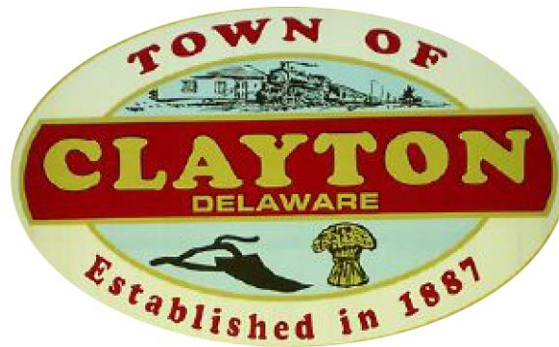


ZONING ORDINANCE

TOWN OF CLAYTON

Kent County & New Castle County, Delaware



Prepared by

UNIVERSITY OF DELAWARE
Institute for Public Administration
SCHOOL OF PUBLIC POLICY & ADMINISTRATION
COLLEGE OF ARTS & SCIENCES



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Adopted December 14, 1998
with amendments through
August 8, 2016

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CONTENTS

Chapter 6.1. General Provisions	1
Section 6.1-1. Title, Purpose, and Application.....	1
6.1-1.1. Title.....	1
6.1-1.2. Purposes.....	1
6.1-1.3. Authorization.....	1
6.1-1.4. Components	1
6.1-1.5. Compliance Required	1
6.1-1.6. Applicability.....	2
6.1-1.7. Ordinance Provisions are Minimum Requirements.....	2
6.1-1.8. Rules for Interpretation of Language.....	2
6.1-1.9. Interpretation of Zoning Map	2
6.1-1.10. Parcels Split by Zoning Districts.....	3
6.1-1.11. Building Permits Issued Prior to Ordinance Adoption	3
6.1-1.12. Lots Recorded Before June 22, 1992.....	3
6.1-1.13. Plats Approved Prior to Ordinance Adoption	3
6.1-1.14. Conflict with Other Regulations	3
6.1-1.15. Relationship to Private Agreements	3
6.1-1.16. Annexed Lands	3
6.1-1.17. Severability.....	3
Section 6.1-2. Definitions	4
6.1-2.1. Interpretation.....	4
6.1-2.2. Definitions	4
Chapter 6.2. Town Planning and Zoning Committee	11
Section 6.2-1. Created; Name.....	11
Section 6.2-2. Organization	11
6.2-2.1. Members	11
6.2-2.2. Term of Office	11
6.2-2.3. Appointments.....	11
6.2-2.4. Vacancies.....	11
6.2-2.5. Chairperson and Secretary.....	11
6.2-2.6. Compensation	11
6.2-2.7. Quorum	11
Section 6.2-3. Powers and Duties.....	11
6.2-3.1. Comprehensive Plan.....	11
6.2-3.2. Subdivision Plats.....	11
6.2-3.3. Other Powers and Responsibilities	12
Chapter 6.3. Board of Adjustment	13
Section 6.3-1. Created; Name.....	13
Section 6.3-2. Organization	13
6.3-2.1. Members	13
6.3-2.2. Term of Office	13
6.3-2.3. Appointments.....	13
6.3-2.4. Vacancies.....	13
6.3-2.5. Chairperson	13
6.3-2.6. Removal.....	13
6.3-2.7. Compensation	13
6.3-2.8. Legal Advisor	13

