall be structurally sound and in good repair.

PM.302.8 Motor Vehicles YES NO
 No inoperative or unlicensed motor vehicle shall be parked, kept or stored on any property.

PM.304.2 Protective Treatment YES NO
 Exterior surfaces shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

THE CITY OF Milford DELAWARE
 PUBLIC WORKS FACILITY
 180 Vickers Drive
 Milford, DE 19963
 www.cityofmilford.com

PLANNING DEPARTMENT
 Planning, Economic Development,
 Enforcement, and Inspections Office
 O 302.424.8396 | F 302.424.3559

RENTAL PROGRAM INSPECTION GUIDE

- The City reserves the right to inspect residential rental properties at any time to ensure compliance with all property maintenance (Chapter 174), Zoning (Chapter 230) and other City codes per Chapter 180-8 Paragraph A by providing a minimum of 48 hours' notice as provided in the Landlord Tenant law in the Delaware Code.
- The residential rental operating license fee of \$50 covers the initial inspection and one re-inspection for each property. When conditions of a property are such that cause more than one follow-up inspection, for the purpose of ensuring compliance, a fee of \$50 per inspection will be imposed.
- All registration requirements must be met, taxes and utility bills must be current and any other fees owed to the City must be paid before the inspection can occur.
- The City will provide written correspondence to each Landlord requiring an inspection of the property. The Landlord will be required to contact the City Planning Department at 302-424-8396 to schedule an inspection within the specified timeframe. The City will inspect all rental units within the City based on the following schedule:
 - 2023 – Ward 4
 - 2024 – Ward 1
 - 2025 – Ward 2
 - 2026 – Ward 3
- Rental properties that have been inspected for compliance with HUD or USDA Rural Development Housing Voucher programs need only submit the most current HUD/USDA inspection report in lieu of the City's inspection. Copies of the inspection reports may be emailed to hwillis@milford-de.gov or faxed to the Planning Department at 302-424-3559.



International Property Maintenance Code (IPMC) 2015

- ▶ Exterior Violations (rental and non-rental properties)
 - ▶ Proactive Enforcement
 - ▶ Complaint Driven
- ▶ Interior Violations (primarily rental properties only)
 - ▶ Rental Inspection Program
 - ▶ Unsafe Conditions

Exterior Structure

- ▶ PM.302.1 - Sanitation
- ▶ PM.302.2 - Grading and Drainage
- ▶ PM.302.3 - Sidewalks and Driveways
 - ▶ Approved parking surface
- ▶ PM.302.4 - Weeds
- ▶ PM.302.5 - Rodent Harborage
- ▶ PM.302.6 - Exhaust Vents
- ▶ PM.302.7 - Accessory Structures





Exterior Structure

- ▶ PM.302.8 - Motor Vehicles
- ▶ PM.302.9 - Defacement of Property
- ▶ PM.302.10 - Indoor Furniture in Outdoor Areas
- ▶ PM.303.1 - Swimming Pools, Spas & Hot Tubs
- ▶ PM.303.2 - Swimming Pool - Enclosures



Exterior Structure (cont.)

- ▶ PM.304.1 - Unsafe Conditions
- ▶ PM.304.2 - Protective Treatment
- ▶ PM.304.3 - Premises Identification
- ▶ PM.304.4 - Structural Members
- ▶ PM.304.5 - Foundation Walls





Exterior Structure (cont.)

- ▶ PM.304.6 - Exterior Walls
- ▶ PM.304.7 - Roofs and Drainage
- ▶ PM.304.8 - Decorative Features
- ▶ PM.304.9 - Overhead Extensions
- ▶ PM.304.10 - Stairways, Decks, Porches, Balconies





Exterior Structure (cont.)

- ▶ PM.304.11 - Chimneys and Towers
- ▶ PM.304.12 - Handrails and Guards
- ▶ PM.304.13 - Windows, Skylight, and Door Frames
 - ▶ PM.304.13.1 - Glazing
 - ▶ PM.304.13.2 - Openable Windows
- ▶ PM.304.14 - Insect Screens
- ▶ PM.304.15 - Doors
- ▶ PM.304.16 - Basement Hatchways
- ▶ PM.304.17 - Guards for Basement Windows
- ▶ PM.304.18 - Building Security
 - ▶ PM.304.18.1 - Building Security - Doors



Exterior Structure (cont.)

