

# City of Milford



## AGENDA

Council Meeting

Tuesday, May 29, 2012

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

### PUBLIC HEARINGS - 7:00 p.m.

Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II  
Preliminary Major Subdivision (Hickory Glen) &  
Conditional Use for a Planned Unit Residential Development  
1335 Milford-Harrington Highway, Milford, Delaware.  
Tax Map MD-16-173.00-01-21.00; Tax Map MD-16-173.00-01-22.00

Adoption of Ordinance 2012-06  
Conditional Use for a PUD/Eric Dunn of Dunn Development on behalf of Walter N. Thomas II

Adoption of Ordinance 2012-07  
Chapter 230--Zoning Code Amendment/Article VI--Signs

### COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Recognition

*Proclamation 2012-10/Honoring Teresa K. Hudson/MMC Designation*

Communications

Unfinished Business

*Adoption of Resolution 2012-05/Copying & Fees Related to FOIA Requests & Revised FOIA Request Form*

*Introduction of Ordinance 2012-10 /City of Milford Electric Tariff Amendment/Late Notice Discontinuance*

New Business

*City of Milford Interconnection Agreement*

*Facilities Study Agreement\*\**

*Feasibility Study Agreement\*\**

*System Impact Study Agreement\*\**

Executive Session

*Land Acquisition-Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on Site Acquisitions for Publicly*

*Funded Capital Improvements*

Executive Session Matters

Adjourn

### WORKSHOP

Call to Order - Mayor Joseph Ronnie Rogers

*Downtown Milford Directional Signs*

Adjourn

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

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

# City of Milford



## **PUBLIC NOTICE**

### **MILFORD CITY COUNCIL HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Tuesday, May 29, 2012 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware, to take final action upon the matter of:

Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II requesting a Preliminary Major Subdivision of 71.918 +/- acres into 128 lots containing 452 residential units (312 apartments, 128 townhomes and assisted living facility) and a Conditional Use for a Planned Unit Residential Development. Site is located in an R-8 District at 1335 Milford-Harrington Highway (southwest side of State Route 14), Milford, Delaware. Tax Map MD-16-173.00-01-21.00; Tax Map MD-16-173.00-01-22.00

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

Anyone with questions or comments should call Christine Crouch at 302-424-3712 Extension 308.

By: Terri Hudson, CMC



# Land Use Application Cover Sheet

File Name: Hickory Glen  
File Number: 11-175 RI

CITY OF MILFORD

FEB 29 2012

RECEIVED

### Instructions for Applicants:

Please read and follow all instructions on your application carefully. If you have any questions about the process or your project, it is strongly recommended that you speak with staff prior to submitting your application to help ensure that processing can advance in a timely manner. Every application must include this cover sheet, the application/checklist and all required items. No applications will be accepted if violations exist or if any fees owed the City are delinquent.

### Specify Type of Land Use Application to be submitted (check all that apply):

- Preliminary Site Plan
- Final Site Plan
- Change of Zone
- Preliminary Major Subdivision
- Final Major Subdivision
- Conditional Use
- Final Minor Subdivision
- Variance/Appeal

### Please Type or Print Legibly

<b>Property Owner:</b> Walter N. Thomas, II			Phone: 302-632-4463
Address: 1335 Milford-Harrington Highway			Cell:
City: Milford	State: DE	Zip: 19963	Fax:
E-Mail:			
<b>Contact Person For This Application:</b> Charlie Barnett of MRA			Phone: 302-326-2200
Address: 18 Boulden Circle, Suite 36			Cell:
City: New Castle	State: DE	Zip: 19720	Fax: 302-326-2399
E-Mail: cbarnett@mragta.com			
<b>Applicant Name and/or Company:</b> Eric Dunn of Dunn Development, LLC			Phone: 410-937-9799
Address: 160 Seneca Shore Road			Cell:
City: Perryville	State: MD	Zip: 21903	Fax: 410-287-2884
E-Mail: ericdunn@hughes.net			
1335 Milford-Harrington Highway, <b>Site Address:</b> Milford, DE 19963			Zoning: R-8
Tax Map & Parcel Number (s): 5-16-173.00-01-21.00 + 22.02			Acreage: 71.918
<b>Description of Proposal:</b> Residential subdivision with 312 apartments + 128 townhomes and an assisted living facility.			
I/We certify that the information provided in this application, including all submittals and attachments, is true and correct to the best of my/our knowledge.			
Signature of Applicant:		Date: 2/22/12	
Signature of Property Owner:		Date: 2-22-12	

REVISED: 05.03.11



# Subdivision Application

CITY OF MILFORD

File Name: Hickory Glen

FEB 29 2012

File Number: 11-175 R1

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Proposed Subdivision Name: HICKORY GLEN

I/We wish to subdivide our lot(s) as follows : 128 # of lots and 324 # of units; consisting of 0 # of commercial units and 452 # of residential units

**Pre Application Conference:**

Any property owner or developer seeking to subdivide land within the City of Milford is strongly encouraged to consult with staff prior to submitting an application in order to become familiar with the requirements of Milford City Code Chapter 200-Subdivisions and Chapter 230-Zoning. 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, not in conflict with any provision or portion of the development plan, Official Map, Chapter 230-Zoning, or Chapter 200-Subdivision, and not greater than four lots may not be required to file for a preliminary approval, if deemed acceptable by the City Planner.

A Land Use Application for a Subdivision is deemed complete when it is accompanied by the required items identified below. Please be advised that additional information may be required during the review process in order to respond to or resolve particular issues. No application shall be considered complete if any of the required information is missing. Once an application is deemed by Planning staff to be complete, the application will be scheduled for the required meetings.

**PRELIMINARY APPROVAL**

**REQUIRED ITEMS**

- 1. Land Use Application Cover Sheet.
- 2. A full legal description of the property, including the tax map and parcel number.
- 3. Thirty-eight folded copies of a preliminary subdivision plan (5 copies no smaller than 24" x 36" and 33 copies no larger than 11" x 17") showing:
  - A. Date, scale, north arrow and acreage of the entire site;
  - B. The name of the preliminary plat, subdivision, or dedication;
  - C. The name and address of the owner(s), developer, and any other parties of interest;
  - D. Boundary lines of the tracts to be subdivided, with the corresponding bearings and actual dimensions of the tract to be platted, subdivided or dedicated;
  - E. Calculation of units for each proposed building type, including commercial units (number of lots and number of units);
  - F. Calculation of open space requirements and parking requirements according to the Code of the City of Milford;
  - G. Location of existing structures, utilities, streets, easements, and natural features;
  - H. A layout of the proposed subdivision including proposed parcel/lot locations, lot square footage, buffering, open space, parking, street and alley layout;
  - I. Location of wetlands, delineated using the US Army Corps of Engineers Manual, latest edition;
  - J. Location of well head protection areas and recharge areas delineated per the State of Delaware.
  - K. A Master Plan and schedule if the property is intended to be developed in phases
- 4. A list of waivers being sought from the Code of the City of Milford and their corresponding code locations.
- 5. A CD with the all of the above information saved in .pdf format, except the legal description and list of waivers saved in Word format.
- 6. Application fee.

For Staff Use ONLY	
Verified	Waived
<i>CC</i>	
<i>CC</i>	
<i>CC</i>	
<i>CC</i>	
<i>CC</i>	







# Conditional Use Application

CITY OF MILFORD

File Name: Hickory Glen

MAR 01 2012  
Date Stamp

File Number: 11-175 RI

RECEIVED

Applicant is seeking a Conditional Use, per the Code of the City of Milford:

Chapter 230, titled Zoning, section 19.4, subsection C, which states:

Conditional uses subject to special regulations. The following uses ... may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with the provisions of Article IX of this chapter: (8) Planned unit residential development.

A Land Use Application for a Conditional Use is deemed complete when it is accompanied by the required items identified below. Please be advised that additional information may be required during the review process in order to respond to or resolve particular issues. No application shall be considered complete if any of the required information is missing.

### REQUIRED ITEMS

- 1. Land Use Application Cover Sheet.
- 2. A full legal description of the property, including the tax map and parcel number.
- 3. A written summary of the proposal, including the goals of the proposal, the section(s) of the City of Milford Code which require approval of the application, and the relationship of the arrangement of building and other structures, parking and landscaping to those goals and to development and use of adjoining properties.
- 4. A written description of the proposed use of the site, including hours of operation, number of employees, and any proposed storage or use of hazardous materials, if applicable.
- 5. A summary table of project statistics, including site area, building coverage, impervious surface, required and proposed parking, etc.
- 6. Thirty-eight folded copies of a site plan (5 copies no smaller than 24" x 36" and 33 copies no larger than 11" x 17") showing:
  - A. Date, scale and north arrow;
  - B. Existing and proposed right-of-ways and improvements;
  - C. Existing natural features;
  - D. Existing and proposed utilities;
  - E. Existing and proposed structures and other improvements;
  - F. The location of parking for the proposed use;
  - G. All structures, natural features and other improvements on abutting property.
- 7. A landscaping plan showing existing and proposed landscaping, fencing and buffering.
- 8. Application fee.

For Staff Use ONLY	
Verified	Waived
cc	
cc	
cc	

I/We certify that the information provided in this application, including all submittals are attachments, is true and correct to the best of my/our knowledge.

Signature of Applicant: \_\_\_\_\_

[Signature] Date: 3/1/12

Signature of Property Owner: \_\_\_\_\_

[Signature] Date: 3/1/12

### FOR STAFF USE ONLY

	DAC 03.21.12	Planning Commission 04.17.12	City Council 05.29.12	BOA n/a
Owner				
Contact				
Applicant				





**MORRIS & RITCHIE ASSOCIATES, INC.**

ENGINEERS, ARCHITECTS, PLANNERS, SURVEYORS,  
AND LANDSCAPE ARCHITECTS



Mr. Gary J. Norris, AICP  
City Planner  
City of Milford  
201 South Walnut Street  
Milford, DE 19963

Date: February 29, 2012

MAR 01 2012

RECEIVED

Subject: Hickory Glen Conditional Use

Dear Mr. Norris:

On behalf of the land owner Mr. Walter N. Thomas II, and the developer for the project, Mr. Eric Dunn of Dunn Development, LLC we would like to submit the Hickory Glen Preliminary Plan for Conditional Use Approval as a Planned Unit Residential Development. As you know, the existing zoning for this property is R-8, and Section 230-19.4-C of the City of Milford Zoning Code allows for Planned Unit Residential Development (PURD) as a conditional use in the R-8 zone in accordance with the provisions of Article IX: Conditional Uses.

More specifically, it is our intent to develop the site as a PURD by introducing the Assisted Living section of the site.

At this time the level of care provided at Hickory Glen is unknown; the facility could be strictly an assisted living facility with minimal rehabilitative and medical/nursing needs or could take the form of a more comprehensive care facility (nursing home). Currently, the plan as shown calls for a 57,460 square foot, three story building that would accommodate 114 beds. Because the project is at the very early preliminary stage of design, several items requested in the Conditional Use Application, such as the number of employees the facility will need, the hours of operation (or visitation) or what landscape features will be are unknown at this time. The immediate objective of the submitted application is to obtain approval of the "concept" of proposing an assisted living/nursing home facility; with the caveat that a more detailed final site plan which will be tailored to a specific user will be submitted to the City for final approval prior to applying for a building permit.

Therefore, we respectfully request that the City Council grant this conditional use with the understanding that these final details will be provided at the Final Site Plan stage.

Should you have any questions or comments regarding this issue, please feel free to our office at 302-326-2200.

Very Truly Yours,  
Morris & Ritchie Associates, Inc.

A handwritten signature in blue ink, appearing to read 'Phillip L. Tolliver', is written over the typed name.

Phillip L. Tolliver, P.E.  
Principal

C.c. Mr. Eric Dunn  
Mr. Walter N. Thomas II

18 Boulden Circle, Suite 36, New Castle, DE 19720 (302) 326-2200 Fax: (302) 326-2399

Abingdon, MD ♦ Annapolis Junction, MD ♦ Towson, MD ♦ New Castle, DE ♦ Georgetown, DE  
(410) 515-9000 (410) 792-9792 (410) 821-1690 (302) 326-2200 (302) 855-5734

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## § 230-19.4. - R-8 Garden Apartment and Townhouse District.

[Added 4-9-2007 by Ord. No. 2007-3]

In an R-8 District, no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

- A.** Purpose. The purpose of the R-8 District is to provide for the orderly development of existing and proposed medium- to high-density residential areas where adequate public facilities exist. The district will permit development of garden-type apartments as well as townhouses that will yield high densities in selected areas, multifamily dwellings and a variety of housing types.
- B.** Permitted uses. Permitted uses for the R-8 District shall be as follows:
- (1) All uses permitted in an R-1, R-2 and R-3 District, subject to its area regulations, unless otherwise indicated in this section as provided below:
    - (a) Single-family and two-family dwellings shall be subject to the following area regulations:
      - [1] Minimum lot area shall be 7,500 square feet.
      - [2] Maximum lot coverage shall be 45%.
      - [3] Minimum lot width shall be 60 feet.
      - [4] Height of buildings shall not exceed three stories or 35 feet.
      - [5] Minimum building setback line shall be 30 feet.
      - [6] Side yards shall be provided as follows: Each lot shall have at least two side yards eight feet in width, except semidetached structures, which shall have at least one side yard per lot eight feet in width.
      - [7] Minimum rear yard setback shall be 15 feet. For corner lots, the rear yard setback may be reduced 20% in depth to allow for skewing of a residential dwelling on the lot.
    - (2) Garden, low-rise apartments, and condominiums subject to site plan review and the following requirements:
      - (a) The number of dwelling units per acre shall not exceed eight.
      - (b) Lot coverage shall be a maximum of 20% for any lot developed for garden apartments, low-rise apartments and condominiums.
      - (c) Distance between groups of buildings shall be as follows:
        - [1] Each group of buildings shall be at least 25 feet from any other group of buildings.
        - [2] The distance between individual condominium buildings shall be a minimum of 16 feet.
      - (d) Minimum lot width on any public street shall be at least 50 feet.
      - (e) Minimum lot size shall be one acre for garden apartment properties or complexes, with a minimum of 2,500 square feet of lot area for each dwelling unit.
      - (f) A minimum of 40% of the total area developed for garden apartments shall be designated as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be public open space or dedicated open space, with appropriate conditions for maintenance and use.
    - (3) Townhouses or row dwellings, subject to site plan review and the following requirements:
      - (a) The number of dwelling units per group shall not exceed eight nor be fewer than three.
      - (b) The number of dwelling units per acre shall not exceed eight.
      - (c) Maximum lot coverage shall be 60%.
      - (d) No group of townhouses shall be closer than 60 feet as to facing walls and 30 feet as to end walls from any other group of such dwellings nor closer than 60 feet to any boundary line of a designated townhouse area of which the group is a part.
      - (e) There shall be within any contiguous group different architectural facades having varied designs and building materials. In addition, no more than three continuous townhouses shall have the same front setback, and the variations in front setback shall be at least four feet.
      - (f) The minimum width of any side yard abutting a street, driveway or parking area within the townhouse area shall not be less than 30 feet.
      - (g) Height of buildings shall not exceed three stories or 35 feet.
      - (h) Alleys in the rear of townhouse groups are required for access to units by owners and to facilitate City services, trash collection, meter reading and parking unless the Planning Commission and City Council approve an alternative design such as adjacent to a conservation easement, watercourse or other natural feature.
      - (i) Minimum lot size shall be one acre for townhouse projects or complexes, with a minimum of 2,000 square feet of lot area for each dwelling unit.
      - (j) A minimum of 40% of the total area developed for townhouses shall be designated as open space. The Mayor and Council shall have the option to require all or a portion of the open space to be public open space or dedicated open space, with appropriate conditions for maintenance and use.
- C.** Conditional uses subject to special regulations. The following uses and any conditional use allowed in R-1, R-2, and R-3 Districts may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with the provisions of Article IX of this chapter:
- (1) Rooming or boarding houses.
  - (2) Business offices for administrative purposes only.
  - (3) Professional offices (nonresident); minimum lot size one acre.

- (4) Medical clinics; minimum lot size one acre.
- (5) Sanatoriums or nursing homes; minimum lot size one acre.
- (6) Mobile home parks, subject to conformance with the following requirements and subject to site plan review:
  - (a) The total area to be developed as a mobile home park shall be at least 20 acres.
  - (b) The maximum density shall not exceed eight units per acre.
  - (c) Mobile home parks with more than 25 units shall provide at least 5,000 square feet or 400 square feet per lot of open space. At least 10% of the open space shall be developed as a recreational area.
  - (d) Landscape screening shall be required along all property lines. The screening shall be accomplished with an evergreen hedge, shrubs or trees. The screen shall be located not less than five feet from the property line.
  - (e) Common sidewalks four feet in width shall be required where pedestrian traffic is located. Individual sidewalks 2 1/2 feet wide shall connect each mobile home unit to the common walk.
  - (f) Off-street parking shall be provided on the basis of two spaces per lot. All parking areas shall be located not more than 400 feet from the mobile home unit. There shall be no on-street parking.
  - (g) Signs.
    - [1] An identification sign may be set up at the park entrance. This sign may be illuminated and shall have a street setback of 15 feet. It may have a maximum height of 20 feet and may not exceed 20 square feet of area on either side.
    - [2] Nonilluminated traffic direction signs may also be erected. These signs shall have a street and property setback of 15 feet. They shall be no more than four square feet in area or two feet in height.
  - (h) Streets shall be required from abutting public streets to individual lots. The streets shall be designed to minimize congestion and traffic hazards and must be built to the street and storm drainage specifications of [Chapter 200](#), Subdivision of Land, of this Code. No more than two streets shall intersect at one point.
  - (i) Minimum requirements for mobile home lots.
    - [1] Lot area shall be 5,000 square feet per mobile home.
    - [2] Width shall be 40 feet.
    - [3] Public street setback shall be 50 feet.
    - [4] Mobile home park setback shall be 35 feet.
    - [5] Mobile home street or parking area setback shall be 30 feet.
    - [6] Distance from other mobile homes and buildings shall be 25 feet.
    - [7] One patio shall be required per unit, 10 feet by 40 feet paved.
    - [8] Landscaping shall be one tree per lot.
    - [9] Mobile homes must meet the requirements of the Federal Manufactured Housing Construction and Safety Standard Act of 1974.
    - [10] The entire lot occupied by a mobile home park shall be maintained in single ownership throughout the entire life of the mobile home park.
- (7) Art or specialty shops/galleries. The following items shall be reviewed for conformance during the site plan review hearing by the Planning Commission:
  - (a) The residence shall remain as the predominant feature of the site.
  - (b) The shop or gallery shall occupy only 40% of the residence.
  - (c) Public parking shall be available, with the determination of said parking requirements being made by the Planning Commission during the site plan review hearing. These determinations and recommendations must be done in conjunction with any state regulations concerning traffic control within the given site area.
  - (d) The Fire Marshal review must be submitted with the final major subdivision application. All requests or recommendations shall be adhered to.
- (8) Planned unit residential development.