Section 6.3-3. Powers and Duties..... 13

 6.3-3.1. Appeals..... 13

 6.3-3.2. Variances..... 13

 6.3-3.3. Special Exceptions..... 14

 6.3-3.4. Text and Map Interpretations..... 14

Section 6.3-4. Meetings and Hearings..... 14

 6.3-4.1. Rules..... 14

 6.3-4.2. Secretary..... 14

 6.3-4.3. Quorum..... 14

 6.3-4.4. Processing of Applications and Appeals..... 14

 6.3-4.5. Testimony Before the Board..... 14

 6.3-4.6. Actions..... 14

 6.3-4.7. Limitation on Reapplication..... 14

Chapter 6.4. Use Regulations 15

Section 6.4-1. General..... 15

 6.4-1.1. Establishment of Zoning Districts..... 15

 6.4-1.2. Rules for Interpretation of Uses..... 15

Section 6.4-2. Zoning Districts..... 15

 6.4-2.1. Open Space District (OS)..... 15

 6.4-2.2. Residential Suburban 1-Family District (RS)..... 16

 6.4-2.3. Residential 1-Family and Townhouse District (R)..... 16

 6.4-2.4. Residential Multiple Family District (R1)..... 16

 6.4-2.5. Residential Manufactured Housing Community District (RMH)..... 16

 6.4-2.6. Town Center District (TC)..... 17

 6.4-2.7. Neighborhood Commercial District (C1)..... 17

 6.4-2.8. General Commercial District (C2)..... 17

 6.4-2.9. Industrial District (I)..... 17

 6.4-2.10. Railroad District (RR)..... 18

 6.4-2.11. Source Water Protection Area Overlay District..... 18

Section 6.4-3. Permitted Uses and Structures..... 18

Section 6.4-4. Accessory Uses..... 18

 6.4-4.1. Purpose..... 18

 6.4-4.2. General Provisions..... 18

 6.4-4.3. Commercial Vehicles in Residential Zones..... 18

 6.4-4.4. Storage in Residential Zones..... 18

 6.4-4.5. Pets in Residential Zones..... 18

 6.4-4.6. Satellite Dish Antennas in Residential Zones..... 19

 6.4-4.7. Home Occupations..... 19

Section 6.4-5. Temporary Uses..... 20

 6.4-5.1. Intent and Purpose..... 20

 6.4-5.2. Permitted Temporary Uses..... 20

 6.4-5.3. Procedure for Obtaining a Temporary Use Permit..... 21

 6.4-5.4. Criteria for Issuing a Temporary Use Permit..... 21

 6.4-5.5. Conditions for Approval..... 21

Chapter 6.5. Bulk Regulations 23

Section 6.5-1. Basic Bulk Regulations..... 23

Section 6.5-2. Supplemental Bulk Regulations..... 23

 6.5-2.1. Accessory Buildings and Structures..... 23

 6.5-2.2. Cluster Development..... 23

 6.5-2.3. Fences, Walls, Hedges, and Shrubbery..... 24

6.5-2.4. Height Limits—Exemptions.....	25
6.5-2.5. Screening and Landscaping.....	25
6.5-2.6. Manufactured Homes.....	26
6.5-2.7. Projections into Required Yards.....	27
6.5-2.8. Townhouses.....	27
6.5-2.9. Town Center Zone.....	28
6.5-2.10. Dwellings Adjoining Scenic Corridors.....	28
Chapter 6.6. Regulations Applying to All Districts.....	29
Section 6.6-1. Off-Street Parking and Loading.....	29
6.6-1.1. Purpose and Scope.....	29
6.6-1.2. Off-Street Parking.....	29
6.6-1.3. Off-Street Loading.....	31
Section 6.6-2. Signs.....	32
6.6-2.1. Purposes.....	32
6.6-2.2. Applicability and Effect.....	32
6.6-2.3. Definitions.....	32
6.6-2.4. Computation.....	34
6.6-2.5. Signs Allowed on Private Property with and without Permits.....	34
6.6-2.6. Permit Requirements.....	35
6.6-2.7. Design, Construction, and Maintenance.....	35
6.6-2.8. Signs in the Public Right-of-Way, Exempt Signs, and Prohibited Signs.....	35
6.6-2.9. Changeable Copy Signs—Special Regulations.....	36
6.6-2.10. Abandoned and Nonconforming Signs.....	36
6.6-2.11. Enforcement and Penalties.....	36
Section 6.6-3. Nonconformities.....	37
6.6-3.1. Definition and Intent.....	37
6.6-3.2. Nonconforming Uses.....	37
6.6-3.3. Nonconforming Structures.....	37
6.6-3.4. Nonconforming Lots.....	38
6.6-3.5. Nonconforming Signs in Residential Districts.....	38
Section 6.6-4. Source Water Protection Overlay Zoning District Regulations.....	39
6.6-4.1. Purposes.....	39
6.6-4.2. Definitions.....	39
6.6-4.3. Source Water Protection Area Boundaries.....	41
6.6-4.5. Exemptions.....	42
6.6-4.6. Environmental Assessment Report.....	42
6.6-4.7. Source Water Protection (SWP) Area Standards.....	43
Chapter 6.7. Administration and Enforcement.....	45
Section 6.7-1. Administrator Named.....	45
6.7-1.1. Responsibilities.....	45
6.7-1.2. Appeals of Administrative Decisions.....	45
Section 6.7-2. Certificates of Zoning Compliance.....	45
6.7-2.1. Purpose.....	45
6.7-2.2. Certificate Required.....	45
6.7-2.3. Application Procedure.....	45
6.7-2.4. Building and Manufactured Home Placement Permits.....	45
6.7-2.5. Appeals.....	45
Section 6.7-3. Variances.....	46
6.7-3.1. Purpose.....	46
6.7-3.2. Application Procedure.....	46