- ▶ PM.304.18.2 - Building Security - Windows
- ▶ PM.304.18.3 - Building Security - Basement Hatchway
- ▶ PM.304.19 - Gates

Interior Structure

- ▶ PM.305.1 - Unsafe Conditions
- ▶ PM.305.2 - Structural Members
- ▶ PM.305.3 - Interior Surfaces
- ▶ PM.305.4 - Stairs and Walking Surfaces
- ▶ PM.305.5 - Handrails and Guards
- ▶ PM.305.6 - Interior Doors
- ▶ PM.306.1 - Component Serviceability - Unsafe Conditions
- ▶ PM.307.1 - Handrails and Guardrails
- ▶ PM.308.1 - Accumulation of Rubbish or Garbage
- ▶ PM.308.2 - Disposal of Rubbish
 - ▶ PM.308.2.1 - Rubbish Storage Facilities





Interior Structure (cont.)

- ▶ PM.308.2.2 - Refrigerators
- ▶ PM.308.3 - Disposal of Garbage
- ▶ PM.308.3.1 - Garbage Facilities
- ▶ PM.308.3.2 - Containers
- ▶ PM.309.1 - Infestation
- ▶ Section 402 - Light
- ▶ Section 403 - Ventilation
- ▶ Section 404 - Occupancy Limits
- ▶ Chapter 5 - Plumbing Facilities and Fixture Requirements
- ▶ Chapter 6 - Mechanical and Electrical Requirements
- ▶ Chapter 7 - Fire Safety Requirements



Chapter 174 Property Maintenance - Violation Procedures

- ▶ Code Official Identifies Violation (proactive and reactive).
- ▶ Violation notice is prepared citing code violation, corrective action, penalties and means of appeal.
- ▶ Notice of Violation sent to property owner in the following order; delivered personally; sent by certified or first-class mail; or if the notice is returned, a copy is posted at the property.
- ▶ Once due notice is provided, the violator has a specific period of time to remedy the violation before penalties are assessed. The time period depends on the type of violation along with other factors (ex. time of year).



Chapter 174 Property Maintenance - Violation Procedures

- ▶ Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by State or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Any person or persons who shall violate a provision of this code shall, upon conviction thereof, be fined not less than \$50 nor more than \$1,000.
- ▶ If the violation is not corrected, the City can issue a court summons. The Justice of the Peace would have to convict the property owner of the violation and determine the fine.
- ▶ The City has the authority to remedy vegetation, dangerous structures, board-ups, bushes/trees overhanging sidewalk, rubbish and exterior property cleanup and place the charges on the property taxes.



Chapter 180 - Violation Procedures

- ▶ Code Official performs rental inspection (routine or nonroutine) noting any items that are not in compliance with City ordinances. Note, Delaware landlord tenant code requires the landlord provide at least 48 hours notice to the tenant.
- ▶ A copy of the completed inspection form is provided to the owner and the owner is given a specific amount of time to fix the failed inspection items and schedule a reinspection.
- ▶ If the items are not addressed in a timely manner, a formal violation letter is sent following the procedures outlined in Chapter 174 Property Maintenance.



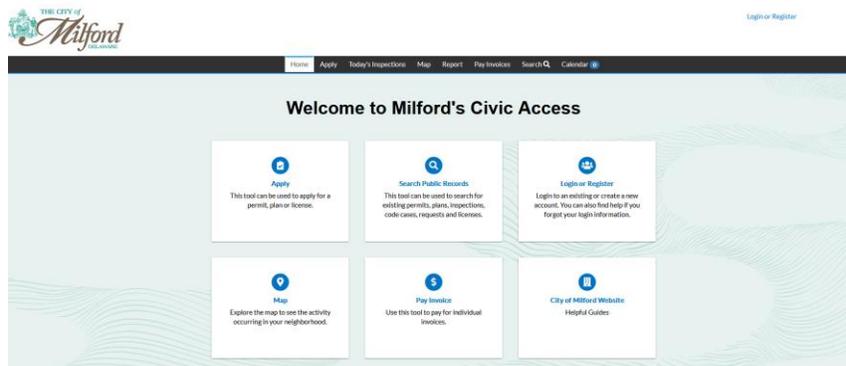
Chapter 180 - Violation Procedures

- ▶ The City may also send a formal violation letter for failing to schedule an inspection and failing to register your rental property.
- ▶ All three can result in a Justice of the Peace court summons.
- ▶ Chapter 180 does provide the City the ability to revoke a rental license, but the landlord would have to follow State law to evict the tenants. The language states “If any of the cited violations are not remedied, the Code Official shall revoke the residential rental operating license.”