**D. District regulations.**

- (1) Allowable density shall be based upon the net developable land for any given parcel. Net developable land shall be equal to the gross acreage of the parcel minus nondevelopable acreage, including regulated state and federal wetland areas, the one-hundred-year floodplain as depicted on the most current FEMA panels and conservation easement areas.
- (2) If a conflict arises between these regulations and any other part of the City of Milford's Code, as amended or the City of Milford's Subdivision Ordinance,<sup>3</sup> [\[33\]](#) the more restrictive density requirement shall apply.
  - (a) Residential districts.
    - [1] In any R-1, R-2, R-3 and R-8 District, a landscape screen and/or fence or wall a minimum of six feet in height shall be planted and/or erected to separate any permitted nonresidential use from any existing residential use on a contiguous lot. Such landscape screen and/or fence or wall may extend into the lot setback, side yard and rear yard.
    - [2] In any R-3 or R-8 District, for any lot developed for garden apartments or townhouses, a landscape screen and/or fence or wall a minimum of six feet in height shall be planted or erected to separate any contiguous lot developed as a single-family detached or semidetached residential dwelling on any contiguous lot zoned R-1 or R-2. Such landscape screen and/or fence or wall may extend into the lot setback, side yard and rear yard.
  - (b) Commercial districts. In any C-1, C-2 or C-3 District, a fifteen-foot buffer area shall be provided within which a landscape screen and/or fence or wall a minimum of six feet in height shall be planted or erected to separate any

permitted use from any contiguous lot zoned R-1, R-2, R-3 and R-8 or any contiguous lot developed or approved for development for any residential use. Such landscape screen may extend into the lot setback, side yard or rear yard.

- (c) Institutional, Industrial and Office Building/Complex Districts: H-1, I-1, I-1, OB-1 and OC-1.
- [1]** Each use established in these districts shall set aside at least 20 feet in width immediately adjacent to any street upon which the lot has frontage, and extending for the full frontage of the lot, for purposes of providing for proper site distance and buffering from the public road. Within such area, the owner shall establish and maintain a planting of grass and/or horticultural ground cover. Other landscape materials may be incorporated, provided that there is no obstruction to vision, other than a tree trunk, in the area between two feet and seven feet above ground level. No use shall be made of this buffer area other than for a single driveway to provide access to the use for each 100 feet of frontage upon a public road. Such driveway shall not exceed 32 feet in width.
- [2]** Parking areas may be located in any hard area but shall not be closer than 15 feet to any street line or property line.
- (d) Limited Industrial District. At the boundary line between an I-1 District and any R-1, R-2, R-3 or R-8 District or any lot developed or approved for development for residential use, there shall be a 50-foot buffer area which shall include a landscape screen and/or fence or wall a minimum of six feet in height. Such landscape screen may extend into the lot setback, side yard or rear yard.

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

## Chapter 200 - SUBDIVISION OF LAND

[HISTORY: Adopted by the City Council of the City of Milford 11-10-2008 by Ord. No. 2008-12.<sup>1</sup> <sup>(28)</sup> Amendments noted where applicable.]

### GENERAL REFERENCES

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

§ 200-1. - Purpose.

§ 200-2. - Title.

§ 200-3. - Definitions.

§ 200-4. - Application procedure.

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

§ 200-6. - Variances and waivers.

### § 200-1. - Purpose.

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

### § 200-2. - Title.

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

### § 200-3. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. Preliminary approval.
  - (1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in [§ 230-57](#).
  - (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.
  - (3) The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.
  - (4) City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.
  - (5) Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.
- B. Final approval.
  - (1)

A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in [§ 230-57](#)

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

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

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

##### **A. Streets.**

- (1) The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:
  - (a) Public convenience and safety.
  - (b) Proposed uses of the land to be served by said streets.
  - (c) Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.
  - (d) Topography and other land features.
- (2) The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.
- (3) Minor streets shall be laid out so as to discourage their use by through traffic.
- (4) Where a subdivision abuts or contains an existing or proposed arterial street, limited-access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with due regard for the requirements of future approach grades and grade separations.
- (5) Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements of this chapter.
- (6) Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.
- (7) Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.
- (8) The creation of dead-end or loop streets and superblocs will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.
- (9) Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have center-line offsets of 150 feet or more.
- (10)

A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

- (11) Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.
- (12) Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.
- (13) Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.
- (14) Right-of-way widths.
  - (a) Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

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

Note:

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

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

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

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

**B. Sidewalks and curbs.**

- (1) Sidewalks shall be required in all subdivisions on both sides of the street. Sidewalks shall have the following widths:
  - (a) In residential subdivisions: four feet unless otherwise specified.
  - (b) In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.
- (2) Curbs or drainage swales conveying stormwater shall be required in all subdivisions.
- (3)

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

- C.** Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.
- D.** Blocks.
- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
    - (a) The provision of building sites suitable to the needs of the type of use contemplated.
    - (b) Zoning requirements as to lot sizes and dimensions.
    - (c) The control, safety and convenience of pedestrian and vehicular traffic.
    - (d) The characteristics of topography.
  - (2) Block length shall not exceed 1,200 feet.
  - (3) Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.
  - (4) Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.
  - (5) Alleys shall be provided if required by the City Engineer.
- E.** Lots.
- (1) Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.
  - (2) Lot sizes shall conform to the requirements of [Chapter 230](#), Zoning.
  - (3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in [Chapter 230](#), Zoning.
  - (4) Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.
  - (5) All lots in a subdivision shall have frontage on a public street.
  - (6) Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.
  - (7) Side lot lines shall be at right angles or radial to street lines.
  - (8) No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of flood hazard may result. Such land should be set aside for uses which would not be endangered by periodic or occasional inundations.
  - (9) No lots shall be platted within 25 feet of land under the jurisdiction of the U.S. Army Corps of Engineers.
- F.** Parks, playgrounds, open spaces, school sites and natural features.
- (1) Parks and playgrounds. Where a proposed park or playground is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, in those cases in which the Commission deems such requirements to be reasonable.
  - (2) Open spaces. Where deemed essential by the Commission and City Planner, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale developments, the Commission or City Planner may require the dedication or reservation of sites of a character, extent and location suitable to the needs created by such development for playgrounds or parks. The Commission shall not require that more than 10% of the gross area of the open space of the subdivision to be so dedicated or reserved unless otherwise specified by the Zoning Code.<sup>2</sup> [\[29\]](#) 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.
- G.** General grading. No final slope on the property shall exceed the normal angle of repose of the soil of said slope as determined by the City Engineer, except where said slope consists of a natural rock formation or is supported by a retaining wall or equivalent of a design acceptable to the City Engineer.

**H. Improvements.**

- (1) In major subdivisions the following improvements are required:
- (a) Paved streets.
  - (b) Street signs.
  - (c) Curbs and gutters, or roadside swales. Curbs shall be required as per standard specifications to stabilize intersections, entrances, and parking areas, and where they are necessary for the conveyance of stormwater and protecting road surfaces and driveway surfaces from vehicular traffic.
  - (d) Sidewalks.
  - (e) Streetlighting.
  - (f) Shade trees. Shade trees 150 feet on center each side of the road shall be located so as not to interfere with utilities or sidewalks and shall be of the types recommended by the City Arborist.
  - (g) Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.
  - (h) Monuments. Monuments shall be of the type, size and shape required by the City Engineer.
  - (i) Water mains, culverts, storm sewers and sanitary sewers.
    - [1] All water installations shall be looped; all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.
    - [2] All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.
    - [3] Utility easements shall be required to be granted and recorded by the subdivider to allow extension of utilities to neighboring properties.
  - (j) Swales. Conveyance of stormwater is permitted by open drainage systems where appropriate for environmental and engineering integrity and design. Such systems shall be separated from the edge of road to the top of bank by a minimum five-foot shoulder. The depth of such systems shall not exceed two feet below crown of road. The side slope shall be a maximum of 4:1. The bottom of the system shall have a minimum width of two feet. The system slope shall be such that the maximum velocity does not exceed two feet per second. The system has to be designed in such a way as to incorporate driveway and crossroad drainage pipes; such systems shall be restored with topsoil and sod. Temporary check dams shall be placed in intervals not to exceed 300 feet.
  - (k) Headwalls. Storm drainage pipes which are part of an open swale drainage system shall be terminated with a headwall in accordance with standard specifications.
- (2) The developer shall complete all utilities and street improvements not specifically waived by the Commission in accordance with standard specifications as issued by the City Engineer and with any additional requirements specified by the Commission. Construction drawings shall be submitted in a form satisfactory to the City Engineer.
- (3) When the Commission or the City Engineer, due to planning considerations extraneous to the subdivision, requires a standard of improvements higher than that which is sufficient to serve the subdivision, the amount of the bond to be posted shall be deemed to be satisfactory if it adequately covers the cost of improvements which would be normally required.
- (4) The developer shall pay the review and inspection fees as set forth in [Chapter 230, Zoning, § 230-57](#), Planning and zoning fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.

**§ 200-6. - Variances and waivers.**

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

**FOOTNOTE(S):**

<sup>(28)</sup> 1. Editor's Note: This ordinance also repealed former Ch. 200, Subdivision of Land, adopted 12-10-2001 by Ord. No. 2001-8, as amended.

[\(Back\)](#)

<sup>(29)</sup> 2. Editor's Note: See Ch. 230, Zoning. [\(Back\)](#)

## ARTICLE IX - Conditional Uses

§ 230-46. - Purpose.

§ 230-47. - Application and approval procedures.

§ 230-48. - Criteria for evaluation.

§ 230-48.1. - Criteria for planned unit residential development.

§ 230-49. - Conditions for approval: expiration.

### § 230-46. - Purpose.

- A. The intent of the conditional use is to maintain a measure of control over uses that have an impact on the entire community. Generally, conditional uses may be desirable in certain locations for the general convenience and welfare. They must use the property in a manner that assures neither an adverse impact upon adjoining properties nor the creation of a public nuisance. In short, because of the nature of the use, it requires sound planning judgment on its location and site arrangement.
- B. Conditional use permits may be issued for any of the conditional uses for which a use permit is required by the provisions of this chapter, provided that the City Council shall find that the application is in accordance with the provisions of this chapter after duly advertised hearings held in accordance with the provisions of Article XII.

### § 230-47. - Application and approval procedures.

- A. The application for a conditional use shall first be made with the Code Official, who shall then forward the materials to the Planning Commission.
- B. The Planning Commission shall study such information and make recommendations to the City Council within 60 days of the Code Official's referral to the Commission after holding a public hearing.
- C. The Council shall then act within 60 days of the receipt of the Commission's recommendation to either approve with conditions or deny such use after holding a public hearing. The Council's decision shall be based on the determination that the location of the use is appropriate, it is not in conflict with the Comprehensive Plan and it is consistent with the purpose and intent of this chapter.

### § 230-48. - Criteria for evaluation.

The following criteria shall be used as a guide in evaluating a proposed conditional use:

- A. The presence of adjoining similar uses.
- B. An adjoining district in which the use is permitted.
- C. There is a need for the use in the area proposed as established by the Comprehensive Plan.
- D. There is sufficient area to screen the conditional use from adjacent different uses.
- E. The use will not detract from permitted uses in the district.
- F. Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.

### § 230-48.1. - Criteria for planned unit residential development.

*[Added 6-11-2001 by Ord. No. 4-2001; amended 10-25-2004 by Ord. No. 2004-9]*

- A. Permitted uses. Uses, accessory uses and signs permitted in any residential district shall be permitted in accordance with the additional requirement and provisions of the article.
- B. Minimum requirements, area and width. In a planned unit residential development, minimum lot area and width may be less than that required by the district regulations, except that no single-family lot shall be less than 4,000 square feet in area nor less than 40 feet in width. The width of the lot shall be between lot lines at the front building setback line as determined by the Planning Commission.
- C. Density. A planned unit residential development is not intended to increase density, but to allow flexibility in the design of the number of dwelling units permitted. If a parcel or parcels have more than one zoning classification, the total permitted density may be located throughout the parcel or parcels. The total permitted density shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the zoning district in which the land is located. Net development area shall be determined by subtracting 25% of the gross area. Gross area shall not include any wetlands, floodway or similar area not suitable for building as determined by the Planning Commission.
- D.

Other requirements. Off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission. Maximum height shall not exceed 48 feet and four stories maximum.

- E. A planned unit residential development shall be subject to the same review procedures as for a major subdivision as provided in Chapter 200, Subdivision of Land.

[Added 5-22-2006 by Ord. No. 2006-2]

- F. Neighborhood commercial.

[Added 11-27-2006 by Ord. No. 2006-15]

- (1) Permitted neighborhood commercial uses. The following neighborhood commercial uses are permitted in a planned unit development:
  - (a) Retail goods and services.
  - (b) Child-care center (care for fewer than 24 children).
  - (c) Food services (grocery/convenience: cafe, coffee shop, but no facility with fuel distribution).
  - (d) Medical and dental offices, clinics, and laboratories.
  - (e) Professional and administrative offices.
  - (f) Repair services, conducted entirely within the building. (Auto repair and similar uses are not permitted.)
  - (g) Mixed use building (residential, including rentals, with other permitted use).
  - (h) Laundromats or dry cleaners.
  - (i) Art, music, or photography studio.
  - (j) Personnel service (barbershop, salons, video rental, fitness center and similar uses).
  - (k) Allowable uses (e.g., swimming pools, clubhouse and associated sport and exercise areas, tennis courts).
- (2) Floor area standards. Up to 25% of the total acreage within the planned unit development may be available for nonresidential uses including neighborhood commercial, nursing home and hospice care, professional and small business office use, similar uses, but excluding areas reserved for clubhouse, pool, HOA offices and other development amenities. For neighborhood commercial, the maximum interior floor area shall not exceed 6,500 square feet total for any one use on one neighborhood commercial site without a variance.
- (3) Hours of operation. Except for the swimming pool, clubhouse and associated sport or exercise areas, neighborhood commercial land uses shall be limited to the following hours of operation 6:00 a.m. to 9:00 p.m.
- (4) Storage. Except for plants and garden supplies, overnight storage is not permitted.
- (5) Parking. Parking spaces for the commercial space shall be determined in accordance with the overall planned unit development submission but in no event shall be less than 50% of the spaces required for standard commercial space.
- (6) Control. Ownership of the land and buildings comprising the commercial space may be by individuals, corporations or partnership either in fee simple or as a condominium with limited common area control and shall be subject to the rules and regulations contained in the commercial area tenants association and covenants and restrictions. All commercial tenants shall pay dues and assessments to said association for management and upkeep of the common areas.
- (7) Density. The overall density otherwise permitted under planned unit development shall be reduced at the rate of one dwelling unit per 3,000 square feet of commercial floor space.

- G. A minimum of 400 square feet per unit shall be designated as open space subject to the recreational use. Recreational use requirement - 50% of the required open space shall be set aside for recreational use.

[Ord. No. 2009-17, § 5, 4-26-2010]

### **§ 230-49. - Conditions for approval; expiration.**

- A. In granting any conditional use permit, the City Council may designate such conditions as will, in its opinion, assure that the use will conform to the requirements as stated in § 230-48 and that such use will continue to do so.
- B. Construction or operation shall be commenced within one year of the date of issuance or the use permit becomes void.
- C. A reapplication for a use permit for the same lot or use shall not be considered by the City Council within a period of 365 days from its last consideration. This provision, however, shall not impair the right of the Council to propose a use permit on its own motion.
- D. See fee schedule.

[Amended 5-11-1998 by Ord. No. 4-1998]

- E. If a conditional use permit is granted under the provisions of this article, the City Council shall direct the Code Official to officially notify the applicant, in writing, of all conditions approved by the Council.
- F. The approval of a conditional use is valid for one year. Unless permits are obtained or construction or use is substantially underway, all provisions of the conditional use are automatically rescinded. Permits may be revoked by the Council for failure to comply with the stated conditions of approval or applicable regulations.

## ARTICLE X - Site Plan Review

[§ 230-50. - Purpose.](#)

[§ 230-51. - Guidelines.](#)

[§ 230-52. - Review procedure.](#)

[§ 230-52.1. - Site plan expiration.](#)

### § 230-50. - Purpose.

*[Amended 9-8-2008 by Ord. No. 2008-13]*

The site plan review has a twofold purpose. It is to assure that the large-scale developments are in accord with the Comprehensive Plan and that such developments comply with the regulations of this chapter. Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the City's adopted building and design standards, the Comprehensive Plan, and the City's Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design; to provide an understanding of the impacts of proposed development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this chapter.