- 6.7-3.3. General Criteria for Granting 46
- 6.7-3.4. Criteria for Granting Variance from Parking and Loading Requirements 46
- 6.7-3.5. Use Variances Not Authorized 46
- 6.7-3.6. Duration and Revocation 46
- Section 6.7-4. Conditional Use Permits 47
 - 6.7-4.1. Definition and Purpose 47
 - 6.7-4.2. When Required. 47
 - 6.7-4.3. Application Procedure..... 47
 - 6.7-4.4. General Criteria for Granting 47
 - 6.7-4.5. Duration and Revocation 47
- Section 6.7-5. Specific Requirements for Certain Conditional Uses 48
- Section 6.7-6. Site Plan Permits 50
 - 6.7-6.1. Purposes..... 50
 - 6.7-6.2. When Required 50
 - 6.7-6.3. Application Procedure..... 50
 - 6.7-6.4. Application Requirements..... 51
 - 6.7-6.5. Compliance with and Amendments to Approved Site Plans 52
 - 6.7-6.6. Duration and Revocation 52
- Section 6.7-7. Amendments..... 52
 - 6.7-7.1. Types of Amendments and Who May Initiate 52
 - 6.7-7.2. Who May Initiate..... 52
 - 6.7-7.3. Application Submission 52
 - 6.7-7.4. Planning and Zoning Committee Review 52
 - 6.7-7.5. Town Council Public Hearing..... 52
 - 6.7-7.6. Public Notice Provisions 53
 - 6.7-7.7. Adoption and Notice of Adoption 55
 - 6.7-7.8. Limitation on Reapplication 55
- Section 6.7-8. Violations and Penalties..... 55
 - 6.7-8.1. Administrator Authorized to Institute Action 55
 - 6.7-8.2. Penalties for Violations 55
 - 6.7-8.3. Responsible Parties 55

Tables

- Table 1. Permitted Uses and Structures..... 57
- Table 2. Basic Bulk Regulations 60
- Table 3. Manufactured Home Bulk Regulations 61
- Table 4. Cluster Development Bulk Regulations 61
- Table 5. Permitted Projections into Required Yards..... 62
- Table 6. Landscaping Standards for Lots Adjoining Scenic Corridors..... 62
- Table 7. Required Off-Street Parking Spaces 63
- Table 8. Required Off-Street Loading Spaces..... 63
- Table 9. Regulations Governing Types of Signs..... 64
- Table 10. Regulations Governing Area, Size, Location, and Number of Signs 65
- Table 11. Regulations Governing Sign Characteristics 65

Zoning Map

A reference copy of the zoning map follows the last page. The official zoning map can be viewed at the Clayton Town Hall located at 414 Main Street, Clayton, Delaware during business hours.

Chapter 6.1. General Provisions

Section 6.1-1. Title, Purpose, and Application

6.1-1.1. Title

This Ordinance shall be known as the Town of Clayton Zoning Ordinance.