Online Reports

- ▶ The City maintains annual reports for cases closed which show before and after pictures of code violations.
- ▶ The City posts a list of open violations at the end of each year in conjunction with the progress reports.
- ▶ New Civic Access portal allows the public to view licenses, permits, violations and plan cases on properties in Milford.
- ▶ <https://www.cityofmilford.com/16/Code-Enforcement-Licensing>



Code Enforcement

Below are links providing detailed reports on code violations. The reports include progress information for individual cases along with before and after photographs for violations that have been remedied and closed.

- [2018 Cases Closed](#)
- [2019 Cases Closed](#)
- [2020 Cases Closed](#)
- [2021 Cases Closed](#)
- [2022 Cases Closed](#)
- [2023 Cases Closed](#)
- [Detailed Code Enforcement Progress Report - January 1, 2024 \(Part A\)](#)
- [Detailed Code Enforcement Progress Report - January 1, 2024 \(Part B\)](#)



Recent Statistics

Year	Code Enforcement Cases Closed (excluding Grass)
2018	47
2019	155
2020	163
2021	234
2022	290
2023	197

Year	Rental Inspections Performed	Ward
2018	1051	Sussex County
2019	1224	Kent County
2020	26	Ward 1
2021	0	Ward 2
2022	492	Ward 3
2023	1373	Ward 4
2024	469	Ward 1



Code Enforcement Challenges

- ▶ Each code violation is a separate offense, except for grass cutting violations which remain open the entire growing season.
- ▶ This means, if a property has rubbish in the yard and then the property owner cleans it up, the violation is remedied. Next month, if the same property has rubbish in the yard again, this requires another code violation letter to be sent and is technically a separate case.
- ▶ These habitual violations typically occur with rubbish, parking on the grass, inoperable/unregistered vehicles on private property.



Possible Solution

- ▶ Develop a habitual offenders amendment to Chapter 174 Property Maintenance outlining stricter penalties for recurring violations within a certain period of time.
- ▶ The amendment would apply to residential, commercial, owner occupied and rental properties.



Questions and Comments



Chapter 230 - Zoning Marijuana Regulations

September 25, 2024



Delaware Code - Title 16 Health and Safety Medical Marijuana

- ▶ **Chapter 49A. The Delaware Medical Marijuana Act. § 4917A. Local ordinances.**
- ▶ Nothing shall prohibit local governments from enacting ordinances or regulations not in conflict with this chapter or with Department regulations regulating the time, place, and manner of registered compassion center operations and registered safety compliance facilities, provided that no local government may prohibit registered compassion center operation altogether, either expressly or through the enactment of ordinances or regulations which make registered compassion center and registered safety compliance facility operation unreasonably impracticable in the jurisdiction.



Delaware Code - Title 4 Alcoholic Liquors and Marijuana Recreational Marijuana

- ▶ **Chapter 13. The Delaware Marijuana Control Act. Subchapter IV. Determination of Applications. § 1351 Local control.**
- ▶ A municipality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the enactment of an ordinance or through an initiated or referred measure.
- ▶ A municipality or county may enact ordinances or regulations that are not in conflict with this chapter or in conflict with regulations enacted by the Commissioner, governing the time, place, manner, and number of marijuana establishment operations. A municipality or county may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner that a marijuana establishment may operate in such municipality or county.



Current Milford Zoning Regulations - Alcohol, Tobacco, Firearms & Marijuana

- ▶ When discussing the sale of medical or recreational marijuana, a comparison of how the sale of other similar products are handled within the zoning code should be considered.
- ▶ Under the current zoning ordinance, Marijuana sales would be considered retail and permitted within the commercial zoning districts.
- ▶ Tobacco sales fall under retail.
- ▶ Firearm sales fall under retail.
- ▶ Regulations pertaining to the sale of alcohol depend on the principal use; microbrewery, distillery, brewpub, liquor store, tavern, restaurant, etc. Most of these are permitted within the commercial districts or conditional uses within the industrial districts.