### § 230-51. - Guidelines.

Guidelines for determining what site plans shall be reviewed by the Planning Commission shall be as follows:

- A. Automatic determination of review. Certain types of developments, due to the nature of their impact on the entire community, shall automatically have their site plans reviewed by the Planning Commission, including the following:
  - (1) Residential:
    - (a) Townhouses.
    - (b) Garden apartments.
    - (c) Planned unit developments.
    - (d) Mobile home parks.
  - (2) Commercial: shopping centers.
  - (3) Institutional: hospitals.
  - (4) Industrial: all industrial developments.
- B. Discretionary determination of a review. The Code Official shall have discretion in determining what proposed developments other than those enumerated above shall have their site plans reviewed by the Planning Commission. When making such a decision, the Code Official shall consider but not be limited to the following factors:
  - (1) If the traffic flow will be greatly altered. Flow includes:
    - (a) Pattern.
    - (b) Volume.
    - (c) Hazard involved.
    - (d) Time involved.
  - (2) If parking on a large scale is required.
  - (3) If public utilities or works must be expanded to accommodate the development.
  - (4) If there is a change in the existing land use pattern.
  - (5) If there are incompatible uses within the proposed development or in relation to the abutting districts.
  - (6) If there may be difficulty in meeting existing performance standards.

### § 230-52. - Review procedure.

*[Amended 9-8-2008 by Ord. No. 2008-13]*

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

- (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.
  - (4) Preliminary approval from the Planning Commission shall be void after one year, unless an extension is requested by the owner and approved for good cause by the Planning Commission prior to the expiration.
- B.** Final approval.
- (1) A final plat 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 City Planner, along with the appropriate fees, as specified in [§ 230-57](#)
  - (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. 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 consistent with the preliminary plan, if applicable, and in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.
  - (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.
  - (4) Within 90 days of final approval from Planning Commission, the applicant 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. Three sets will be returned to the applicant.
  - (5) Upon recordation of the plat, the applicant shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.
  - (6) Failure to record the plat within 90 days of Planning Commission approval will result in the approval being voided.
- C.** The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this chapter and to those proposed developments that require a site plan review as determined by the City Planner. No other site plans shall be considered by the Planning Commission for review.
- D.** Prior to the Planning Commission holding a public hearing to review the application for the site plan, the City Engineer shall provide a copy of the signed subdivision agreement to the City Planner.

### **§ 230-52.1. - Site plan expiration.**

*[Added 9-8-2008 by Ord. No. 2008-13]*

If construction of approved buildings and improvements is not substantially undertaken within one year of final site plan approval, the site plan approval shall be void. The applicant may, however, request and the Planning Commission may grant a one-year extension for good cause.

**CITY OF MILFORD  
PLANNING COMMISSION**

**RESOLUTION NO. PC12-007**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD,  
DELAWARE FOR  
THE APPROVAL OF A PRELIMINARY SITE PLAN FOR  
WALTER N. THOMAS, II  
AT 1335 MILFORD-HARRINGTON HWY  
FOR A 114 BED ASSISTED LIVING FACILITY  
IN A SUBDIVISION TO BE KNOWN AS  
HICKORY GLEN  
IN AN R-8 ZONING DISTRICT  
TAX MAP MD-16-173.00-01-21.00; -22.02**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 17, 2012; and,

WHEREAS, by a vote of \_\_\_\_\_ to approve the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has approved the application with the following conditions:

1.

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

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

**CITY OF MILFORD  
PLANNING COMMISSION**

**RESOLUTION NO. PC12-006**

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

**THE APPROVAL OF A PRELIMINARY MAJOR SUBDIVISION AND  
A CONDITIONAL USE FOR  
WALTER N. THOMAS, II  
AT 1335 MILFORD-HARRINGTON HWY  
FOR A 128 LOT / 452 UNIT SUBDIVISION AND  
A PLANNED UNIT SUBDIVISION  
TO BE KNOWN AS  
HICKORY GLEN  
IN AN R-8 ZONING DISTRICT  
TAX MAP MD-16-173.00-01-21.00; -22.02**

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

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

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 17, 2012; and,

WHEREAS, by a vote of        recommended approval of the application.

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

1.

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

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

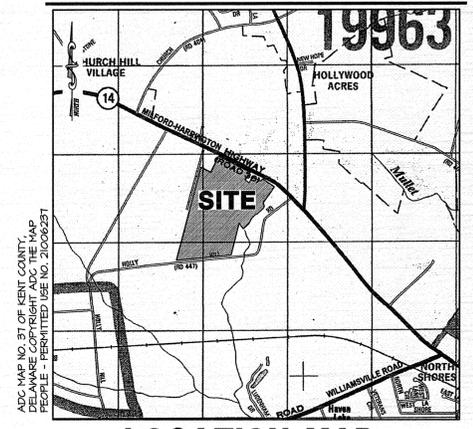
**GENERAL NOTES**

- NO CERTIFICATES OF OCCUPANCY WILL BE ISSUED FOR ANY LOT UNTIL ALL STREET SIGNS ARE IN PLACE FOR THE STREETS LEADING FROM THE ENTRANCE TO THE DEVELOPMENT TO THE LOT FOR WHICH THE PERMIT IS TO BE ISSUED.
- ALL LOTS WITHIN THIS DEVELOPMENT SHALL HAVE ACCESS FROM INTERNAL SUBDIVISION STREETS ONLY. DIRECT ACCESS TO COUNTY ROADS FROM INDIVIDUAL LOTS IS PROHIBITED.
- A HOMEOWNERS ASSOCIATION SHALL BE ESTABLISHED FOR, BUT NOT LIMITED TO, ALL FUTURE MAINTENANCE AND REPAIRS OF ALL STORMWATER MANAGEMENT FACILITIES, SUBDIVISION ENTRANCE SIGNS, AND ALL OPEN SPACE AREAS.
- ALL PUBLIC UTILITIES NOT LOCATED WITHIN COUNTY ROAD RIGHT-OF-WAY SHALL BE CONTAINED WITHIN A PUBLIC DRAINAGE AND UTILITY EASEMENT.
- ALL OPEN SPACES AND STORMWATER MANAGEMENT FACILITIES SHALL BE MAINTAINED BY A HOMEOWNERS ASSOCIATION (H.O.A.) WITH THE RESPONSIBILITY OF MAINTENANCE FOR THE H.O.A. TO BEGIN AT THE COMPLETION OF THE PROJECT.
- THE OWNER/DEVELOPER UNDERSTANDS THAT THE TRACT DEPICTED HEREON MAY BE IMPACTED BY WETLANDS REGULATED BY THE ARMY CORPS OF ENGINEERS AND IS ADVISED TO CONTACT THE ARMY CORPS OF ENGINEERS FOR INFORMATION AND GUIDANCE IN REGARD TO JURISDICTIONAL DETERMINATIONS AND FEDERAL PERMITS PRIOR TO THE START OF CONSTRUCTION.
- THE KENT CONSERVATION DISTRICT RESERVES THE RIGHT TO ADD, MODIFY OR DELETE ANY EROSION AND SEDIMENT CONTROL MEASURES AS IT DEEMS NECESSARY.
- THE KENT CONSERVATION DISTRICT RESERVES THE RIGHT TO ENTER PRIVATE PROPERTY FOR PURPOSES OF PERIODIC SITE INSPECTION.
- ALL APARTMENT BUILDINGS SHALL HAVE SPRINKLER SYSTEMS AND SHALL MEET FIRE LANE MARKING REQUIREMENTS.
- ALL FIRE LANES, FIRE HYDRANTS, EXITS, STANDPIPES, AND SPRINKLER SHALL BE MARKED IN ACCORDANCE WITH THE STATE FIRE PREVENTION REGULATIONS, DATED JANUARY 15, 1993 AND LAST REVISED JULY 1, 1997.
- ALL SUBDIVISION STREETS AND ENTRANCES SHALL BE ACCESSIBLE TO FIRE APPARATUS. ALL STRUCTURES SHALL PROVIDE ACCESS TO FIRE APPARATUS WITHIN 100 FEET OF THE FRONT DOOR.
- PRIOR TO FINAL PLAN APPROVAL AND RECORDATION, ALL DELAWARE FIRE MARSHAL REQUIREMENTS SHALL BE MET.
- ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL CONFORM TO THE DELAWARE EROSION AND SEDIMENT CONTROL HANDBOOK, DATED 1984.
- ALL ROADWAYS SHALL BE CONSTRUCTED TO CITY OF MILFORD AND STATE OF DELAWARE, DEPARTMENT OF TRANSPORTATION STANDARDS AND SPECIFICATIONS AND SHALL BE DEDICATED TO PUBLIC USE.
- AS PART OF THIS PRELIMINARY PLAN, A WAIVER FROM SECTION 230-19.4.B(3)(H) REFERING TO ALLEYS IN THE REAR OF TOWNHOME UNITS WILL BE REQUESTED.
- ALL ELECTRICAL, TELEPHONE, TV CABLE, COMMUNICATIONS, ETC. LINES AND CABLES SHALL BE PLACED UNDERGROUND.
- DECLARANT HEREBY GRANTS TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF SOIL AND WATER CONSERVATION SEDIMENT AND STORMWATER PROGRAM OR ITS DELEGATED AGENCY, THE RIGHT, PRIVILEGE, AND AUTHORITY TO ENTER UPON SAID PREMISES AND INSPECT STORMWATER MANAGEMENT AREAS WITHIN STORMWATER MANAGEMENT EASEMENTS. IN EVENT THAT THE DELEGATED AGENCY DETERMINES THAT MAINTENANCE IS REQUIRED WITHIN SAID STORMWATER MANAGEMENT AREAS, ALL EXPENSES SHALL BE THE RESPONSIBILITY OF THE MAINTENANCE CORPORATION.
- MAINTENANCE OF ALL STORMWATER FACILITIES ON SITE INCLUDING BUT NOT LIMITED TO STORMWATER PONDS, BIO-FILTRATION AREAS AND ROCK OUTLET PROTECTION, SHALL BE THE RESPONSIBILITY OF THE DEVELOPER UNTIL SUCH TIME AS ALL MAINTENANCE IS TURNED OVER TO THE HOMEOWNERS ASSOCIATION FOR LONG TERM MAINTENANCE.
- ALL ENTRANCES SHALL CONFORM TO THE STATE OF DELAWARE DEPARTMENT OF TRANSPORTATION STANDARDS AND SPECIFICATIONS AND WILL BE SUBJECT TO ITS APPROVAL.
- SUBDIVISION SIGNS WILL NOT BE PERMITTED WITHIN THE DEDICATED RIGHTS-OF-WAY.
- 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.
- A LANDSCAPE PLAN SHALL BE APPROVED BY THE CITY PLANNER PRIOR TO THE FINAL PLAN APPROVAL. SAID LANDSCAPE PLAN SHALL CONFORM WITH SECTION 200-5 (H)(1)(e) & (f) OF THE MILFORD CODE.
- A COMBINATION OF EARTHEN BERMS AND LANDSCAPE PLANTINGS WILL BE USED ALONG HOLLY HILL ROAD TO REDUCE NOISE FROM THE BALTIMORE AIRCOIL FACILITY.
- PRIOR TO RECORD PLAT APPROVAL, A COPY OF THE HOA DOCUMENTS WILL BE SUBMITTED TO THE CITY OF MILFORD.
- THE PURPOSE OF THE BOARDWALKS SHOWN ON THIS PLAN ARE TO ALLOW RESIDENTIAL ACCESS FROM APARTMENT BUILDINGS 8-16 TO THE CLUBHOUSE AREA. NO TREE CLEARING OR EARTHEN FILL SHALL TAKE PLACE AS A RESULT OF BOARDWALK CONSTRUCTION.
- THE PURPOSE OF THE MAINTENANCE BUILDING SHOWN WITHIN THE APARTMENT SECTION WILL BE TO STORE TOOLS AND MATERIALS NECESSARY IN THE CONTINUAL MAINTENANCE AND UPKEEP OF THE APARTMENT UNITS AND WILL BE USED BY THE HOA-EMPLOYED MAINTENANCE COMPANY.
- ALL OPEN SPACE WITHIN THE SUBDIVISION IS WITHIN AN ACCESS AND MAINTENANCE EASEMENT FOR THE RESIDENTS OF THE SUBDIVISION AND CAN THEREFORE BE USED FOR RECREATIONAL ACCESS AS WELL AS MAINTENANCE ACCESS (MOWING, ETC.)

# HICKORY GLEN PRELIMINARY PLAN

**INDEX OF DRAWINGS**

SHEET 1	TITLE SHEET
SHEET 2	SITE PLAN
SHEET 3	EXISTING CONDITIONS PLAN



**LOCATION MAP**

SCALE: 1" = 2,000'

**SITE DATA**

TAX MAP PARCELS: 5-16-1T3.00-01-21.00  
5-16-1T3.00-01-22.02  
D-2521-141  
OWNER: WALTER N. THOMAS, II  
1335 MILFORD-HARRINGTON HIGHWAY  
MILFORD, DE 19463  
MILFORD, DE 19463  
DEVELOPER/APPLICANT: DUNN DEVELOPMENT, LLC  
160 SENECA SHORE ROAD  
PERRYVILLE, MD 21903  
ATTN: MR. ERIC DUNN  
R-8 (CITY OF MILFORD)  
R-8 (CITY OF MILFORD)  
RESIDENTIAL  
TOTAL SITE AREA: 71.91± AC (SURVEY)  
554 UNITS  
452 UNITS TOTAL  
13 APARTMENT BUILDINGS, 24 UNITS PER BUILDING = 312 UNITS  
21 TOWNHOME GROUPS (4-8 UNITS PER GROUP) = 128 TOWNHOMES  
114 BED ASSISTED LIVING FACILITY = 12 UNITS \*\*

EXISTING ZONING: R-8  
PROPOSED ZONING: R-8  
PROPOSED USE: RESIDENTIAL  
TOTAL SITE AREA: 71.91± AC (SURVEY)  
ALLOWABLE DENSITY: \* 554 UNITS  
PROPOSED DENSITY: 452 UNITS TOTAL

AREA CALCULATIONS:  
W/IN PROPOSED STREETS R.O.W. 7.32 ± AC  
W/IN EXISTING WOODLAND 4.29 ± AC  
W/IN WOODLAND PRESERVATION 3.80 ± AC  
W/IN WETLANDS 2.64 ± AC  
W/IN ZONE 3 SW PROTECTION AREA 14.69 ± AC  
RECREATIONAL OPEN SPACE REQUIRED: 400 SF/DU = 4.04 ± AC  
RECREATIONAL OPEN SPACE PROPOSED: 5.21 ± AC  
TOTAL OPEN SPACE REQUIRED: 40% OF 64.60 ACRES = 25.84 ± AC  
TOTAL OPEN SPACE PROVIDED: 41.41 ± AC (EXCLUDING PARKING AREAS)  
AREA OF APARTMENT SECTION: 31.40 ± AC  
AREA OF TOWNHOME SECTION: 28.96 ± AC  
AREA OF TOWNHOUSE LOTS 10.08 ± AC  
MINIMUM T.H. LOT SIZE: 2,260 SF  
AVERAGE T.H. LOT SIZE: 3,431 SF  
MAXIMUM LOT COVERAGE: 60%  
MAX. IMPERVIOUS W/IN ZONE 3 SWPA: 35% ALLOWED, 34% PROPOSED

PARKING SPACES (2.5 SPACES PER UNIT):	APARTMENTS	REQUIRED: 180	PROPOSED: 191
	TOWNHOMES	REQUIRED: 320	PROPOSED: 328

BUILDING SETBACKS:

FRONT YARD (ESMT/STREET)	TOWNHOMES: 10'/40'	APARTMENTS: N/A / 35' PROVIDED
SIDE YARD	30'	N/A
REAR YARD	20'	N/A
BETWEEN UNITS (FACE/SIDE)	60'/30'	N/A / 50' PROVIDED
PROPERTY BOUNDARY	N/A	N/A / 35' PROVIDED

WATER: CITY OF MILFORD PUBLIC WATER  
SEWER: CITY OF MILFORD PUBLIC SEWER  
TOPOGRAPHIC REFERENCE: HORIZONTAL - DELAWARE COORDINATE SYSTEM NAD 83/86  
VERTICAL - NAVD 88  
FLOODPLAIN REFERENCE: FEMA MAP #100010362H, EFFECTIVE MAY 23, 2003  
WETLAND REFERENCE: DELINEATED BY GEO-TECHNOLOGY ASSOC., INC. ON JUNE 3, 2010  
BUILDING HEIGHTS: 3 STORIES

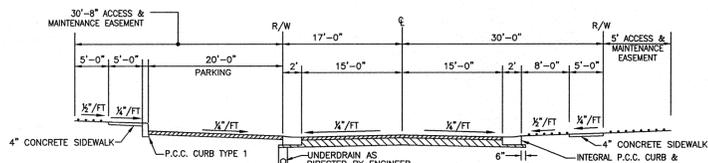


**VICINITY SKETCH**

1" = 800'

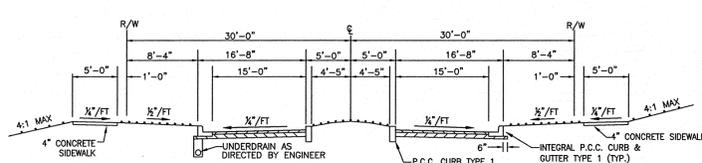
* DENSITY CALCULATIONS	
<b>R-8 ZONE</b>	8.0 UNITS/ACRE 71.91± AC - 2.64 AC (WETLANDS) = 69.34 AC. <b>TOTAL ALLOWABLE BY R-8 ZONE = 554 UNITS</b>
<b>PLANNED UNIT RESIDENTIAL DEV.</b>	NET DEVELOPMENT AREA DIVIDED BY MINIMUM LOT SIZE TOWNHOMES TOTAL AREA: 33.64 AC. GROSS AREA: 33.21 AC. (0.43 AC. WETLANDS) NET DEVELOPMENT AREA: 24.91 AC. (25% GROSS) TOTAL UNITS ALLOWED = 542 UNITS (AT 2,000 SF MIN)
	APARTMENTS TOTAL AREA: 34.03 AC. GROSS AREA: 31.82 AC. (2.21 AC. WETLANDS) NET DEVELOPMENT AREA: 23.86 AC. (25% GROSS) TOTAL UNITS ALLOWED = 415 UNITS (AT 2,500 SF MIN)
	<b>TOTAL ALLOWABLE BY PLANNED UNIT RESIDENTIAL DEV. = 957 UNITS</b>
	NOTE: IN ACCORDANCE WITH SECTION 230-48.1-C OF THE CITY OF MILFORD ZONING CODE, A PLANNED UNIT RESIDENTIAL DEVELOPMENT IS NOT INTENDED TO INCREASE DENSITY. THEREFORE, THE MAXIMUM PERMITTED DENSITY OF 554 UNITS CALCULATED ABOVE SHOULD APPLY.