6.1-1.2. Purposes

- A. To guide the future growth and development of the Town in accordance with the comprehensive plan.
- B. To promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of the citizens of the Town of Clayton.
- C. To provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the appropriate use and occupancy of buildings, for healthful and convenient distribution of the population, for protection against destruction of or encroachment upon historic areas, for good civic design and arrangement, including the preservation and enhancement of the attractiveness of the community, and for adequate public utilities, services, and facilities by regulating and limiting or determining the height and bulk of buildings and structures, building lines and setbacks, the area of yards and other open spaces, off-street parking and loading facilities, signs, density of use, and location and use of land for trade industry, residences, and other purposes.

6.1-1.3. Authorization

The zoning regulations and districts in this Ordinance have been made in accordance with a Comprehensive Plan as required by the State of Delaware. They have been made with a reasonable consideration of, among other things, the existing use of property, the character of each district and its peculiar suitability for particular uses and trends of growth or change and with a view toward conserving the value of land and buildings and encouraging the most appropriate use of land throughout the incorporated territory of the Town of Clayton.

6.1-1.4. Components

- A. This Ordinance consists of the regulations contained herein and an official map depicting zoning districts.
- B. The tables included in this Ordinance are part of the regulations of this Ordinance.
- C. The drawings and graphics contained in this Ordinance are illustrations and are not part of the regulations.

6.1-1.5. Compliance Required

- A. General. No building or land shall be used, and no building or part of a building shall be erected, reconstructed, converted, enlarged, moved, or structurally altered unless it is done in conformance with the provisions of this Ordinance.
- B. Yards and Open Space.
 1. No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted.
 2. No yard or other open space provided for any building for the purpose of complying with the provisions of this Ordinance shall be considered as a yard or open space for any other building; and no yard or other open space associated with a building on one lot shall be considered as a required yard or open space for a building on any other lot.
 3. All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.

- C. Height of Buildings and Structures.
1. General. No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
 2. Sloping Lot. On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.

6.1-1.6. Applicability

This Ordinance shall apply to all land within the incorporated boundaries of the Town of Clayton. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions of this Ordinance or provisions of state law which may affect the applicability of this Ordinance.

6.1-1.7. Ordinance Provisions are Minimum Requirements

The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, convenience, order, comfort, prosperity, or general welfare.

6.1-1.8. Rules for Interpretation of Language

- A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense
- C. The word "shall" is mandatory. The word "may" is permissive.
- D. The meaning of the word "used" shall include "designed" or "intended or arranged to be used."
- E. The meaning of the word "erected" shall include "constructed," "reconstructed," "altered," "placed," or "moved."
- F. The meaning of the terms "land use" and "use of land" shall include "building use" and "use of building."
- G. The meaning of the word "adjacent" shall include "abutting" and "adjoining."

6.1-1.9. Interpretation of Zoning Map

- A. Map. The incorporated area of the Town is divided into the zoning districts shown on the official zoning map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Ordinance.
- B. Boundaries Established. A district name or letter-number combination shown on the official zoning map indicates that the regulations pertaining to that district extend through the entire area in the Town bounded by the district boundary lines within which the name or letter-number combination is shown except as otherwise specified in this Ordinance.
- C. Uncertainty as to Boundaries. Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:
 1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. Boundaries indicated as approximately following Town or County limits shall be construed as following Town or County limits.
 4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
 5. Boundaries indicated as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines.

6. Boundaries indicated as parallel to or extensions of features described in this subsection shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
 7. Where physical or cultural features existing on the ground differ from those shown on the official zoning map, or in other circumstances not covered by this subsection, the Planning and Zoning Committee shall interpret the zone boundaries.
- D. Errors or Omissions. If because error or omission, the Zoning District Map does not show a property as being in a zoning district, such property shall be classified in the least intense zoning district until changed by amendment.

6.1-1.10. Parcels Split by Zoning Districts

On unsubdivided property or where a zoning district boundary divides a lot, the location of the district boundary, unless the Zoning Map indicates its dimensions, shall be determined by applying the map scale shown on the Zoning Map scaled to the nearest foot.