Previous Milford Zoning Amendments - Alcohol, Tobacco, Firearms & Marijuana

- ▶ Ordinance 2015-04 was adopted May 26, 2015.
- ▶ Amended Chapter 230-44(D) “All establishments involving the sale of alcoholic beverages either on or off premises, which are located within 1,000 feet of any public or private school, day-care or child care center or church, **unless food is prepared and served for consumption on site or for takeout, or alcoholic beverages are produced in said location.** Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.
- ▶ Prior to the amendment, the sale of alcohol in restaurants, brewpubs, distilleries, liquor stores, taverns, tap rooms, etc. could not be located within 1,000 feet of a school, day-care or church.



Previous Milford Zoning Amendments - Alcohol, Tobacco, Firearms & Marijuana

- ▶ Ordinance 2022-06 was adopted January 24, 2022.
- ▶ Amended Chapter 230-44(D) by completely removing the following; ~~“All establishments involving the sale of alcoholic beverages either on or off premises, which are located within 1,000 feet of any public or private school, day care or child care center or church, unless food is prepared and served for consumption on site or for takeout, or alcoholic beverages are produced in said location. Approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by City Council.”~~
- ▶ Where alcohol could be sold is now dependent on the principal use of the property and OABCC regulations.



State/Federal Agencies - Alcohol, Tobacco, Firearms & Marijuana

- ▶ State of Delaware, Department of Safety and Homeland Security (DSHS), Division of Alcohol & Tobacco Enforcement (ATE)
- ▶ State of Delaware, Office of Alcoholic Beverage Control Commissioner (OABCC)
- ▶ State of Delaware, Office of the Marijuana Control Commissioner (OMC)
- ▶ State of Delaware, Department of Health and Social Services (DHSS)
- ▶ Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)



State of Delaware Division of Alcohol & Tobacco Enforcement

- ▶ The Division of Alcohol and Tobacco Enforcement (ATE) is a state law enforcement agency. Officers of the Division are primarily tasked with the enforcement of Title 4 - The Liquor Control Act and the Administrative Rules of the Delaware Alcoholic Beverage Control Commissioner. The Division of Alcohol & Tobacco Enforcement is also tasked with checking all establishments that sell tobacco for compliance in regards to youth access to tobacco laws.
- ▶ Department of Safety and Homeland Security and the Department of Health and Social Services have been tasked with creating the framework for the production, manufacture, and sale of legal recreational marijuana at the State level.
- ▶ <https://date.delaware.gov/ATE/index.shtml>



State of Delaware Office of Alcoholic Beverage Control Commissioner (OABCC)

- ▶ The Commissioner establishes rules and regulations to control the business, manufacture, sale, dispensation and distribution and importation of alcoholic liquors within and into the state to ensure the public safety and the best interests of the consumer while not unduly restricting the alcoholic beverage industry.
- ▶ The Commissioner grants/denies applications for liquor licenses, approves/disapproves requests for modifications to licensed establishments, performs inspections and grants renewals of liquor licenses.
- ▶ <https://oabcc.delaware.gov/>



State of Delaware Office of the Marijuana Control Commissioner (OMC)

- ▶ The Office is responsible for regulating the recreational marijuana industry pursuant to the Delaware Marijuana Control Act, which became effective on July 5, 2023.
- ▶ The Commissioner is responsible for establishing rules and guidelines, establishing licensing procedures and addressing complaints to ensure effective regulation of marijuana cultivation, manufacturing and sale.
- ▶ <https://omc.delaware.gov/>



Office of the Marijuana Commissioner - Regulations

- ▶ Office of Marijuana Commissioner recently released administrative regulations which can be found at the below link.

<https://regulations.delaware.gov/register/september2024/final/28%20DE%20Reg%20226%2009-01-24.htm>

- ▶ OMC has a goal to issue retail and testing facility licenses by March 1, 2025.



What Other Cities/Towns Have Adopted

- ▶ Prohibit recreational marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores.
 - ▶ Milton, Ocean View, Rehoboth, Blades
- ▶ Placed restrictions on which zoning district recreational marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores could be located.
 - ▶ Dover, Smyrna, Newark, Wyoming, Delmar



Current Facilities in Milford

- ▶ The City currently has two medical marijuana product manufacturing facilities in the I-1 Limited Industrial zoning district and one medical marijuana dispensary in the C-3 Highway Commercial zoning district.
- ▶ [Zoning Map Link](#)



Recreational Marijuana Retail Store Discussion

- ▶ Does City Council want to prohibit recreational marijuana sales within the City?
- ▶ Does City Council want to allow recreational sales with conditions?
 - ▶ Limit hours of operation?
 - ▶ Distance between retail facilities?
 - ▶ Distance from schools, churches, daycares, etc.?
 - ▶ Allow only in Highway Commercial?
 - ▶ Require a conditional use permit?
- ▶ Does the City want to allow recreational sales with no conditions in all commercial zones?