** ASSISTED LIVING DWELLING UNIT CALCULATION	
APARTMENTS & TOWNHOMES REQUIRE 2.5 PARKING SPACES PER DWELLING UNIT ASSISTED LIVING USE REQUIRES 1 PARKING SPACE PER 4 BEDS IF 2.5 PARKING SPACES (P.S.) = 1 DWELLING UNIT (D.U.), THEN 1 P.S. = 0.4 D.U. AND IF 4 BEDS = 1 P.S., THEN 4 BEDS = 0.4 D.U. AND 1 BED = 0.1 D.U. THEREFORE, 114 BEDS = 11.4 OR 12 DWELLING UNITS	



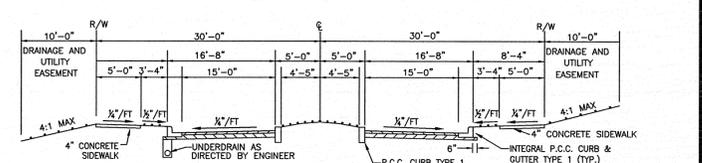
**VARIABLE WIDTH R/W STREET SECTION  
WITH & W/O PERPENDICULAR PARKING**

NOT TO SCALE



**TYPICAL APARTMENT BOULEVARD  
STREET SECTION**

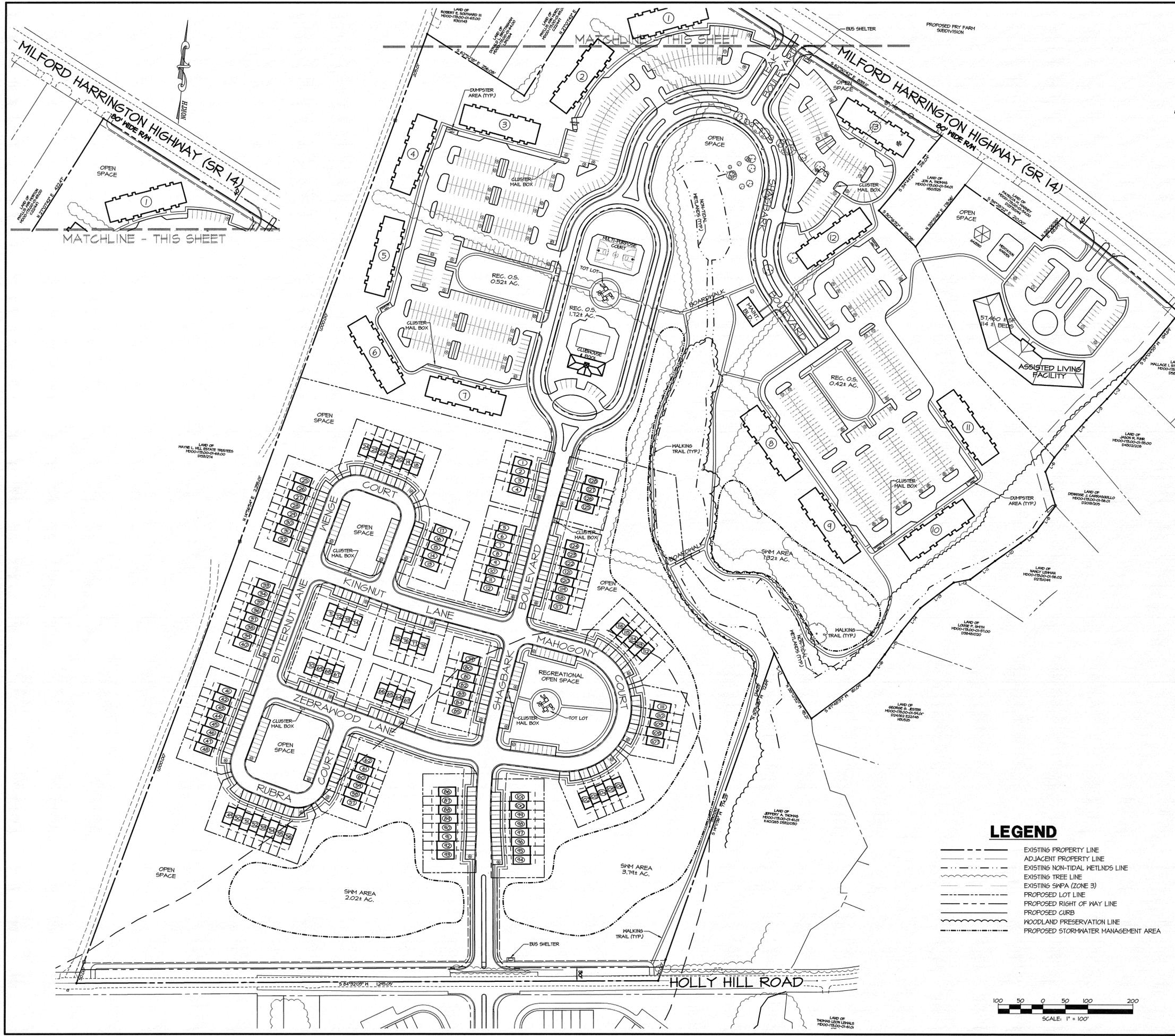
NOT TO SCALE



**TYPICAL TOWNHOME BOULEVARD  
STREET SECTION**

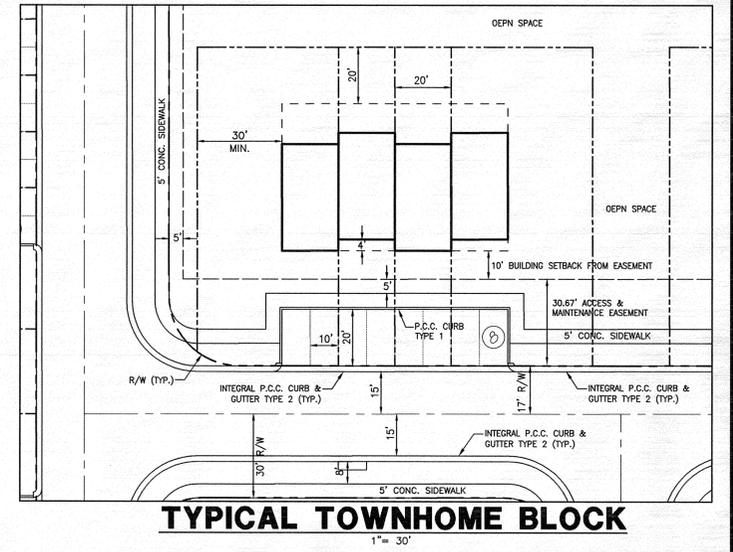
NOT TO SCALE

		<b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b> ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 18 BOULDER CIRCLE, SUITE 36 NEW CASTLE, DELAWARE 19720 (302) 328-2200 FAX: (302) 328-2399 WWW.MIRAGTA.COM	
		PRELIMINARY PLAN TITLE SHEET FOR <b>HICKORY GLEN</b> A PLANNED UNIT RESIDENTIAL DEVELOPMENT	
ENGINEER'S SEAL	CITY OF MILFORD	KENT COUNTY, DELAWARE	JOB NO.: 16302.01
DATE	REVISIONS		SCALE: AS SHOWN
			DATE: 02/21/12
			DRAWN BY: CWB
			DESIGN BY: CWB
			REVIEW BY: PLT
			SHEET: 1 of 3

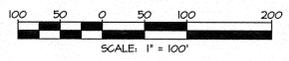


**TOWNHOME LOT AREA TABLE**

LOT #	AREA (S.F.)						
1	5,650	27	2,260	53	2,260	79	5,666
2	2,260	28	2,260	54	2,260	80	2,264
3	2,260	29	2,260	55	2,268	81	2,262
4	5,650	30	2,260	56	6,162	82	2,261
5	5,650	31	2,260	57	5,832	83	2,262
6	2,260	32	5,650	58	2,260	84	2,210
7	2,260	33	5,650	59	2,260	85	5,160
8	2,260	34	2,260	60	2,260	86	5,995
9	2,260	35	2,260	61	2,260	87	2,368
10	2,260	36	2,260	62	5,626	88	2,361
11	2,260	37	2,260	63	5,650	89	2,360
12	5,626	38	2,260	64	2,260	90	2,360
13	5,650	39	2,260	65	2,260	91	2,360
14	2,260	40	5,650	66	5,650	92	2,360
15	2,260	41	5,650	67	5,650	93	5,900
16	2,260	42	2,260	68	2,260	94	5,900
17	5,832	43	2,260	69	2,260	95	2,360
18	6,162	44	2,260	70	5,626	96	2,360
19	2,268	45	2,260	71	5,626	97	2,360
20	2,260	46	2,260	72	2,260	98	2,360
21	2,260	47	2,260	73	2,260	99	2,360
22	2,260	48	5,832	74	5,650	100	2,351
23	2,268	49	6,162	75	5,114	101	5,831
24	6,162	50	2,268	76	2,270	102	6,101
25	5,832	51	2,260	77	2,273	103	2,296
26	2,260	52	2,260	78	5,731	104	2,269



- LEGEND**
- EXISTING PROPERTY LINE
  - ADJACENT PROPERTY LINE
  - EXISTING NON-TIDAL WETLANDS LINE
  - EXISTING TREE LINE
  - EXISTING SHPA (ZONE 3)
  - PROPOSED LOT LINE
  - PROPOSED RIGHT OF WAY LINE
  - PROPOSED CURB
  - WOODLAND PRESERVATION LINE
  - PROPOSED STORMWATER MANAGEMENT AREA

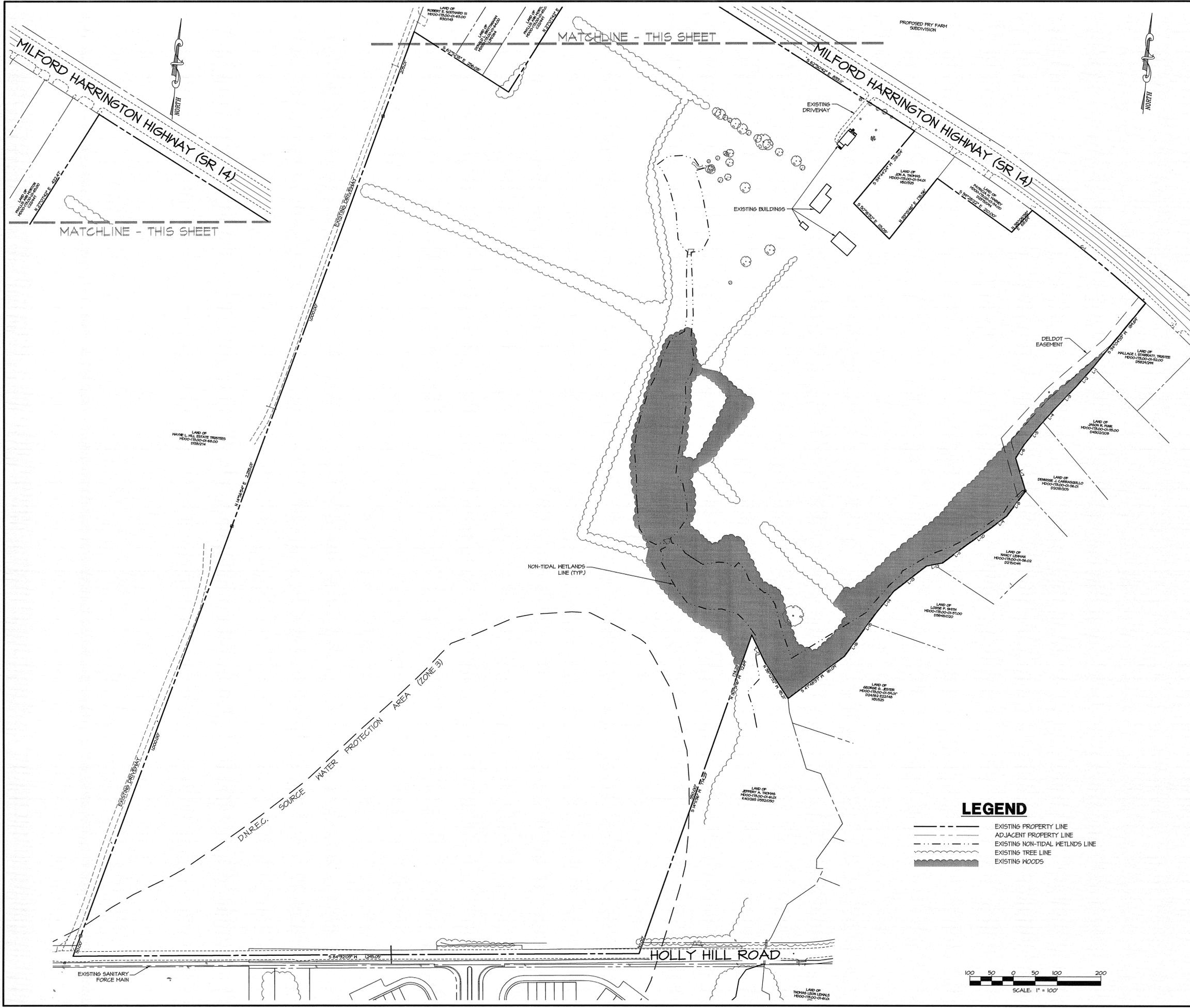


**MORRIS & RITCHIE ASSOCIATES, INC.**  
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
 18 BOULDEN CIRCLE, SUITE 36  
 NEW CASTLE, DELAWARE 19720  
 (302) 326-2200  
 FAX: (302) 326-2399  
 WWW.MRAGTA.COM

**PRELIMINARY PLAN  
 SITE PLAN**  
 FOR  
**HICKORY GLEN**  
 A PLANNED UNIT RESIDENTIAL DEVELOPMENT

ENGINEER'S SEAL: CITY OF MILFORD, KENT COUNTY, DELAWARE

DATE	REVISIONS	JOB NO.: 16302.01
		SCALE: AS SHOWN
		DATE: 02/21/12
		DRAWN BY: CWB
		DESIGN BY: CWB
		REVIEW BY: PLT
		SHEET: 2 of 3



**BOUNDARY CURVE TABLE**

LINE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD	TANGENT
C-1	5°34'08"	3341.87'	335.20'	S55°51'04"E	335.07'	167.74'

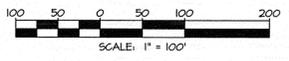
**BOUNDARY LINE TABLE**

LINE	BEARING	DISTANCE
L-1	S32°56'34"W	4.00'
L-2	S36°27'16"W	51.77'
L-3	S38°29'07"W	65.48'
L-4	S36°31'41"W	48.90'
L-5	S34°05'54"W	61.05'
L-6	S21°13'21"W	31.34'
L-7	S21°42'11"E	71.44'
L-8	S30°53'41"W	71.70'
L-9	S41°36'00"W	43.38'
L-10	S44°53'24"W	64.47'
L-11	S47°55'06"W	64.49'
L-12	S74°09'47"W	37.17'
L-13	S47°00'07"W	44.01'
L-14	S33°44'05"W	66.74'
L-15	S30°33'37"W	62.74'
L-16	S31°20'18"W	58.11'
L-17	N30°51'16"W	72.64'

NOTE: THE NON-TIDAL WETLANDS SHOWN HEREON WERE DELINEATED BY GEO-TECHNOLOGY ASSOC., INC. ON JUNE 3, 2010

**LEGEND**

- EXISTING PROPERTY LINE
- ADJACENT PROPERTY LINE
- EXISTING NON-TIDAL WETLANDS LINE
- EXISTING TREE LINE
- EXISTING WOODS



	<p><b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b>          ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS          18 BOULDEN CIRCLE, SUITE 36          NEW CASTLE, DELAWARE 19720          (302) 326-2200          FAX: (302) 326-2399          WWW.MRAGTA.COM</p>	
	<p><b>PRELIMINARY PLAN</b>  <b>EXISTING CONDITIONS PLAN</b>          FOR  <b>HICKORY GLEN</b>  <b>A PLANNED UNIT RESIDENTIAL DEVELOPMENT</b></p>	
<p>ENGINEER'S SEAL      CITY OF MILFORD      KENT COUNTY, DELAWARE</p>		
DATE	REVISIONS	JOB NO.: 16302.01
		SCALE: AS SHOWN
		DATE: 02/21/12
		DRAWN BY: CWB
		DESIGN BY: CWB
		REVIEW BY: PLT
		SHEET: 3 of 3

Ordinance 2012-06

Conditional Use for a PUD/Dunn Development on behalf of Legal Owner Walter N. Thomas II

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE APPROVING A CONDITIONAL USE TO ALLOW A PLANNED UNIT DEVELOPMENT TO BE KNOWN AS HICKORY GLEN FOR ERIC DUNN OF DUNN DEVELOPMENT, LLC ON BEHALF OF WALTER N. THOMAS II ON 71.918 +/- ACRES IN AN R-8 DISTRICT LOCATED AT 1335 MILFORD-HARRINGTON HIGHWAY, MILFORD, DELAWARE. TAX MAP NO(s): MD-16-173.00-01-21.00 and MD-16-173.00-01-22.00.

Whereas, the City of Milford Planning Commission reviewed the application at a Public Hearing on April 17, 2012 and has presented item to be considered by the City Council; and

Whereas, Milford City Council held an advertised Public Hearing on May 29, 2012 to allow for public comment and review of the application; and

Whereas, it is deemed in the best interest of the City of Milford to allow a Conditional Use for a Planned Unit Development as herein described.