6.1-1.11. Building Permits Issued Prior to Ordinance Adoption

- A. Where construction has begun in accordance with a building permit validly issued more than 6 months prior to the adoption of this Ordinance, such construction may be completed as long as it complies with the zoning regulations in effect at the time the permit was issued.
- B. Where a building permit has been validly issued within 6 months prior to the adoption of this ordinance, construction may be completed as long as it complies with the zoning regulations in effect at the time the permit was issued and as long as construction begins within 6 months of the adoption of this Ordinance.
- C. Construction is begun when excavation and the piers or footings of at 1 or more buildings covered by the permit have been completed.

6.1-1.12. Lots Recorded Before June 22, 1992

- A. Any lot, which was legally recorded and which was a buildable lot under the zoning regulations in effect immediately prior to June 22, 1992, is a buildable lot under this Ordinance and does not require a variance for the construction of a 1-family dwelling.
- B. This provision applies only to zones in which 1-family dwellings are permitted.

6.1-1.13. Plats Approved Prior to Ordinance Adoption

Any final subdivision plat, approved by the Planning and Zoning Committee during the 6 months immediately prior to the adoption of this Ordinance, may be recorded. Any lot, shown on such plat, shall be a buildable lot even though it may contain less than the minimum required area for any residential zone. However, the plat containing such a lot must be recorded within 6 months following the adoption of this Ordinance.

6.1-1.14. Conflict with Other Regulations

However, where this Ordinance imposes a greater restriction or requirement than is imposed by other resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the provisions of this Ordinance shall govern.

6.1-1.15. Relationship to Private Agreements

It is not intended that this Ordinance invalidate or annul with or invalidate any easements, covenants, or other private agreements between parties.

6.1-1.16. Annexed Lands

Any land annexed into the Town of Clayton shall be classified in the least intense zoning classification until changed by amendment.

6.1-1.17. Severability

The provisions of this Ordinance are severable. If any provision or the application of any provision is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provisions or applications.

Section 6.1-2. Definitions

6.1-2.1. Interpretation

Words and terms not defined in this Ordinance shall be interpreted according to their normal dictionary meanings and customary usage.

6.1-2.2. Definitions

Adjacent. Physically touching or bordering upon; sharing a common boundary, but not overlapping.

Administrator. Town Foreman, or other person authorized to administer this Ordinance.

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

Alteration. Any change in or rearrangement of the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Alteration, Structural. Any change in either the supporting member of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Automobile. A self-propelled, free-moving vehicle with not more than two axles usually used to transport passengers and licensed by the appropriate state agency as a passenger vehicle.

Automobile Repair Facility. Any building, premises or structure used primarily for the maintenance, servicing, repair, or storage of vehicles.

Automobile Service Station. Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels, servicing and repair of automobiles, and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Automobile Storage Facility. A building used for the storage of automobiles which may include vehicle servicing, but not vehicle repair, as an accessory use and the leasing of the stored vehicles.

Basement. A space partly underground and having at least 2 of its height above ground.

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Billboard. See *Section 6.6-2.3. Definitions* pertaining to signs.

Board. Board of Adjustment for the Town of Clayton.

Buildable Area. The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

Building. Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process equipment, goods, or materials of any kind.

Building, Accessory. A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use.

Building, Main or Principal. A building in which is located the principal use of the lot on which it is located.

Building Height. The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Line. A line parallel to the street line touching that part of a building closest to the street.

Bulk Regulations. Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which a building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements.

Canopy. A temporary or portable roof-like structure that projects from a wall of a building and is supported from the ground, deck, floor, or walls of a building for protection from sun and weather.

Carport. A roofed structure, providing space for the parking of motor vehicles, that does not have any supporting structural walls or screen walls over 60 inches high.

Cellar. A space entirely underground or partly underground with at least 2 of its height below grade.

Club, Private. A group of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render services customarily carried on by commercial businesses.

Cluster Development. See *Section 6.5-2.2. Cluster Development.*

Committee. The Clayton Planning and Zoning Committee. *[Amended 06/08/2015]*

Community Impact Study. See *Section 6.7-6.4. A. Community impact study.* (for Site Plan Permits).

Communications Tower. A structure that supports radio, cellular telephone and television transmission antennas; microwave relay towers; monopoles; and similar structures for transmission or reception and retransmission of electronic signals. A communications tower includes accessory equipment buildings that do not have office space, but does not include amateur radio operator antennas or television antennas which are accessory to residential uses.