Registered Compassion Center Discussion

- ▶ Does City Council want to place conditions on medical marijuana registered compassion centers?
 - ▶ Limit hours of operation?
 - ▶ Distance between compassion centers?
 - ▶ Distance from schools, churches, daycares, etc.?
 - ▶ Allow only in Highway Commercial?
 - ▶ Require a conditional use permit?
- ▶ Does the City want to allow compassion centers with no conditions in all commercial zones?



Marijuana Cultivation, Manufacturing, Testing Discussion

- ▶ Does City Council want to prohibit the following;
 - ▶ Marijuana product manufacturing facilities?
 - ▶ Marijuana testing facilities?
 - ▶ Marijuana cultivation facilities?
- ▶ Does City Council want to allow these uses with conditions?
 - ▶ Allow in Industrial and Business Park zones only?
 - ▶ Require a conditional use permit?
 - ▶ Distance from schools, churches, daycares, etc.?
- ▶ Does the City want to allow the manufacturing with no conditions in Industrial and Business Park zones?



Timeline & Next Steps

- ▶ Utilize feedback from the City Council workshop to determine if a zoning amendment is desired, and if so, prepare an ordinance amendment for consideration.
- ▶ Timeframe
 - ▶ September 25 – Council Workshop Discussion
 - ▶ October 28 – Draft Ordinance for discussion
 - ▶ November 20 – Presentation by Rob Coupe, Office of Marijuana Control
 - ▶ November 25 – Public Hearing on possible ordinance
 - ▶ December 9 – Ordinance Introduction
 - ▶ December 17 – Planning Commission recommendation
 - ▶ January 13 – Ordinance Adoption, including Public Hearing



Land Use Training

Planning Department

September 25, 2024



Zoning Applications

- ▶ Minor Subdivision, Lot Line Adjustment, Lot Consolidation
- ▶ Permitted Use Site Plan
- ▶ Conditional Use Site Plan
- ▶ Conditional Use
- ▶ Change of Zone
- ▶ Comprehensive Plan Amendment
- ▶ Major Subdivision
- ▶ Planned Unit Development
- ▶ Annexation/Deannexation
- ▶ Variance (Board of Adjustment)
- ▶ Administrative Appeals (Board of Adjustment)



Delaware Code/State Enabling Legislation

Code Title & Chapter(s)	Sections	Topics
Municipal Planning Authority Title 22, Ch 7	701 702	Planning commission organization Comprehensive plan standards
Municipal Zoning Title 22, Ch 3	301-311 321-332	General provisions Boards of adjustment
Annexation Title 22 Ch 1	101 105	Annexation requirements De-annexation
Statute of Repose Title 10, Ch 81	8126	Limitations on adopted plans and development plans
Meetings & Records (FOIA) Title 29, Ch 100	1003 1004	Public records Open meetings

► <https://delcode.delaware.gov/>



Subdivisions, Site Plans, Conditional Uses, Change of Zone Requests



Authority to Plan

- ▶ Title 22 Municipalities, Chapter 7, Planning Commission
- ▶ Title 22 Municipalities, Chapter 3, General Provisions
- ▶ City Charter - 5.12 - City Planning Commission
- ▶ Chapter 57 - Planning Commission
- ▶ Chapter 200 - Subdivision of Land
- ▶ Chapter 230 - Zoning
- ▶ https://library.municode.com/de/milford/codes/code_of_ordinances?nodeId=14818



Minor Subdivision, Lot Line Adjustment & Lot Consolidation

- ▶ Chapter 200 Subdivision of Land
- ▶ Chapter 230 Zoning
 - ▶ Article III - Use and Area Regulations
 - ▶ Min. Lot Area, Min. Lot Width, Max. Lot Coverage, Front, Rear, Side Setbacks.
- ▶ City Construction Standards and Specifications
- ▶ Administrative Review