Now, Therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Eric Dunn of Dunn Development, LLC on behalf of Walter N. Thomas II is hereby granted a Conditional Use Permit in accordance with the application, approved plans and any conditions set forth.

Section 2. Construction or operation shall be commenced within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council: 04-09-12

Planning Commission Review & Public Hearing: 04-17-12

City Council Review & Public Hearing 05-29-12

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

City of Milford Zoning Chapter Amendment  
Ordinance 2012-07

AN ORDINANCE TO AMEND Chapter 230--Zoning, Article VI--Signs, of the Code of the City of Milford.

The City of Milford hereby ordains:

Section 1. Amends §230-26-General Standards.

Section 2. Adds a New Paragraph 10 to §230-26(F)--EMB Signs which will read as follows:

**(10) All EMB Signs shall have a height of no less than a minimum of two feet and no greater than a maximum of five feet. All EMB signs shall have a width of no greater than a maximum of twelve feet and shall be no larger than thirty two square feet total.**

Section 3. Amends Sign Chart by clarifying size restrictions of EMB signs in the C-3 zoning district (attached).

Section 4. Dates.

Introduction to City Council: May 14, 2012

Planning Commission Review and Public Hearing: May 15, 2012

City Council Review and Public Hearing: May 29, 2012

Section 5. The Ordinance shall become Effective no sooner than Ten Days after Adoption by City Council.

By: Terri K. Hudson, MMC  
City Clerk



The Board of Directors of  
Delaware Municipal Electric Corporation  
Cordially invite you to the  
Commissioning Ceremony of the

**Warren F. “Sam” Beasley**  
**Power Station - Unit #2**

Thursday, June 7, 2012

11:00 a.m.

At  
Delaware Municipal Electric Corporation  
22 Artisan Drive  
Smyrna, DE 19977

Hors d'oeuvres will be served followed by a tour of the power plant.  
Shuttle buses will provide transportation to the power plant.

*RSVP ~ (302)653-2733 Thursday, May 30, 2012*

# City of Milford



## PROCLAMATION

2012-10

*Teresa K. Hudson - Master Municipal Clerk*

WHEREAS, THE OFFICE OF THE MUNICIPAL CLERK IS THE OLDEST AMONG PUBLIC SERVANTS AND A VITAL PART OF LOCAL GOVERNMENT THAT EXISTS THROUGHOUT THE WORLD; AND

WHEREAS, BEGINNING HER PUBLIC SERVICE IN 1978, **TERESA K. HUDSON** SERVED AS THE ADMINISTRATIVE ASSISTANT TO THE CHIEF OF POLICE BEFORE HER APPOINTMENT TO THE POSITION OF CITY CLERK OF THE CITY OF MILFORD ON JULY 28, 1997; AND

WHEREAS, AS THE CITY CLERK, **TERESA K. HUDSON** PROVIDES THE PROFESSIONAL LINK BETWEEN THE CITIZENS, MILFORD CITY COUNCIL AND AGENCIES OF GOVERNMENT AT ALL LEVELS WHILE BEING EVER MINDFUL OF HER NEUTRALITY AND IMPARTIALITY, RENDERING EQUAL SERVICE TO ALL; AND

WHEREAS, AFTER DEDICATING MORE THAN FOUR YEARS TO COMPLETING THE REQUIREMENTS OF THE INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS (IIMC), **TERESA K. HUDSON** EARNED THE DISTINCTION OF **MASTER MUNICIPAL CLERK** ON MARCH 16, 2012; AND

WHEREAS, ELIGIBILITY FOR THIS PRESTIGIOUS TITLE REQUIRES THE INDIVIDUAL BE AN ACTIVE MEMBER OF IIMC, A CERTIFIED MUNICIPAL CLERK, COMPLETE DEMANDING EDUCATION REQUIREMENTS AND DEMONSTRATE A RECORD OF SIGNIFICANT CONTRIBUTIONS TO THEIR LOCAL GOVERNMENT, COMMUNITY AND STATE; AND

WHEREAS, MILFORD CITY COUNCIL IS PLEASED TO COMMEND THE ACHIEVEMENTS OF **TERESA K. HUDSON** AND SHARE OUR PRIDE IN HER SUCCESS AND IN THE IMPORTANT ROLE SHE PLAYS IN ENHANCING THE DEMOCRATIC PROCESS IN THE CITY OF MILFORD; AND

WHEREAS, **TERESA K. HUDSON** IS ONLY ONE OF TWO CURRENT DELAWARE MUNICIPAL CLERKS TO BE NAMED A MASTER MUNICIPAL CLERK AND THE THIRD FROM DELAWARE TO RECEIVE THIS DESIGNATION.

NOW THEREFORE, BE IT RESOLVED THAT, I, JOSEPH RONNIE ROGERS, MAYOR OF THE CITY OF MILFORD, JOIN IN RECOGNIZING **TERESA K. HUDSON, MMC** FOR THIS MERITORIOUS ACCOMPLISHMENT AND EXTENDS HIS SINCERE CONGRATULATIONS.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND CAUSED THE OFFICIAL SEAL OF THE CITY OF MILFORD TO BE AFFIXED THIS 29<sup>TH</sup> DAY OF MAY IN THE YEAR OF OUR LORD TWO THOUSAND AND TWELVE.

-----  
MAYOR JOSEPH RONNIE ROGERS

ATTEST: \_\_\_\_\_

# RESOLUTION 2012-05

## A RESOLUTION OF THE CITY OF MILFORD, DELAWARE AUTHORIZING CHARGES FOR COPYING AND RELATED SERVICES BY THE CITY OF MILFORD

WHEREAS, requests are made of the City of Milford for public records, certain documents, correspondence and reports by person(s); and

WHEREAS, the City Council of the City of Milford authorizes the Office of the City Clerk and other City departments (hereafter referred to as "The City") to assess and collect a reasonable fee by an interested person pursuant to the Freedom of Information Act or other applicable law; and

WHEREAS, the City shall make every reasonable effort to respond to a request within ten (10) days ; and

WHEREAS, the City is not required to create records that do not exist at the time the request is made; and

WHEREAS, the City may authorize certain exemptions from such fees and charges, as deemed appropriate; and

WHEREAS, all requests for Law Enforcement Records fall under the jurisdiction and policies and procedures of the Milford Police Department and shall be immediately forwarded to the Chief of Police or made directly at the Milford Police Department.

NOW THEREFORE, IT IS HEREBY RESOLVED that the Mayor and Council authorize the following fees be charged for complying with a request under the FOIA, as applicable:

### Duplicating/Copying Fees

The following are duplicating/copying charges for providing public records:

- (1) Standard Sized, Black and White Copies  
Cost for duplication or publication, including labor, for standard sized, black and white public records shall be \$0.25 per page, for 8.5" x 11", 8.5" x 14", and 11" x 17" sized paper.
- (2) Computer/Electronically Generated  
Charges for copying records maintained in an electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: cassette tapes, video tapes, computer disk costs) and administrative costs. Actual costs shall be assessed for copying computer generated records and providing other materials such as video tapes, computer disks, etc.

### Administrative Fees

The following are administrative fees for providing public records:

- (1) Actual Labor Costs  
In calculating the cost of labor incurred, the City may not charge more than the hourly wage of the lowest paid City employee capable of retrieving the information necessary to comply with the request. Labor charges will be billed to the requestor per quarter hour. Labor charges will be in addition to any duplicating/copying charges. Charges for actual labor costs include:
  - \* Staff time associated with processing FOIA requests;
  - \* Locating and reviewing files;
  - \* Monitoring file reviews;
  - \* Generating computer records (electronic or printouts); and
  - \* Any other time rendered by the employee in researching, examining, developing, duplicating, reviewing, and separating exempt from nonexempt information that has been requested.
- (2) Other Costs  
Any other actual costs associated with fulfilling a request for information, such as postage, shall be at the expense of the requestor.

If the City does not have the resources or equipment to duplicate requested records, the City, at its discretion, may arrange to have records duplicated by an outside contractor. In this instance, the requestor will be liable for payment of these costs.

RESOLVED THIS 29<sup>th</sup> DAY OF MAY 2012

# REQUEST FOR PUBLIC RECORDS

PURSUANT TO THE DELAWARE FREEDOM OF INFORMATION ACT 29 Del. Chapter 100



TO: City of Milford-City Clerk's Office  
201 South Walnut Street  
Milford, DE 19963  
thudson@milford-de.gov

NAME \_\_\_\_\_ DATE OF REQUEST \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE (optional) \_\_\_\_\_ EMAIL (optional) \_\_\_\_\_

RECORDS REQUESTED: **(Be as specific as you can,** describing types of records, dates, parties to correspondence, subject matter, etc. The public body will make every reasonable effort to assist you in identifying the record being sought. **Requests for voluminous records may be delayed.)**

There may be costs involved in responding to your request. The public body can require you to examine the records at the office of the public body. Refer to the public body's policy or regulations for information about costs and access to records.

PLEASE CONTACT ME IF COSTS WILL BE GREATER THAN \_\_\_\_\_.

\*Within 15 business days from receipt of your request the public body must either provide you with access to the records, deny your request, or state that additional time is needed.\*

CITY OF MILFORD  
ORDINANCE NO. 2012-10

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by the City Council of the City of Milford:

An Ordinance to Amend the Regulations of the City of Milford by Revising Section 4, Payment Terms of Chapter 119, Electrical Standards-Rules and Regulations-of the City of Milford Code by Repealing the Requirement that Written Notices of Service Termination will be provided by the City of Milford if Payment is Not Received.

The City of Milford Hereby Ordains as follows:

Section 1. §4(E) of the City of Milford Electric Tariff is hereby amended by replacing “Late Payment Notice” with “AUTHORITY TO DISCONTINUE SERVICE FOR NON PAYMENT”, repealing the first sentence in its entirety, adding “FOR NON PAYMENT to second paragraph and adding “SUCH TERMINATION OF SERVICE WILL BE WITHOUT WRITTEN NOTICE” as a new, third paragraph.

RULES AND REGULATIONS

Section 4 - Payment Terms

E. ~~Late Payment Notice~~ AUTHORITY TO DISCONTINUE SERVICE FOR NON PAYMENT

~~A notice will be sent to the Customer stating that service will be terminated by a given date if payment is not received.~~

The City of Milford reserves the right to discontinue service FOR NON PAYMENT in accordance with provisions of these Rules and Regulations and the accompanying Tariff and/or take any other action permitted by law with respect to any Customer who fails to make full and timely payment of all amounts due the City.

(See Section 15-A-3).

SUCH TERMINATION OF SERVICE WILL BE WITHOUT WRITTEN NOTICE.

Section 2. Dates.

City Council Introduction: May 29, 2012

Adoption Date: June 11, 2012 (Projected)

Effective Date: June 21, 2012 (Projected)

A complete copy of the Code of the City of Milford is available by request through the City Clerk’s Office or by accessing the website [cityofmilford.com](http://cityofmilford.com).

By: Terri K. Hudson, MMC

against the Customer's account. Upon the second occurrence of a returned check, the Customer shall be notified that they will be placed on a cash only basis.<sup>2</sup>

**E. Late Payment Notice**

A notice will be sent to the Customer stating that service will be terminated by a given date if payment is not received.

The City reserves the right to discontinue service in accordance with provisions of these Rules and Regulations and the accompanying Tariff and/or take any other action permitted by law with respect to any Customer who fails to make full and timely payment of all amounts due the City.  
(See Section 15-A-3).

**F. Delinquent Charge Installment Agreement**

The City may make arrangements for installment payments for those residential Customers who are unable to pay their bill due to unusual or severe circumstances.

The installment payment agreement constitutes a contract between the Customer and the City, which guarantees payment by the Customer for the amount of the agreement over the specified period. Request for installment payment agreements are subject to City approval and must be signed by the City's billing supervisor or designee.

Failure of the Customer to meet the conditions of this installment payment agreement including prompt payment of the current bill shall constitute a breach of this agreement and entitle the City to pursue collection and termination procedures under the rules and regulations outlined in these Rules and Regulations and the accompanying Tariff.

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<sup>1</sup> Reference: Cashier's Office Procedure Manual: "After the Customer has two (2) N.S.F. checks they are notified that they will be on a cash only basis, this will stay in effect for one (1) calendar year after the N.S.F. check received."

Revised 5/29/12

**CITY OF MILFORD  
INTERCONNECTION AGREEMENT FORM**

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**Utility Information**

Utility: City of Milford, Delaware

Attention: Electric Superintendent  
180 Vickers Drive  
Milford, De 19963

Phone: (302) 422 1110 Fax: (302) 422 1117

**Interconnection Customer Information**

Interconnection Customer: \_\_\_\_\_

Attention: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Interconnection Request ID No: \_\_\_\_\_

This Interconnection Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, by The City of Milford("Utility"), ("Interconnection Customer") each hereinafter sometimes referred to individually as "Party" or both referred to collectively as the "Parties."

In consideration of the mutual covenants set forth herein, the Parties agree as follows:

## **Article 1. Scope and Limitations of Agreement**

### **1.1 Applicability**

This Agreement shall be applicable for all Interconnection Requests submitted under the Utility's Interconnection procedures for facilities greater than 25 kW. Facilities intending to participate in the Utility's Net Metering program shall also comply with the requirements of the Utility Net Metering tariff, as well as, any State or Federal requirements.

### **1.2 Purpose**

This Agreement governs the terms and conditions under which the Interconnection Customer's Generating Facility will interconnect with, and operate in parallel with, the Utility's System.

### **1.3 No Agreement to Purchase or Deliver Power or RECs**

This Agreement does not constitute an agreement to purchase or deliver the Interconnection Customer's power or Renewable Energy Certificates (RECs). The purchase or delivery of power, RECs that might result from the operation of the Generating Facility, and other services that the Interconnection Customer may require will be covered under separate agreements, if any. The Interconnection Customer will be responsible for separately making all necessary arrangements (including scheduling) for delivery of electricity with the Utility.

### **1.4 Limitations**

Nothing in this Agreement is intended to affect any other agreement between the Utility and the Interconnection Customer.

### **1.5 Responsibilities of the Parties**

1.5.1 The Parties shall perform all obligations of this Agreement in accordance with all Applicable Laws and Regulations, Operating Requirements, and Good Utility Practice.

1.5.2 The Interconnection Customer shall construct, interconnect, operate and maintain its Generating Facility and construct, operate, and maintain its Interconnection Facilities in accordance with the applicable manufacturer's recommended maintenance schedule, and in accordance with this Agreement, and with Good Utility Practice.

1.5.3 The Utility shall construct, operate, and maintain its System and Interconnection Facilities in accordance with this Agreement, and with Good Utility Practice.

1.5.4 The Interconnection Customer agrees to construct its facilities or systems in accordance with applicable specifications that meet or exceed those provided by the latest edition of the National Electrical Safety Code, the American National Standards Institute, IEEE, Underwriters' Laboratories, and Operating Requirements in effect at the time of construction and other applicable national and state codes and standards. The Interconnection Customer agrees to design, install, maintain, and operate its Generating Facility so as to reasonably minimize the likelihood of a disturbance adversely affecting or impairing the System or equipment of the Utility and any Affected Systems.

1.5.5 Each Party shall operate, maintain, repair, and inspect, and shall be fully responsible for the facilities that it now or subsequently may own unless otherwise specified in the Appendices to this Agreement. Each Party shall be responsible for the safe installation, maintenance, repair and condition of their respective lines and appurtenances on their respective sides of the point of change of ownership. The Utility and the Interconnection Customer, as appropriate, shall provide Interconnection Facilities that adequately protect the Utility's System, personnel, and other persons from damage and injury. The allocation of responsibility for the design, installation, operation, maintenance and ownership of Interconnection Facilities shall be delineated in the Appendices to this Agreement.

1.5.6 The Utility shall coordinate with all Affected Systems to support the interconnection.

#### 1.6 Parallel Operation Obligations

Once the Generating Facility has been authorized to commence parallel operation, the Interconnection Customer shall abide by all rules and procedures pertaining to the parallel operation of the Generating Facility. These shall include, but not be limited to: 1) any rules and procedures concerning the operation of generation set forth in Utility approved tariffs or by the applicable system operator(s) for the Utility's System and; 2) the Operating Requirements set forth in Appendix 5 of this Agreement.

#### 1.7 Metering

The Utility shall purchase, install, operate, maintain, test, repair and replace all metering and data acquisition equipment as Utility shall in its discretion determine is reasonable and necessary for Utility's requirements under this Agreement. The Interconnection Customer shall be billed for such expenditures by Utility pursuant to Article 6 of this Agreement and shall thereafter be responsible for the Utility's reasonable and necessary cost for the purchase, installation, operation, maintenance, testing, repair, and replacement of such metering and data acquisition equipment specified in Appendices 2 and 3 of this Agreement. The Interconnection Customer's metering (and data acquisition, as required) equipment shall conform to applicable industry rules and Operating Requirements.

#### 1.8 Reactive Power

1.8.1 The Interconnection Customer shall design its Generating Facility to maintain a composite power delivery at continuous rated power output at the Point of Interconnection at a power factor consistent with requirements and the mutual Operating Agreement unless the Utility has established different requirements that apply to all similarly situated generators on the Utility's system on a comparable basis.

1.8.2 The Utility is required to pay the Interconnection Customer for reactive power that the Interconnection Customer provides or absorbs from the Generating Facility when the Utility requests the Interconnection Customer to operate its Generating Facility outside the range specified in Article 1.8.1. In addition, if the Utility pays its own or affiliated generators for reactive power service within the specified range, it must also pay the Interconnection Customer.

1.8.3 Payments for reactive power shall be in accordance with the Utility's applicable rate schedule then in effect unless the provision of such service(s) is subject to a regional transmission organization or independent system operator FERC-approved rate schedule or as otherwise agreed. To the extent that no rate schedule is in effect at the time the Interconnection Customer is required to provide or absorb reactive power under this Agreement, the Parties agree to expeditiously establish such rate schedule in order to compensate the Interconnection Customer from the time service commenced.

## 1.9 Capitalized Terms

Capitalized terms used herein shall have the meanings specified in the Glossary of Terms in Appendix 1.