— A freestanding tower stands without support of guy wires or cables.

— A guyed tower depends upon a pattern of supporting cables for its stability.

Community Residential Shelter. A residence providing food, shelter, medical care, legal assistance, personal guidance, and other services to families who temporarily require such services.

Conditional Use. A use permitted in a particular zoning district upon showing that such a use in a specified location will comply with all the conditions and standards for the location or the operation of the use as specified in this Ordinance and authorized by the Town Council after a public hearing. See *Section 6.7-4. Conditional Use Permits.*

Contractor's Yard. Any space, whether inside or outside of a building, for storing or keeping of construction or other heavy equipment, machinery, vehicles, or vehicle parts used by contractors.

Council. The Town Council of Clayton.

County. Kent County or New Castle County, Delaware. *[Added New Castle County, 06/08/2015]*

Court. Any open space, unobstructed from the ground to the sky, that is bounded on 2 or more sides by the walls of a building that is on the same lot.

Day Care Center, Child. An establishment providing for the care, supervision, and protection of children away from their homes.

DNREC. The Delaware Department of Natural Resources and Environmental Control. *[Added 06/08/2015]*

District. See *Zoning District.*

Dog Kennel. See *Kennel.*

Drive-In Use. An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dwelling. A structure or portion thereof that is used exclusively for human habitation.

- A. Dwelling, Attached.** A single-family dwelling that is attached to or shares a common vertical wall with 1 or more single-family dwellings. *[Added 03/27/2006]*
- B. Dwelling, Detached.** A building containing 1 dwelling unit that is not attached to any other dwelling by any means, is surrounded by open space or yards, and does not have any roof, wall, or floor in common with any other dwelling unit. *[Added 03/27/2006]*
- C. Dwelling, Manufactured.** A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at a building site and bearing a label certifying that is built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976.
- D. Dwelling, Mobile Home.** A transportable dwelling unit fabricated in an off-site manufacturing facility, designed to be a permanent residence, and built prior to June 15, 1976 on which the Federal Home Construction and Safety Standards became effective.
- E. Dwelling, Modular.** A dwelling fabricated in an off-site manufacturing facility in accordance with the Kent County Building Code. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.
- F. Dwelling, Multi-Family.** A building containing 3 or more dwelling units, including units that are located one over the other.
- G. Dwelling, Semi-Detached.** A 1-family dwelling attached to one other 1-family dwelling by a common vertical wall, with each dwelling located on a separate lot, and often referred to as a “duplex,” or “twin.”
- H. Dwelling, Single-Family Detached.** A building containing 1 dwelling unit and is not attached to any other dwelling by any means and is surrounded by open space or yards.
- I. Dwelling, Townhouse.** A 1-family dwelling in a row of at least such units in which each unit has its own front and rear access to the outside, no unit is located over another, unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.
- J. Dwelling, Triple-Attached.** One (1) of 3 dwelling units, located side by side on adjoining lots, each of which is totally separated from the other by an unpierced wall extending from ground to roof. *[Added 03/27/2006]*
- K. Dwelling, 2-Family.** A building on a single lot containing 2 dwelling units arranged EITHER—side by side, where each unit is totally separated from the other by an unpierced wall extending from ground to roof.
OR—one on top of the other, where each unit is separated from the other by an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwellings. *[Revised 03/27/2006]*

Dwelling Unit. One or more rooms, designed occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Educational Institution. Any school, educational institution, or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, middle school, elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or any other program of trade technical, or artistic instruction.

Electric Substation: Facility equipment that switches, changes, or regulates electric voltage.

Electric Switching Station. Facility equipment used to tie together two or more electric circuits through switches. The switches are selectively arranged to permit a circuit to be disconnected, or to change the electric connection between the circuits.

Electric Utility. A corporation including the Town of Clayton, person, agency, authority, or other legal entity or instrumentality that owns and/or operates facilities within the United States, its territories, or Puerto Rico for the generation, transmission, distribution, or sale of electric energy primarily for use by the public and files forms listed in the *Code of Federal Regulations*, Title 18, Part 141. Facilities that qualify as co-generators or small power producers under the Public Utility Regulatory Policies Act (PURPA) are not considered electric utilities.