Permitted Use Site Plan

- ▶ Chapter 200 Subdivision of Land
- ▶ Chapter 230 Zoning
 - ▶ Article III - Use and Area Regulations
 - ▶ 230-19.7 - Open Space, Recreation and Other Public Facilities
 - ▶ 230-19.8 - Tree Planting and Preservation
 - ▶ Article IV- Off-street Parking
 - ▶ Article V - Landscape Screening
 - ▶ Article X - Site Plan (procedure)
- ▶ State Agency Approvals - DelDOT, Conservation District, SFMO, DNREC/ACE, DHSS.
- ▶ City Construction Standards and Specifications
- ▶ Reviewed during a public meeting but the application is not part of a public hearing.
- ▶ Approved by the Planning Commission



Conditional Use Site Plan

- ▶ Chapter 200 Subdivision of Land
- ▶ Chapter 230 Zoning
 - ▶ Article III - Use and Area Regulations
 - ▶ 230-19.7 - Open Space, Recreation and Other Public Facilities
 - ▶ 230-19.8 - Tree Planting and Preservation
 - ▶ Article IV- Off-street Parking
 - ▶ Article V - Landscape Screening
 - ▶ Article X - Site Plan (procedures)
 - ▶ Article IX - Conditional Use
- ▶ City Construction Standards and Specifications
- ▶ State Agency Approvals - DelDOT, Conservation District, SFMO, DNREC/ACE, DHSS.
- ▶ Reviewed during a public hearing.
- ▶ Planning Commission makes a recommendation to City Council. City Council makes final decision.



Conditional Use Criteria

- ▶ Purpose of the conditional use is to maintain a measure of control over uses that have an impact on the entire community.
- ▶ Chapter 230-48 (motions should consider the six below criteria)
 - ▶ The presence of adjoining similar uses.
 - ▶ An adjoining district in which the use is permitted.
 - ▶ There is a need for the use in the area proposed as established by the Comprehensive Plan.
 - ▶ There is sufficient area to screen the conditional use from adjacent different uses.
 - ▶ There use will not detract from permitted uses in the district.
 - ▶ Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.
- ▶ City Council can approve conditional use applications, deny them or approve with conditions. Conditions placed on the approval must be reasonable.



Major Subdivision

- ▶ Chapter 200 Subdivision of Land
- ▶ Chapter 230 Zoning
 - ▶ Article III - Use and Area Regulations
 - ▶ 230-19.7 - Open Space, Recreation and Other Public Facilities
 - ▶ 230-19.8 - Tree Planting and Preservation
 - ▶ Article IV- Off-street Parking
 - ▶ Article V - Landscape Screening
- ▶ State Agency Approvals - DelDOT, Conservation District, SFMO, DNREC/ACE, DHSS.
- ▶ City Construction Standards and Specifications
- ▶ Reviewed during a public hearing.
- ▶ Planning Commission makes a recommendation to City Council. City Council makes final decision.



Planned Unit Development

- ▶ Definition - A development providing housing of various densities, lot sizes, lot coverage and types, including related recreational and community facilities.
- ▶ Chapter 200 Subdivision of Land
- ▶ Chapter 230 Zoning
 - ▶ Article III - Use and Area Regulations
 - ▶ 230-19.7 - Open Space, Recreation and Other Public Facilities
 - ▶ 230-19.8 - Tree Planting and Preservation
 - ▶ 230-19.9 - Planned Unit Development
 - ▶ Article IV- Off-street Parking
 - ▶ Article V - Landscape Screening
 - ▶ Article X - Site Plan (procedure)
- ▶ State Agency Approvals - DelDOT, Conservation District, SFMO, DNREC/ACE, DHSS.
- ▶ City Construction Standards and Specifications



Planned Unit Development

- ▶ Planned Unit Developments (PUDs) allow for flexibility in design, including lot size, lot width, off-street parking, housing types, etc.
- ▶ 230-19.9 - Outlines permitted uses, minimum lot area and width requirements, density calculation, bulk regulations and conditions for neighborhood commercial.
- ▶ Promotes a mixture of housing types in a single development without needing to rezone the entire property.
- ▶ Subject to the same conditional use criteria found under 230-48.



Change of Zone

- ▶ Article XII - Zoning Amendments
- ▶ Planning Commission makes a recommendation to City Council. City Council makes final decision.
- ▶ Change of Zone requests must be consistent with the City's Comprehensive Plan Future Land Use exhibits and the Land Use & Zoning Link table.
- ▶ The purpose statement for each zoning category should be taken into consideration when determining the appropriate zone for a property.