## **Article 2. Inspection, Testing, Authorization, and Right of Access**

### 2.1 Equipment Testing and Inspection

2.1.1 The Interconnection Customer shall test and inspect its Generating Facility and Interconnection Facilities prior to interconnection. The Interconnection Customer shall notify the Utility of such activities no fewer than five Business Days (or as may be agreed to by the Parties) prior to such testing and inspection. Testing and inspection shall occur on a Business Day, unless otherwise agreed to by the Parties. The Utility may, at its own expense, send qualified personnel to the Generating Facility site to inspect the interconnection and observe the testing. The Interconnection Customer shall provide the Utility a written test report when such testing and inspection is completed.

2.1.2 The Utility shall provide the Interconnection Customer written acknowledgment that it has received the Interconnection Customer's written test report. Such written acknowledgment shall not be deemed to be or construed as any representation, assurance, guarantee, or warranty by the Utility of the safety, durability, suitability, or reliability of the Generating Facility or any associated control, protective, and safety devices owned or controlled by the Interconnection Customer or the quality of power produced by the Generating Facility.

### 2.2 Authorization Required Prior to Parallel Operation

2.2.1 The Utility shall use Reasonable Efforts to list applicable parallel operation requirements in Appendix 5 of this Agreement. Additionally, the Utility shall notify the Interconnection Customer of any changes to these requirements as soon as they are known, provided, however, that other than changes as may be required by Applicable Laws and Regulations, the Utility shall not, without Interconnection Customer's prior written approval, change such requirements in a manner that would have a discriminatorily adverse effect on the Interconnection Customer. The Utility shall make Reasonable Efforts to cooperate with the Interconnection Customer in meeting requirements necessary for the Interconnection Customer to commence parallel operations by the in-service date.

2.2.2 The Interconnection Customer shall not operate its Generating Facility in parallel with the Utility's System without prior written authorization of the Utility. The Utility will provide such authorization once the Utility receives notification that the Interconnection Customer has complied with all applicable parallel operation requirements. Such authorization shall not be unreasonably withheld, conditioned, or delayed.

### 2.3 Right of Access

2.3.1 Upon reasonable notice, the Utility may send a qualified person to the premises of the Interconnection Customer at or immediately before the time the Generating Facility first produces energy to inspect the interconnection, and observe the commissioning of the Generating Facility (including any required testing), startup, and operation for a period of up to three Business Days after initial start-up of the unit. In addition, the Interconnection Customer shall notify the Utility at least five Business Days prior to conducting any on-site verification testing of the Generating Facility.

2.3.2 Following the initial inspection process described above, at reasonable hours, and upon reasonable notice, or at any time without notice in the event of an emergency or hazardous condition, the Utility shall have access to the Interconnection Customer's premises for any reasonable purpose in connection with the performance of the obligations imposed on it by this Agreement or if necessary to meet its legal obligation to provide service to its customers.

2.3.3 Each Party shall be responsible for its own costs associated with following this Article.

## **Article 3. Effective Date, Term, Termination, and Disconnection**

### 3.1 Effective Date

This Agreement shall become effective upon execution by the Parties.

### 3.2 Term of Agreement

This Agreement shall become effective on the Effective Date and shall remain in effect for a period of twenty (20) years from the Effective Date or such other longer period as the Interconnection Customer may request and shall be automatically renewed for each successive one-year period thereafter, unless terminated earlier in accordance with Article 3.3 of this Agreement.

### 3.3 Termination

No termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination.

3.3.1 The Interconnection Customer may terminate this Agreement at any time by giving the Utility 20 Business Days written notice and physically and permanently disconnecting the Generating Facility from the Utility's System.

3.3.2 The non-defaulting Party may terminate this Agreement after a Default and the expiration of the applicable cure period and the cure does not occur pursuant to Article 7.6.

3.3.3 Upon termination of this Agreement, the Generating Facility will be disconnected from the Utility's System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this Agreement or such non-terminating Party otherwise is responsible for these costs under this Agreement.

3.3.4 The termination of this Agreement shall not relieve either Party of its liabilities and obligations, owed or continuing at the time of the termination.

3.3.5 The provisions of this Article shall survive termination or expiration of this Agreement.

#### 3.4 Temporary Disconnection

Temporary disconnection shall continue only for so long as reasonably necessary under Good Utility Practice.

##### 3.4.1 Emergency Conditions

"Emergency Condition" shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the Utility, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the Utility's System, the Utility's Interconnection Facilities or the systems of others to which the Utility's System is directly connected; or (3) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or the Interconnection Customer's Interconnection Facilities. Under Emergency Conditions, the Utility may immediately suspend interconnection service and temporarily disconnect the Generating Facility. The Utility shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Interconnection Customer's operation of the Generating Facility. The Interconnection Customer shall notify the Utility promptly when it becomes aware of an Emergency Condition that may reasonably be expected to affect the Utility's System or any Affected Systems. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of both Parties' facilities and operations, its anticipated duration, and the necessary corrective action.

##### 3.4.2 Routine Maintenance, Construction, and Repair

The Utility may interrupt interconnection service or curtail the output of the Generating Facility and temporarily disconnect the Generating Facility from the Utility's System when necessary for routine maintenance, construction, and repairs on the Utility's System. The Utility shall provide the Interconnection Customer with five Business Days notice prior to such interruption. The Utility shall use Reasonable Efforts to coordinate such reduction or temporary disconnection with the Interconnection Customer.

#### 3.4.3 Forced Outages

During any forced outage, the Utility may suspend interconnection service to effect immediate repairs on the Utility's System. The Utility shall use Reasonable Efforts to provide the Interconnection Customer with prior notice. If prior notice is not given, the Utility shall, upon request, provide the Interconnection Customer written documentation after the fact explaining the circumstances of the disconnection.

#### 3.4.4 Adverse Operating Effects

The Utility shall notify the Interconnection Customer as soon as practicable if, based on Good Utility Practice, operation of the Generating Facility may cause disruption or deterioration of service to other customers served from the same electric system, or if operating the Generating Facility could cause damage to the Utility's System or Affected Systems. Supporting documentation used to reach the decision to disconnect shall be provided to the Interconnection Customer upon request. If, after notice, the Interconnection Customer fails to remedy the adverse operating effect within a reasonable time, the Utility may disconnect the Generating Facility. The Utility shall provide the Interconnection Customer with five Business Day notice of such disconnection, unless the provisions of Article 3.4.1 apply.

#### 3.4.5 Modification of the Generating Facility

The Interconnection Customer must receive written authorization from the Utility before making any change to the Generating Facility that may have a material impact on the safety or reliability of the Utility's System. Such authorization shall not be unreasonably withheld. Modifications shall be done in accordance with Good Utility Practice. If the Interconnection Customer makes such modification without the Utility's prior written authorization, the latter shall have the right to temporarily disconnect the Generating Facility.

#### 3.4.6 Reconnection

The Parties shall cooperate with each other to restore the Generating Facility, Interconnection Facilities, and the Utility's System to their normal operating state as soon as reasonably practicable following a temporary or emergency disconnection.

### **Article 4. Cost Responsibility for Interconnection Facilities and Distribution Upgrades**

#### 4.1 Interconnection Facilities

4.1.1 The Interconnection Customer shall pay for the cost of the Interconnection Facilities itemized in Appendix 2 of this Agreement. The Utility shall provide a best estimate cost,

including overheads, for the purchase and construction of its Interconnection Facilities and provide a detailed itemization of such costs. Costs associated with Interconnection Facilities may be shared with other entities that may benefit from such facilities by agreement of the Interconnection Customer, such other entities, and the Utility.

4.1.2 The Interconnection Customer shall be responsible for its share of all reasonable expenses, including overheads, associated with (1) owning, operating, maintaining, repairing, and replacing its own Interconnection Facilities, and (2) operating, maintaining, repairing, and replacing the Utility's Interconnection Facilities. 4.2 Distribution Upgrades

The Utility shall design, procure, construct, install, and own the Distribution Upgrades described in Appendix 6 of this Agreement. If the Utility and the Interconnection Customer agree, the Interconnection Customer may construct Distribution Upgrades that are located on land owned by the Interconnection Customer. The actual cost of the Distribution Upgrades, including overheads, shall be directly assigned to the Interconnection Customer.

## **Article 5. Cost Responsibility for Network Upgrades**

### **5.1 Applicability**

No portion of this Article 5 shall apply unless the interconnection of the Generating Facility requires Network Upgrades.

### **5.2 Network Upgrades**

The Utility shall design, procure, construct, install, and own the Network Upgrades described in Appendix 6 of this Agreement. If the Utility and the Interconnection Customer agree, the Interconnection Customer may construct Network Upgrades that are located on land owned by the Interconnection Customer. Unless the Utility elects to pay for Network Upgrades, the actual cost of the Network Upgrades, including overheads, shall be borne by the Interconnection Customer.

## **Article 6. Billing, Payment, Milestones, and Financial Security**

### **6.1 Billing and Payment Procedures and Final Accounting**

6.1.1 The Utility shall bill the Interconnection Customer for the design, engineering, construction, and procurement costs of Interconnection Facilities and Upgrades contemplated by this Agreement and as reasonably determined by Utility on a monthly basis, or as otherwise agreed by the Parties. The Interconnection Customer shall pay each bill within 30 calendar days of receipt, or as otherwise agreed to by the Parties.

6.1.2 Within three months of completing the construction and installation of the Utility's Interconnection Facilities and/or Upgrades described in the Appendices to this Agreement, the Utility shall provide the Interconnection Customer with a final accounting report of any difference between (1) the Interconnection Customer's cost responsibility for the actual cost of such facilities or Upgrades, and (2) the Interconnection Customer's previous aggregate payments to the Utility for such facilities or Upgrades. If the Interconnection Customer's cost responsibility exceeds its previous aggregate payments, the Utility shall invoice the

Interconnection Customer for the amount due and the Interconnection Customer shall make payment to the Utility within 30 calendar days. If the Interconnection Customer's previous aggregate payments exceed its cost responsibility under this Agreement, the Utility shall refund to the Interconnection Customer an amount equal to the difference within 30 calendar days of the final accounting report.

6.1.3 The Utility shall bill the Interconnection Customer on a monthly basis for any charges assessed to the Utility as a result of the operation of the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall pay each bill within 30 days of receipt of each.

## 6.2 Milestones

Concurrent with the execution of this Agreement (or if requested at any time hereafter by Utility) the Parties hereto shall execute a Facilities Study Agreement, a Feasibility Study Agreement and a System Impact Study Agreement, if requested by Utility. The results of such ancillary Agreements shall establish milestones to implement this Agreement if requested by Utility. The Parties shall agree on milestones for which each Party is responsible and list them in Appendix 4 of this Agreement. A Party's obligations under this provision may be extended by agreement. If a Party anticipates that it will be unable to meet a milestone for any reason other than a Force Majeure Event, it shall immediately notify the other Party of the reason(s) for not meeting the milestone and (1) propose the earliest reasonable alternate date by which it can attain this and future milestones, and (2) request appropriate amendments to Appendix 4. The Party affected by the failure to meet a milestone shall not unreasonably withhold agreement to such an amendment unless (1) it will suffer significant uncompensated economic or operational harm from the delay, (2) attainment of the same milestone has previously been delayed, or (3) it has reason to believe that the delay in meeting the milestone is intentional or unwarranted notwithstanding the circumstances explained by the Party proposing the amendment.

## 6.3 Financial Security Arrangements

At least 20 Business Days prior to the commencement of the design, procurement, installation, or construction of a discrete portion of the Utility's Interconnection Facilities and Upgrades, the Interconnection Customer shall provide the Utility, at the Interconnection Customer's option, a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Utility and is consistent with the Uniform Commercial Code of Delaware. Such security for payment shall be in an amount equal to one hundred and twenty-five percent (125%) of the quote or bid procured by Utility for such work and shall be designated sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Utility's Interconnection Facilities and Upgrades and shall be reduced on a dollar-for-dollar basis for payments made to the Utility under this Agreement during its term. Any balance remaining when Utility grants substantial completion shall be retained by Utility for a period of one (1) year and may be used for any necessary repairs or defects identified or evident during such one (1) year period. At the end of the one (1) year, any remaining balance shall be returned to Interconnection Customer. In addition:

6.3.1 The guarantee must be made by an entity that meets the creditworthiness requirements of the Utility, and contain terms and conditions that guarantee payment of any amount that may be due from the Interconnection Customer, up to an agreed-to maximum amount.

6.3.2 The letter of credit or surety bond must be issued by a financial institution or insurer reasonably acceptable to the Utility and must specify a reasonable expiration date.

6.3.3 The Utility may waive the security requirements if its credit policies show that the financial risks involved are de minimus, or if the Utility's policies allow the acceptance of an alternative showing of credit-worthiness from the Interconnection Customer.

## **Article 7. Assignment, Liability, Indemnity, Force Majeure, Consequential Damages, and Default**

### **7.1 Assignment**

7.1.1 This Agreement shall not survive the transfer of ownership of the Generating Facility to a new owner. The new owner must complete a new Interconnection Request and submit it to the Utility within 20 Business Days of the transfer of ownership or the Utility's Interconnection Facilities shall be removed or disabled and the Generating Facility disconnected from the Utility's System. For the avoidance of doubt, a "transfer of ownership" of the Generating Facility shall not be construed to include a transfer of the membership interests of Milford Solar LLC. The Utility shall not study or inspect the Generating Facility unless the new owner's Interconnection Request indicates that a Material Modification has occurred or is proposed.

7.1.2 The Interconnection Customer shall have the right to assign this Agreement, without the consent of the Utility, for collateral security purposes to aid in providing financing for the Generating Facility, provided that the Interconnection Customer will promptly notify the Utility of any such assignment. Assignment shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

7.1.3 Any attempted assignment that violates this article is void and ineffective.

### **7.2 Limitation of Liability**

Each Party's liability to the other Party for any loss, cost, claim, injury, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, incidental, consequential, or punitive damages of any kind, except as authorized by this Agreement, or unless such damages are the result of the offending party's willful and wanton actions or misconduct or gross negligence or intentional wrongdoing

### **7.3 Indemnity**

7.3.1 This provision protects each Party from liability incurred to third parties as a result of carrying out the provisions of this Agreement. Liability under this provision is exempt from the general limitations on liability found in Article 7.2.

7.3.2 The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party's action or failure to meet its obligations under this Agreement on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the indemnified Party.

7.3.3 If an indemnified Party is entitled to indemnification under this Article as a result of a claim by a third party, and the indemnifying Party fails, after notice and reasonable opportunity to proceed under this Article, to assume the defense of such claim, such indemnified Party may at the expense of the indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

7.3.4 If an indemnifying Party is obligated to indemnify and hold any indemnified Party harmless under this Article, the amount owing to the indemnified Party shall be the amount of such indemnified Party's actual loss, net of any insurance or other recovery.

7.3.5 Promptly after receipt by an indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in this Article may apply, the indemnified Party shall notify the indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

#### 7.4 Consequential Damages

Other than as expressly provided for in this Agreement, neither Party shall be liable under any provision of this Agreement for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to the other Party under another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder. Provided, however, this limitation of liability shall not apply if such damages are the result of the offending party's willful and wanton actions, or misconduct, or gross negligence, or intentional wrongdoing.

#### 7.5 Force Majeure

7.5.1 As used in this article, a Force Majeure Event shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or intentional wrongdoing.

7.5.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event (Affected Party) shall promptly

notify the other Party, either in writing or via the telephone, of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, its expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Agreement (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be mitigated by the use of Reasonable Efforts. The Affected Party will use Reasonable Efforts to resume its performance as soon as possible.

## 7.6 Default

7.6.1 No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of a Force Majeure Event as defined in this Agreement or the result of an act or omission of the other Party. Upon a Default, the non-defaulting Party shall give written notice of such Default to the defaulting Party. Except as provided in Article 7.6.2, the defaulting Party shall have 60 calendar days from receipt of the Default notice within which to cure such Default; provided however, if such Default is not capable of cure within 60 calendar days, the defaulting Party shall commence such cure within 20 calendar days after notice and continuously and diligently complete such cure within six months from receipt of the Default notice; and, if cured within such time, the Default specified in such notice shall cease to exist.

7.6.2 If a Default is not cured as provided in this Article, or if a Default is not capable of being cured within the period provided for herein, the non-defaulting Party shall have the right to terminate this Agreement by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not that Party terminates this Agreement, to recover from the defaulting Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this article will survive termination of this Agreement.

## Article 8. Insurance

8.1 The Interconnection Customer shall obtain and retain, for as long as the Generating Facility is interconnected with the Utility's System, liability insurance which protects the Interconnection Customer from claims for bodily injury and/or property damage. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made. This insurance shall be primary for all purposes. The Interconnection Customer shall provide certificates evidencing this coverage as required by the Utility. Such insurance shall be obtained from an insurance provider authorized to do business in Delaware. The Utility reserves the right to refuse to establish or continue the interconnection of the Generating Facility with the Utility's System, if such insurance is not in effect.

8.1.1 For an Interconnection Customer that is a residential customer of the Utility proposing to interconnect a Generating Facility no larger than 25 kW, the required coverage shall be in the amount of at least \$1,000,000 per person and \$2,000,000 per occurrence.

8.1.2 For an Interconnection Customer that is a non-residential customer of the Utility proposing to interconnect a Generating Facility larger than 25 kW, the required coverage shall be comprehensive general liability insurance with coverage in an amount of at least \$1,000,000 per person and \$5,000,000 per occurrence.

8.1.3 An Interconnection Customer of sufficient credit-worthiness may propose to provide this insurance via a self-insurance program if it has a self-insurance program established in accordance with commercially acceptable risk management practices, and such a proposal shall not be unreasonably rejected.

8.2 The Utility agrees to maintain general liability insurance or self-insurance consistent with the Utility's commercial practice. Such insurance or self-insurance shall not exclude coverage for the Utility's liabilities undertaken pursuant to this Agreement.