Environmental Impact Study. A study which assesses the effect of a proposed development on the environment. See Section 6.7-4.6. E. Uses in the RR and I Zones. where an environmental impact study is required as part of a conditional use permit application.

Family. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Fence. An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Filling Station. See Automobile Service Station.

Floor Area.

- A. Floor Area, Gross.** The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 7 feet.
- B. Floor Area, Net.** The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.
- C. Floor Area Ratio.** The gross floor area of all buildings or structures on a lot divided by total lot area.

Frontage. That side of a lot abutting on a street; the front lot line. *[Added 03/25/2002]*

Garage. A deck, building, structure or part thereof, used for the parking and storage of vehicles.

- A. Garage, Parking.** See *Automobile Storage Facility*.
- B. Garage, Repair.** See *Automobile Repair Facility*.

Hazardous Use. A building or structure used for:

- the storage, manufacture, or processing of highly combustible or explosive products or materials which are likely to burn extremely rapidly or which may produce poisonous fumes or explosions; or
- storage or manufacturing that involves highly corrosive, toxic, or noxious alkalis, acids, or other liquids or chemicals producing flame, fume, poisonous, irritant, or corrosive gases; or
- the storage or processing of may materials producing explosive mixtures of dust or that result in the division of matter into fine particles subject to spontaneous ignition.

Home Occupation. See *Section 6.4-4.7. Home Occupations*.

Household Pet. See *Section 6.4-4.5. Pets in Residential Zones*.

Kennel. A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

Landscape Screen. See *Section 6.5-2.5. Screening and Landscaping*.

Laundromat. An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

Laundry. A building, other than a laundromat, where clothes and other articles are washed, dried and ironed.

Loading Space. See *Section 6.6-1.3. Off-Street Loading*.

Lot. A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes and bounds description, to be separately owned, used, developed, or built upon.

- A. Lot, Corner.** A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.
- B. Lot, Double Frontage.** A lot, other than a corner lot, that has frontage on 2 streets.
- C. Lot, Interior.** A lot other than a corner lot.

Lot, Depth. The average distance measured from the front lot line to the rear lot line.

Lot Line. A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

- A. Lot Line, Front.** The lot line separating a lot from a street right-of-way.
- B. Lot Line, Rear.** The line opposite and most distant from the front lot line.
- C. Lot Line, Side.** Any lot line other than a front or rear lot line.

Lot of Record. A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the Kent County Recorder of Deeds.

Lot, Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, i.e., the buildable width of a lot.

Manufactured Housing. See *Dwelling, Manufactured*.

Manufacturing. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors. Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or is semi-finished as a raw material for further processing. *[Added 03/08/2004]*

Mobile Home. See *Dwelling, Mobile Home*.

Modular Home. See *Dwelling, Modular*.

Nonconformities. Use, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance. See *Section 6.6-3. Nonconformities*.

Parking Space, Off Street. See *Section 6.6-1.2. Off-Street Parking*.

Plot Plan. A sketch, map, or survey of a lot, lots, or a tract or parcel of land that includes the locations and dimensions of lot lines, street rights-of-way, and easements.

Premises. A lot, parcel, tract, or plot of land together with the buildings and structures on them.

Public Building. A building, owned or leased, occupied and used by an agency or political subdivision of the Federal, State, County, or Town government.

Public Safety Facility. A building or structure used for the provision of public safety services, such as fire protection, emergency medical service, and rescue operations.

Public Utility Service. The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; and the provision of mass transit to the public.

A. Public Utility Service Facility. Any use or structure associated with the provision of utility services.

B. Public Utility Service Lines. The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility service. This includes equipment that is incidental and necessary to the lines and that is located on the lines.

Public Water and Sewer Systems. Any system, other than an individual septic tank, tile field, or individual well, that is operated by the Town, a governmental agency, a public utility, or a private individual or corporation approved by the Town and licensed by the appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water.