Future Land Use	Zoning District
Employment	H-1, IM, IS
Commercial	C-1, C-2, C-2A, C-3, OC-1, BP, H-1
Industrial	I-1, I-2
Institutional	Permitted as conditional uses in residential, commercial and employment zones.
Low Density Residential	R-1, R-2, C-1, OB-1
Moderate Density Residential	R-3, R-8, C-1, OB-1
Open Space	R-1



Comprehensive Plan Amendment

- ▶ Comprehensive Plan Amendment requests are compiled annually at the end of the calendar year and submitted to the Office of State Planning Coordination for review.
- ▶ These could be text or map amendments.
- ▶ These could be initiated by private property owners or the City.
- ▶ Requests are presented to City Council for informational purposes only prior to solicitation of State comments.
- ▶ Upon receipt of State comments, additional public outreach may be needed prior to scheduling formal public hearings with the Planning Commission and City Council.
- ▶ Amendment requests would be reviewed during a public hearing.
- ▶ Planning Commission makes recommendation to City Council. City Council makes final decision.



Unfavorable Recommendation from Planning Commission

- ▶ This applies to Change of Zone requests, Zoning Code amendments, Major Subdivision, Planned Unit Development, Comprehensive Plan amendments and Conditional Use applications.
- ▶ 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.



Annexation/Deannexation



Annexation/Deannexation

- ▶ Title 22 Municipalities, Chapter 1, Annexation
- ▶ City Charter, Article I, Incorporation, Territory and Annexation
 - ▶ 1.04, Annexation
 - ▶ 1.05, Deannexation



Annexation

- ▶ Written Petition submitted by property owner.
- ▶ Annexation request is reviewed by the Annexation Committee.
- ▶ Planning Department submits Plan of Services to State Planning Office.
 - ▶ Sewer, water, police, fire, electric service analysis.
- ▶ Planning Commission/City Council Public Hearings
- ▶ Annexation Agreement
- ▶ Request must be contiguous to the City.
- ▶ Must be consistent with the City's Comprehensive Plan.
 - ▶ Within Urban Growth Boundary.
 - ▶ Requested zoning must meet the adopted future land use maps.



Deannexation

- ▶ Except as provided for in [Section 1.05\(b\)](#) of the City Charter, deannexation shall follow procedures established in the Delaware Code.
- ▶ Section 1.05(b), City Council may authorize the deannexation of either of the following:
 - ▶ Property with zero residents and assessed valuation of less than \$25,000 by ordinance following a public hearing.
 - ▶ A parcel which contains less square footage than the smallest parcel in the zoning district in which it is located.



Board of Adjustment



Board of Adjustment

- ▶ Title 22 Municipalities, Chapter 3, Board of Adjustment
- ▶ City Charter, Article V, Administration and Appointees
 - ▶ 5.13, Board of Adjustment
- ▶ Chapter 230, Article VII, Board of Adjustment
- ▶ Quasi-judicial body
 - ▶ Applicant and witnesses are sworn in.



Board of Adjustment

- ▶ Area Variance
- ▶ Use Variance
- ▶ Administrative Appeal
- ▶ Responsible for the interpretation of Chapter 230 Zoning.



Area Variance

- ▶ Area variance. A variance shall be considered an area variance if it relates to bulk standards, signage regulations, and other provisions of the zoning ordinance that address lot layout, buffers, and dimensions, In considering a request for an area variance, the board shall evaluate the following criteria and document them in their findings of fact:
 - ▶ The nature of the zone in which the property lies;
 - ▶ The character of the immediate vicinity and the contained uses therein;
 - ▶ Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect such neighboring properties and uses; and
 - ▶ Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to his efforts to make normal improvements in the character of that use of the property which is a permitted use under the provisions of the zoning ordinance.



Use Variance

- ▶ Use Variance. A variance shall be considered a use variance if it would permit a use of the subject property that would otherwise not be permitted on the subject property. In considering a request for a use variance, the board shall determine that the following criteria exist and document them in their findings of fact:
 - ▶ The property cannot yield a reasonable return when used only for the permitted use;
 - ▶ The need for the variance is due to unique circumstances and not general conditions in the neighborhood;
 - ▶ The use sought will not alter the essential character of the locality; and
 - ▶ All uses permitted on the land under the existing zoning are economically unfeasible.



Questions