8.3 The Parties further agree to notify each other whenever an accident or incident occurs resulting in any injuries or damages that are included within the scope of coverage of such insurance, whether or not such coverage is sought.

#### **Article 9. Confidentiality**

9.1 "Confidential Information" shall mean any confidential and/or proprietary information provided by one Party to the other Party that is clearly marked or otherwise designated "Confidential." For purposes of this Agreement all design, operating specifications, and metering data provided by the Interconnection Customer shall be deemed Confidential Information regardless of whether it is clearly marked or otherwise designated as such.

9.2 Confidential Information does not include information previously in the public domain, required to be publicly submitted or divulged by Governmental Authorities (after notice to the other Party and after exhausting any opportunity to oppose such publication or release), or necessary to be divulged in an action to enforce this Agreement. Each Party receiving Confidential Information shall hold such information in confidence and shall not disclose it to any third party nor to the public without the prior written authorization from the Party providing that information, except to fulfill obligations under this Agreement, or to fulfill legal or regulatory requirements.

9.2.1 Each Party shall employ at least the same standard of care to protect Confidential Information obtained from the other Party as it employs to protect its own Confidential Information.

9.2.2 Each Party is entitled to equitable relief, by injunction or otherwise, to enforce its rights under this provision to prevent the release of Confidential Information without bond or proof of damages, and may seek other remedies available at law or in equity for breach of this provision.

#### **Article 10. Disputes and Arbitration**

10.1 The Parties agree to attempt to resolve all disputes arising out of the interconnection process according to the provisions of this Article.

10.2 In the event of a dispute, either Party shall provide the other Party with a written notice of dispute. Such notice shall describe in detail the nature of the dispute.

10.3 If the dispute has not been resolved within two Business Days after receipt of the notice, either Party may request a meeting with the other Party in an attempt to resolve the dispute.

10.4 Each Party agrees to conduct all negotiations in good faith.

10.5 In the event the Parties are unable to resolve any such disputes through negotiation, they hereby agree to submit such disputes to arbitration with the American Arbitrators Association. The decision of the arbitrator shall be final and binding under applicable state and federal law providing for the enforcement of agreements to arbitrate disputes.

#### **Article 11. Taxes**

11.1 The Parties agree to follow all applicable tax laws and regulations, consistent with Delaware and federal policy and revenue requirements.

11.2 Each Party shall cooperate with the other to maintain the other Party's tax status.

#### **Article 12. Miscellaneous**

##### **12.1 Governing Law, Regulatory Authority, and Rules**

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Delaware, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

##### **12.2 Amendment**

The Parties may amend this Agreement by a written instrument duly executed by both Parties.

##### **12.3 No Third-Party Beneficiaries**

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

##### **12.4 Waiver**

12.4.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

12.4.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with

any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

#### 12.5 Entire Agreement

This Agreement, including all Appendices, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, either Party's compliance with its obligations under this Agreement.

#### 12.6 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

#### 12.7 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

#### 12.8 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

#### 12.9 Security Arrangements

Infrastructure security of electric system equipment and operations and control hardware and software is essential to ensure day-to-day reliability and operational security. All utilities are expected to meet basic standards for electric system infrastructure and operational security, including physical, operational, and cyber-security practices.

#### 12.10 Environmental Releases

Each Party shall notify the other Party, first orally and then in writing, of the release of any hazardous substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Generating Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (1) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the

notice no later than 24 hours after such Party becomes aware of the occurrence, and (2) promptly furnish to the other Party copies of any publicly available reports filed with any Governmental Authorities addressing such events.

#### 12.11 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

12.11.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

12.11.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

#### 12.12 Reservation of Rights

Nothing in this Agreement shall limit the rights of the Parties except to the extent that the Parties otherwise agree as provided herein.

#### 12.13 Ownership of Equipment

For the avoidance of doubt, Interconnection Customer shall be the sole owner of the Generating Facility and all equipment up to the Point of Interconnection as depicted in Appendix 3. All other equipment, meters, facilities, upgrades and any related computers or software, or as shown in Appendix 3, shall be solely owned by Utility without claim of ownership of any form by Interconnection Customer. All such claims are hereby waived.

#### 12.14 Interconnection Customer Financial Obligations

All obligations, responsibilities and duties for payments due from either Party to the other Party shall survive termination or expiration of this Agreement.

### **Article 13. Notices**

#### 13.1 General

Unless otherwise provided in this Agreement, any written notice, demand, or request required or authorized in connection with this Agreement (Notice) shall be deemed properly given if

delivered in person, delivered by recognized national courier service, or sent by first class mail, postage prepaid, to the person specified below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

If to the Utility:

Utility: City of Milford  
Attention: Electric Superintendent  
180 Vickers Drive  
Milford, De 19963  
Phone: (302) 422 1110 Fax: (302) 422 1117

### 13.2 Billing and Payment

Billings and payments shall be sent to the addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

If to the Utility:

Utility: City of Milford, Delaware  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### 13.3 Alternative Forms of Notice

Any notice or request required or permitted to be given by either Party to the other and not required by this Agreement to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out below:

If to the Interconnection Customer:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

If to the Utility:

Utility: City of Milford, Delaware  
Attention: \_\_\_\_\_

Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

#### 13.4 Designated Operating Representative

The Parties may also designate operating representatives to conduct the communications which may be necessary or convenient for the administration of this Agreement. This person will also serve as the point of contact with respect to operations and maintenance of the Party's facilities.

#### Interconnection Customer's Operating Representative:

Interconnection Customer: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

#### Utility's Operating Representative:

Utility: City of Milford, Delaware  
Attention: Electric Superintendent  
Address: 180 Vickers Drive  
Milford, Delaware 19963  
Phone: (302) 422 1110 Fax: (302) 422 1117  
E-Mail Address: To be furnished to the Interconnection Customer

#### 13.5 Changes to the Notice Information

Either Party may change this information by giving five Business Days written notice prior to the effective date of the change.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives.

For the City of Milford, Delaware

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

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

Date: \_\_\_\_\_

For the Interconnection Customer

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

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

Date: \_\_\_\_\_

## APPENDIX 1

### Glossary of Terms

**Affected System** – An electric system other than the Utility's System that may be affected by the proposed interconnection. The owner of an Affected System might be a Party to the Interconnection Agreement or other study agreements needed to interconnect the Generating Facility.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Business Day** – Monday through Friday, excluding State Holidays for the State of Delaware and City of Milford.

**Default** – The failure of a breaching Party to cure its breach under the Interconnection Agreement.

**Distribution System** – The Utility's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which Distribution Systems operate differ among areas.

**Distribution System Voltage** - 25 kV nominal

**Distribution Upgrades** – The additions, modifications, and upgrades to the Utility's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the service necessary to allow the Generating Facility to operate in parallel with the Utility and to inject electricity onto the Utility's System. Distribution Upgrades do not include Interconnection Facilities.

**Generating Facility** – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, the Utility, or any affiliate thereof.

**Interconnection Customer** – Any entity, including the Utility, that proposes to interconnect its Generating Facility with the Utility's System.

**Interconnection Facilities** – The Utility's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility's System. Interconnection Facilities are sole use facilities and shall not include Upgrades.

**Interconnection Request** – The Interconnection Customer's request, in accordance with these procedures, to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to, an existing Generating Facility that is interconnected with the Utility's System.

**Material Modification** – A modification to machine data or equipment configuration or to the interconnection site of the Generating Facility that has a material impact on the cost, timing or design of any Interconnection Facilities or Upgrades.

**Net Metering** - The Utility tariff that sets forth guidelines for small generator interconnections that are intended to only to offset specific customer/site energy requirements.

**Network Upgrades** – Additions, modifications, and upgrades to the Utility's Transmission System required to accommodate the interconnection of the Generating Facility to the Utility's System. Network Upgrades do not include Distribution Upgrades.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to Regional Reliability Organization, Independent System Operator, control area, or the Utility's requirements, including those set forth in the Interconnection Agreement.

**Party or Parties** – The Utility, and Interconnection Customer,, or both.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the Utility's System (Point of Common Coupling).

**Queue Position** – The order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by the Utility and a demonstration of site control, if requested

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under the Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Study Process** – The procedure for evaluating an Interconnection Request that includes the scoping meeting, feasibility study, system impact study, and facilities study.

**System** – The facilities owned, controlled or operated by the Utility that are used to provide electric service in Delaware.

**Transmission System** – The facilities owned, controlled or operated by the Utility that are used to transmit electricity in Delaware

**Upgrades** – The required additions and modifications to the Utility's System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

**Utility** – The City of Milford, Delaware

## **APPENDIX 2**

### **Description and Costs of the Generating Facility, Interconnection Facilities, and Metering Equipment**

Equipment, including the Generating Facility, Interconnection Facilities, and metering equipment shall be itemized and identified as being owned by the Interconnection Customer, or the Utility. The Utility will provide a best estimate itemized cost, including overheads, of its Interconnection Facilities and metering equipment, and a best estimate itemized cost of the annual operation and maintenance expenses associated with its Interconnection Facilities and metering equipment.

### **APPENDIX 3**

**Include One-line Diagram Depicting the Generating Facility, Interconnection Facilities,  
Metering Equipment, and Upgrades**

**APPENDIX 4**

**Milestones**

Anticipated In-Service Date: \_\_\_\_\_

Critical milestones and responsibility as agreed to by the Parties:

**Milestone/Date Responsible Party**

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_
- (6) \_\_\_\_\_
- (7) \_\_\_\_\_
- (8) \_\_\_\_\_
- (9) \_\_\_\_\_
- (10) \_\_\_\_\_

Agreed to by:  
For the Utility \_\_\_\_\_ Date \_\_\_\_\_

For the Interconnection Customer \_\_\_\_\_ Date \_\_\_\_\_

## **APPENDIX 5**

### **Additional Operating Requirements for the Utility's System and Affected Systems Needed to Support the Interconnection Customer's Needs**

Requirements that shall be completed by the Interconnection Customer prior to initiating parallel operation with the Utility's System.

## **APPENDIX 6**

### **Utility's Description of its Upgrades and Best Estimate of Upgrade Costs**

Upgrades required and itemized best estimate of the cost, including overheads, of the Upgrades and annual operation and maintenance expenses associated with such Upgrades.

## Facilities Study Agreement

**THIS AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, ("Interconnection Customer,") and the City of Milford, a Municipal Corporation existing under the laws of the State of Delaware, ("Utility"). The Interconnection Customer and the Utility each may be referred to as a "Party," or collectively as the "Parties."

### RECITALS

**WHEREAS**, the Interconnection Customer is proposing to develop a Generating Facility or generating capacity addition to an existing Generating Facility consistent with the Interconnection Request completed by the Interconnection Customer on \_\_\_\_\_; and

**WHEREAS**, the Interconnection Customer desires to interconnect the Generating Facility with the Utility's System; and

**WHEREAS**, the Utility has completed a system impact study and provided the results of said study to the Interconnection Customer (this recital to be omitted if the Parties have agreed to forego the system impact study); and

**WHEREAS**, the Interconnection Customer has requested the Utility to perform a facilities study to specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the system impact study and/or any other relevant studies in accordance with Good Utility Practice to physically and electrically connect the Generating Facility with the Utility's System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the Glossary of Terms attached hereto.

2.0 The Interconnection Customer elects and the Utility shall cause to be performed a facilities study consistent with the Delaware Interconnection Procedures.

3.0 The scope of the facilities study shall be subject to data provided in Appendix A to this Agreement.

4.0 The facilities study shall specify and estimate the cost of the equipment, engineering, procurement and construction work (including overheads) needed to

implement the conclusions of the system impact studies. The facilities study shall also identify (1) the electrical switching configuration of the equipment, including, without limitation, transformer, switchgear, meters, and other station equipment, (2) the nature and estimated cost of the Utility's Interconnection Facilities and Upgrades necessary to accomplish the interconnection, and (3) an estimate of the time required to complete the construction and installation of such facilities.

5.0 The Utility may propose to group facilities required for more than one Interconnection Customer in order to minimize facilities costs through economies of scale, but any Interconnection Customer may require the installation of facilities required for its own Generating Facility if it is willing to pay the costs of those facilities.

6.0 A deposit of the good faith estimated facilities study costs may be required from the Interconnection Customer.

7.0 In cases where Upgrades are required, the facilities study must be completed within 45 Business Days of the receipt of this Agreement. In cases where no Upgrades are necessary, and the required facilities are limited to Interconnection Facilities, the facilities study must be completed within 30 Business Days.

8.0 Once the facilities study is completed, a facilities study report shall be prepared and transmitted to the Interconnection Customer.

9.0 Any study fees shall be based on the Utility's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

10.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund such excess within 30 calendar days of the invoice without interest.

#### 11.0 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Delaware, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

#### 12.0 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties.

### 13.0 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

### 14.0 Waiver

14.1. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

14.2. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

### 15.0 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

### 16.0 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

### 17.0 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

## 18.0 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

18.1. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

18.2. The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

18.3 In the event the Interconnection Customer uses the services of a subcontractor, the Interconnection Customer agrees to indemnify and hold harmless Utility from any loss or damages, personal or to property, occasioned by use of such subcontractor. In the event of any claim, action, suit or cause of action arising from the use of a subcontractor by Interconnection Customer naming Utility as a party, the Interconnection Customer agrees to defend Utility in such suit or action at no cost to utility.

## 19.0 Interconnection Agreement

This Agreement shall not be construed to amend or supersede the Interconnection Agreement being executed by the parties concurrent herewith. In the event of any conflict between this Agreement and the Interconnection Agreement, the terms of the Interconnection Agreement shall govern the rights, duties and obligations of Parties.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

**Utility:**

City of Milford, Delaware

Signed \_\_\_\_\_

Name (Printed):

\_\_\_\_\_

Title \_\_\_\_\_

**Customer:**

\_\_\_\_\_

Signed \_\_\_\_\_

Name (Printed):

\_\_\_\_\_

Title \_\_\_\_\_

## **Assumptions Used in Conducting the System Impact Study**

### APPENDIX A

The system impact study shall be based upon the results of the feasibility study, subject to any modifications in accordance with the Interconnection Procedures, and the following assumptions:

1) Designation of Point of Interconnection and configuration to be studied.

2) Designation of alternative Points of Interconnection and configuration.

1) and 2) are to be completed by the Interconnection Customer. Other assumptions (listed below) are to be provided by the Interconnection Customer and the Utility.

## Glossary of Terms

**10 kW Inverter Process** – The procedure for evaluating an Interconnection Request for a certified inverter-based Generating Facility no larger than 10 kW that uses the Section 3 screens. The application process uses an all-in-one document that includes a simplified Interconnection Request, simplified procedures, and a brief set of Terms and Conditions. (See Attachment 5.)

**Affected System** – An electric system other than the Utility's System that may be affected by the proposed interconnection. The owner of an Affected System might be a Party to the Interconnection Agreement or other study agreements needed to interconnect the Generating Facility.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Business Day** – Monday through Friday, excluding State Holidays.

**Default** – The failure of a breaching Party to cure its breach under the Interconnection Agreement.

**Distribution System** – The Utility's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which Distribution Systems operate differ among areas.

**Distribution Upgrades** – The additions, modifications, and upgrades to the Utility's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the service necessary to allow the Generating Facility to operate in parallel with the Utility and to inject electricity onto the Utility's System. Distribution Upgrades do not include Interconnection Facilities.

**Fast Track Process** – The procedure for evaluating an Interconnection Request for a certified Generating Facility no larger than 2 MW that includes the Section 3 screens, customer options meeting, and optional supplemental review.

**Generating Facility** – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, the Utility, or any affiliate thereof.

**Interconnection Customer** – Any entity, including the Utility, that proposes to interconnect its Generating Facility with the Utility's System.

**Interconnection Facilities** – The Utility's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility's System. Interconnection Facilities are sole use facilities and shall not include Upgrades.

**Interconnection Request** – The Interconnection Customer's request, in accordance with these procedures, to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to, an existing Generating Facility that is interconnected with the Utility's System.

**Material Modification** – A modification to machine data or equipment configuration or to the interconnection site of the Generating Facility that has a material impact on the cost, timing or design of any Interconnection Facilities or Upgrades.

**Network Upgrades** – Additions, modifications, and upgrades to the Utility's Transmission System required to accommodate the interconnection of the Generating Facility to the Utility's System. Network Upgrades do not include Distribution Upgrades.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to Regional Reliability Organization, Independent System Operator, control area, or the Utility's requirements, including those set forth in the Interconnection Agreement.

**Party or Parties** – The Utility, Interconnection Customer, and possibly the owner of an Affected System, or any combination of the above.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the Utility's System.

**Queue Position** – The order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by the Utility and a demonstration of site control, if requested.

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under the Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Study Process** – The procedure for evaluating an Interconnection Request that includes the Section 4 scoping meeting, feasibility study, system impact study, and facilities study.

**System** – The facilities owned, controlled or operated by the Utility that are used to provide electric service in Delaware.

**Utility** – The City of Milford, DE

**Transmission System** – The facilities owned, controlled or operated by the Utility that are used to transmit electricity in Delaware.

**Upgrades** – The required additions and modifications to the Utility's System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

## Feasibility Study Agreement

**THIS AGREEMENT** (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, (“Interconnection Customer,”) and The City of Milford, a Municipal Corporation existing under the laws of the State of Delaware (“Utility”). The Interconnection Customer and the Utility each may be referred to as a “Party,” or collectively as the “Parties.”

### RECITALS

**WHEREAS**, the Interconnection Customer is proposing to develop a Generating Facility or generating capacity addition to an existing Generating Facility consistent with the Interconnection Request Form completed by the Interconnection Customer on \_\_\_\_\_; and

**WHEREAS**, the Interconnection Customer desires to interconnect the Generating Facility with the Utility’s System; and

**WHEREAS**, the Interconnection Customer has requested the Utility to perform a feasibility study to assess the feasibility of interconnecting the proposed Generating Facility with the Utility’s System, and of any Affected Systems;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the Glossary of Terms attached hereto.

2.0 The Interconnection Customer elects and the Utility shall cause to be performed an interconnection feasibility study consistent with standard Utility practice.

3.0 The scope of the feasibility study shall be subject to the assumptions set forth in Appendix A to this Agreement.

4.0 The feasibility study shall be based on the technical information provided by the Interconnection Customer in the Interconnection Request Form, as may be modified as the result of the scoping meeting. The Utility reserves the right to request additional technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the feasibility study and design. If the Interconnection Customer modifies

its Interconnection Request, the time to complete the feasibility study may be extended by agreement of the Parties.

5.0 In performing the study, the Utility shall rely, to the extent reasonably practicable, on existing studies of recent vintage. Utility reserves the sole discretion to determine if the existing studies are adequate or if new studies are required. The Interconnection Customer shall not be charged for such existing studies; however, the Interconnection Customer shall be responsible for charges associated with any new study or modifications to existing studies that are reasonably necessary to perform the feasibility study.

6.0 The feasibility study report shall provide the following analyses for the purpose of identifying any potential adverse system impacts that would result from the interconnection of the Generating Facility as proposed:

6.1 Initial identification of any circuit breaker short circuit capability limits exceeded as a result of the interconnection;

6.2 Initial identification of any thermal overload or voltage limit violations resulting from the interconnection;

6.3 Initial review of grounding requirements and electric system protection; and

6.4 Description and non-binding estimated cost of facilities required to interconnect the proposed Generating Facility and to address the identified short circuit and power flow issues.

7.0 The feasibility study shall model the impact of the Generating Facility regardless of purpose in order to avoid the further expense and interruption of operation for reexamination of feasibility and impacts if the Interconnection Customer later changes the purpose for which the Generating Facility is being installed.

8.0 The study shall include the feasibility of any interconnection at a proposed project site where there could be multiple potential Points of Interconnection, as requested by the Interconnection Customer and at the Interconnection Customer's cost.

9.0 A deposit of not less than \$1,000 shall be required from the Interconnection Customer to be applied to the cost of the study. Depending on the good faith estimate of the study cost, a larger deposit may be required by the City.

10.0 Once the feasibility study is completed, a feasibility study report shall be prepared and transmitted to the Interconnection Customer. Barring unusual circumstances, the feasibility study must be completed and the feasibility study report transmitted within 30 Business Days of the Interconnection Customer's agreement to conduct a feasibility study.

11.0 Any study fees shall be based on the Utility's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund such excess within 30 calendar days of the invoice without interest.

### 13.0 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Delaware, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

### 14.0 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties.

### 15.0 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

### 16.0 Waiver

16.1 The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

16.2 Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

## 17.0 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

## 18.0 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

## 19.0 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

## 20.0 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.2 The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

20.3 In the event the Interconnection Customer uses the services of a subcontractor, the Interconnection Customer agrees to indemnify and hold harmless Utility from any loss or damages, personal or to property, occasioned by use of such subcontractor. In the event of any claim, action, suit or cause of action arising from the use of a subcontractor by Interconnection Customer naming Utility as a party, the Interconnection Customer agrees to defend Utility in such suit or action at no cost to Utility.

## 21. Interconnection Agreement

This Agreement shall not be construed to amend or supersede the Interconnection Agreement being executed by the parties concurrent herewith. In the event of any conflict between this Agreement and the Interconnection Agreement, the terms of the Interconnection Agreement shall govern the rights, duties and obligations of the Parties.

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**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above written.

**Utility:**

City of Milford, Delaware

Signed \_\_\_\_\_

Name (Printed):

\_\_\_\_\_

Title \_\_\_\_\_

**Customer:**

\_\_\_\_\_

Signed \_\_\_\_\_

Name (Printed):

\_\_\_\_\_

Title \_\_\_\_\_

## **Assumptions Used in Conducting the Feasibility Study**

### **APPENDIX A**

The feasibility study will be based upon the information set forth in the Interconnection Request Form and agreed upon in the scoping meeting held on \_\_\_\_\_:

1) Designation of Point of Interconnection and configuration to be studied.

2) Designation of alternative Points of Interconnection and configuration.

1) and 2) are to be completed by the Interconnection Customer. Other assumptions (if listed below) are to be provided by the Interconnection Customer and the Utility.

## Glossary of Terms

**Affected System** – An electric system other than the Utility’s System that may be affected by the proposed interconnection. The owner of an Affected System might be a Party to the Interconnection Agreement or other study agreements needed to interconnect the Generating Facility.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Business Day** – Monday through Friday, excluding State Holidays.

**Default** – The failure of a breaching Party to cure its breach under the Interconnection Agreement.

**Distribution System** – The Utility’s facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which Distribution Systems operate differ among areas.

**Distribution Upgrades** – The additions, modifications, and upgrades to the Utility's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the service necessary to allow the Generating Facility to operate in parallel with the Utility and to inject electricity onto the Utility’s System. Distribution Upgrades do not include Interconnection Facilities.

**Fast Track Process** – The procedure for evaluating an Interconnection Request for a certified Generating Facility no larger than 2 MW that includes the Section 3 screens, customer options meeting, and optional supplemental review.

**Generating Facility** – The Interconnection Customer’s device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer’s Interconnection Facilities.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, the Utility, or any affiliate thereof.

**Interconnection Customer** – Any entity, including the Utility, that proposes to interconnect its Generating Facility with the Utility's System.

**Interconnection Facilities** – The Utility's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility's System. Interconnection Facilities are sole use facilities and shall not include Upgrades.

**Interconnection Request** – The Interconnection Customer's request, in accordance with these procedures, to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to, an existing Generating Facility that is interconnected with the Utility's System.

**Material Modification** – A modification to machine data or equipment configuration or to the interconnection site of the Generating Facility that has a material impact on the cost, timing or design of any Interconnection Facilities or Upgrades.

**Network Upgrades** – Additions, modifications, and upgrades to the Utility's Transmission System required to accommodate the interconnection of the Generating Facility to the Utility's System. Network Upgrades do not include Distribution Upgrades.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to Regional Reliability Organization, Independent System Operator, control area, or the Utility's requirements, including those set forth in the Interconnection Agreement.

**Party or Parties** – The Utility, Interconnection Customer, and possibly the owner of an Affected System, or any combination of the above.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the Utility's System.

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under the Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Study Process** – The procedure for evaluating an Interconnection Request that may include the scoping meeting, feasibility study, system impact study, and facilities study.

**System** – The facilities owned, controlled or operated by the Utility that are used to provide electric service in Delaware.

**Utility** – The City of Milford, Delaware

**Transmission System** – The facilities owned, controlled or operated by the Utility that are used to transmit electricity in Delaware.

**Upgrades** – The required additions and modifications to the Utility's System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

## System Impact Study Agreement

**THIS AGREEMENT** ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_, ("Interconnection Customer,") and The City of Milford, a Municipal Corporation existing under the laws of the State of Delaware, ("Utility"). The Interconnection Customer and the Utility each may be referred to as a "Party," or collectively as the "Parties."

### RECITALS

**WHEREAS**, the Interconnection Customer is proposing to develop a Generating Facility or generating capacity addition to an existing Generating Facility consistent with the Interconnection Request completed by the Interconnection Customer on \_\_\_\_\_; and

**WHEREAS**, the Interconnection Customer desires to interconnect the Generating Facility with the Utility's System; and

**WHEREAS**, the Utility has completed a feasibility study and provided the results of said study to the Interconnection Customer (this recital to be omitted if the Parties have agreed to forego the feasibility study); and

**WHEREAS**, the Interconnection Customer has requested the Utility to perform a system impact study to assess the impact of interconnecting the Generating Facility with the Utility's System, and of any Affected Systems;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein the Parties agree as follows:

1.0 When used in this Agreement, with initial capitalization, the terms specified shall have the meanings indicated or the meanings specified in the Glossary of Terms attached hereto.

2.0 The Interconnection Customer elects and the Utility shall cause to be performed a system impact study consistent with the Delaware Interconnection Procedures.

3.0 The scope of the system impact study shall be subject to the assumptions set forth in Appendix A to this Agreement.

4.0 A system impact study will be based upon the results of the feasibility study and the technical information provided by Interconnection Customer in the Interconnection Request. The Utility reserves the right to request additional

technical information from the Interconnection Customer as may reasonably become necessary consistent with Good Utility Practice during the course of the system impact study. If the Interconnection Customer modifies its designated Point of Interconnection, Interconnection Request, or the technical information provided therein is modified, the time to complete the system impact study may be extended.

5.0 A system impact study shall consist of a short circuit analysis, a stability analysis, a power flow analysis, voltage drop and flicker studies, protection and set point coordination studies, and grounding reviews, as necessary. A system impact study shall state the assumptions upon which it is based, state the results of the analyses, and provide the requirement or potential impediments to providing the requested interconnection service, including a preliminary indication of the cost and length of time that would be necessary to correct any problems identified in those analyses and implement the interconnection. A system impact study shall provide a list of facilities that are required as a result of the Interconnection Request and non-binding good faith estimates of cost, responsibility and time to construct.

6.0 A distribution system impact study shall incorporate a distribution load flow study, an analysis of equipment interrupting ratings, protection coordination study, voltage drop and flicker studies, protection and set point coordination studies, grounding reviews, and the impact on electric system operation, as necessary.

7.0 Affected Systems may participate in the preparation of a system impact study, with a division of costs among such entities as they may agree. All Affected Systems shall be afforded an opportunity to review and comment upon a system impact study that covers potential adverse system impacts on their electric systems, and the Utility has 20 additional Business Days to complete a system impact study requiring review by Affected Systems.

8.0 If the Utility uses a queuing procedure for sorting or prioritizing projects and their associated cost responsibilities for any required Network Upgrades, the system impact study shall consider all generating facilities (and with respect to paragraph 8.3 below, any identified Upgrades associated with such higher queued interconnection) that, on the date the system impact study is commenced –

8.1. Are directly interconnected with the Utility's electric system; or

8.2. Are interconnected with Affected Systems and may have an impact on the proposed interconnection; and

8.3. Have a pending higher queued Interconnection Request to interconnect with the Utility's electric system.

9.0 A distribution system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 30 Business Days after this Agreement is signed by the Parties. A transmission system impact study, if required, shall be completed and the results transmitted to the Interconnection Customer within 45 Business Days after this Agreement is signed by the Parties, unless the study involves Affected Systems per 7.0.

10.0 A deposit of the equivalent of the good faith estimated cost of a distribution system impact study and one half of the good faith estimated cost of a transmission system impact study may be required from the Interconnection Customer.

11.0 Any study fees shall be based on the Utility's actual costs and will be invoiced to the Interconnection Customer after the study is completed and delivered and will include a summary of professional time.

12.0 The Interconnection Customer must pay any study costs that exceed the deposit without interest within 30 calendar days of receipt of the invoice or resolution of any dispute. If the deposit exceeds the invoiced fees, the Utility shall refund such excess within 30 calendar days of the invoice without interest.

### 13.0 Governing Law, Regulatory Authority, and Rules

The validity, interpretation and enforcement of this Agreement and each of its provisions shall be governed by the laws of the State of Delaware, without regard to its conflicts of law principles. This Agreement is subject to all Applicable Laws and Regulations. Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, or regulations of a Governmental Authority.

### 14.0 Amendment

The Parties may amend this Agreement by a written instrument duly executed by both Parties.

### 15.0 No Third-Party Beneficiaries

This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

### 16.0 Waiver

16.1. The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be

considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

16.2. Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Termination or default of this Agreement for any reason by Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Utility. Any waiver of this Agreement shall, if requested, be provided in writing.

#### 17.0 Multiple Counterparts

This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

#### 18.0 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

#### 19.0 Severability

If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other Governmental Authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

#### 20.0 Subcontractors

Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

20.1. The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall

be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the Utility be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

20.2. The obligations under this article will not be limited in any way by any limitation of subcontractor's insurance.

20.3 In the event the Interconnection Customer uses the services of a subcontractor, the Interconnection Customer agrees to indemnify and hold harmless Utility from any loss or damages, personal or to property, occasioned by use of such subcontractor. In the event of any claim, action, suit or cause of action arising from the use of a subcontractor by Interconnection Customer naming Utility as a party, the Interconnection Customer agrees to defend Utility in such suit or action at no cost to Utility.

21. Interconnection Agreement

This Agreement shall not be construed to amend or supersede the Interconnection Agreement being executed by the parties concurrent herewith. In the event of any conflict between this Agreement and the Interconnection Agreement, the terms of the Interconnection Agreement shall govern the rights, duties and obligations of the Parties.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be duly executed by their duly authorized officers or agents on the day and year first above

**Utility:**  
City of Milford, Delaware

**Customer:**  
\_\_\_\_\_

Signed \_\_\_\_\_

Signed \_\_\_\_\_

Name (Printed):  
\_\_\_\_\_

Name (Printed):  
\_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

## **Assumptions Used in Conducting the System Impact Study**

### APPENDIX A

The system impact study shall be based upon the results of the feasibility study, subject to any modifications in accordance with the Interconnection Procedures, and the following assumptions:

1) Designation of Point of Interconnection and configuration to be studied.

2) Designation of alternative Points of Interconnection and configuration.

1) and 2) are to be completed by the Interconnection Customer. Other assumptions (listed below) are to be provided by the Interconnection Customer and the Utility.

## Glossary of Terms

**10 kW Inverter Process** – The procedure for evaluating an Interconnection Request for a certified inverter-based Generating Facility no larger than 10 kW that uses the Section 3 screens. The application process uses an all-in-one document that includes a simplified Interconnection Request, simplified procedures, and a brief set of Terms and Conditions. (See Attachment 5.)

**Affected System** – An electric system other than the Utility's System that may be affected by the proposed interconnection. The owner of an Affected System might be a Party to the Interconnection Agreement or other study agreements needed to interconnect the Generating Facility.

**Applicable Laws and Regulations** – All duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Business Day** – Monday through Friday, excluding State Holidays.

**Default** – The failure of a breaching Party to cure its breach under the Interconnection Agreement.

**Distribution System** – The Utility's facilities and equipment used to transmit electricity to ultimate usage points such as homes and industries from nearby generators or from interchanges with higher voltage transmission networks which transport bulk power over longer distances. The voltage levels at which Distribution Systems operate differ among areas.

**Distribution Upgrades** – The additions, modifications, and upgrades to the Utility's Distribution System at or beyond the Point of Interconnection to facilitate interconnection of the Generating Facility and render the service necessary to allow the Generating Facility to operate in parallel with the Utility and to inject electricity onto the Utility's System. Distribution Upgrades do not include Interconnection Facilities.

**Fast Track Process** – The procedure for evaluating an Interconnection Request for a certified Generating Facility no larger than 2 MW that includes the Section 3 screens, customer options meeting, and optional supplemental review.

**Generating Facility** – The Interconnection Customer's device for the production of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Good Utility Practice** – Any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** – Any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, the Utility, or any affiliate thereof.

**Interconnection Customer** – Any entity, including the Utility, that proposes to interconnect its Generating Facility with the Utility's System.

**Interconnection Facilities** – The Utility's Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Utility's System. Interconnection Facilities are sole use facilities and shall not include Upgrades.

**Interconnection Request** – The Interconnection Customer's request, in accordance with these procedures, to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to, an existing Generating Facility that is interconnected with the Utility's System.

**Material Modification** – A modification to machine data or equipment configuration or to the interconnection site of the Generating Facility that has a material impact on the cost, timing or design of any Interconnection Facilities or Upgrades.

**Network Upgrades** – Additions, modifications, and upgrades to the Utility's Transmission System required to accommodate the interconnection of the Generating Facility to the Utility's System. Network Upgrades do not include Distribution Upgrades.

**Operating Requirements** – Any operating and technical requirements that may be applicable due to Regional Reliability Organization, Independent System Operator, control area, or the Utility's requirements, including those set forth in the Interconnection Agreement.

**Party or Parties** – The Utility, Interconnection Customer, and possibly the owner of an Affected System, or any combination of the above.

**Point of Interconnection** – The point where the Interconnection Facilities connect with the Utility's System.

**Queue Position** – The order of a valid Interconnection Request, relative to all other pending valid Interconnection Requests, that is established based upon the date and time of receipt of the valid Interconnection Request by the Utility and a demonstration of site control, if requested.

**Reasonable Efforts** – With respect to an action required to be attempted or taken by a Party under the Interconnection Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Study Process** – The procedure for evaluating an Interconnection Request that includes the Section 4 scoping meeting, feasibility study, system impact study, and facilities study.

**System** – The facilities owned, controlled or operated by the Utility that are used to provide electric service in Delaware.

**Utility** – The City of Milford, DE

**Transmission System** – The facilities owned, controlled or operated by the Utility that are used to transmit electricity in Delaware.

**Upgrades** – The required additions and modifications to the Utility's System at or beyond the Point of Interconnection. Upgrades may be Network Upgrades or Distribution Upgrades. Upgrades do not include Interconnection Facilities.

Members of the City Council and Mayor Rogers,

Tonight I respectfully will submit information gathered in support of replacing and/or adding signage on Rt. 1 and at several key gateway entrances to the City. Through training provided by the National Trust courtesy of DEDO we have identified an important area in the continuing revitalization of downtown. To enhance interest in the unique assets of the downtown area we would like to request new signage to promote the City's recently adopted branding. Additionally, we have communicated to the state an interest in obtaining a number of the blue "Attractions" signs found on major roadways to alert travelers of destinations such as Museums, Art Leagues, Music Schools, Libraries etc. Strategically placing the state signs and city signs will be an important step in promoting the downtown and Riverwalk area. The area below the overpass at the North side of town is one such area we are sighting and have an artist rendering of how that may look. Other locations would include Rt. 1 south of Milford, Rt.14 west of Milford and both sides of Rt. 36. On behalf of DMI I have begun exploring design and costs for consideration. That information will be forth coming, tonight we are looking for support for the initiative. Thank you.

Sincerely,

W. Scott Angelucci  
Board Member, DMI



*Milford*

River Town.  
Art Town.  
Home Town.