Recorder of Deeds. The Recorder of Deeds for Kent County or new Castle County, Delaware.

Regulations. See Section 6.1-1.4. Components.

Relocatable Classroom. A movable or portable structure used to provide supplemental classroom space at an educational institution.

Scenic Corridors. The arterial and collector roads adjoining and within subdivisions.

School. See Educational Institution.

Setback Line. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed.

Sign. See Section 6.6-2. Signs.

State. The State of Delaware.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if its ceiling is over 5 feet above the level from which the height of the building is measured or if it is used for business purposed other than storage.

Story, Half. A partial story under a gable, hip, or gambrel floor, the wall plates of which on at least 2 opposite sides are not more than 2 feet above the floor of each story.

Street. Any vehicular way that: (1) is an existing State, County or Town roadway ; (2) is shown upon an approved plat; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the Office of the Kent County Recorder of Deeds prior to the appointment of the Planning and Zoning Committee and the grant of power to review plats. A street includes the land between the street lines, whether improved or unimproved.

A. Street, Centerline of. The center line of any street shown on any official Town, County, or State records.

B. Street Frontage. See *Frontage*.

C. Street Line. The line between a lot, tract, or parcel of land and an adjacent street.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having depth of more than 30 inches designed, used, and maintained for swimming and bathing.

Use. The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

A. Use, Accessory. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

B. Use, Principal. The primary or predominant use of any lot or parcel.

Variance. Permission to depart from the literal requirements of this Ordinance. See *Section 6.7-3. Variances.*

Yard. An open space that lies between the principal building or buildings and the nearest lot line.

A. Yard, Front. A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line.

B. Yard, Rear. A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

C. Yard, Side. A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Zoning District. A specifically delineated area in the Town within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

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Chapter 6.2. Town Planning and Zoning Committee

Section 6.2-1. Created; Name

A Planning and Zoning Committee is hereby established, which is referred to as the "Planning and Zoning Committee" or "Committee" in this Ordinance.

[Revised 08/08/2015; references to "Planning Commission" replaced throughout]

Section 6.2-2. Organization

6.2-2.1. Members

The Planning and Zoning Committee shall consist of 5, but not more than 9, members.

6.2-2.2. Term of Office

Members shall serve 5-year terms.

6.2-2.3. Appointments

The mayor shall appoint Planning and Zoning Committee members. The Council shall confirm the appointments by majority vote.

6.2-2.4. Vacancies

- A. A vacancy occurring prior to the expiration of an appointed member's term, shall be filled in the same manner as for the vacating member.
- B. A member, who fills a vacancy, shall serve the remainder of the vacating member's term.

6.2-2.5. Chairperson and Secretary

The Committee members shall elect annually a chairperson, a vice chairperson, and a secretary from the members.

6.2-2.6. Compensation

Members shall serve without compensation.

6.2-2.7. Quorum

At least 3 members shall be required for the conduct of any business.

Section 6.2-3. Powers and Duties

6.2-3.1. Comprehensive Plan

- A. The Committee shall prepare a comprehensive plan for the development of the Town in accordance with Title 22, Chapter 7 of the *Delaware Code* as existing or hereafter amended.
- B. The Committee may prepare changes to the plan.
- C. Following preparation of a plan or changes to a plan, the Committee shall forward the plan to the Town Council for adoption.

6.2-3.2. Subdivision Plats

The Committee shall review and take action on every subdivision plat in accordance with the *Subdivision Ordinance of the Town of Clayton* as existing or hereafter amended.

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Planning Studies, Reviews, Recommendations

- A. The Committee shall review and make a recommendation on every conditional use permit, interpretation, appeal, or amendment that comes before the Board of Adjustment and the Town Council.
- B. Upon request, the Committee shall conduct planning, zoning, or other development-related studies at any public hearing.

6.2-3.3. Other Powers and Responsibilities

The Planning and Zoning Committee shall have the powers and duties set forth in Title 22, Chapter 7 of the *Delaware Code* as existing or hereafter amended.

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Chapter 6.3. Board of Adjustment

Section 6.3-1. Created; Name

A Board of Adjustment is hereby established, which is referred to as the "Board" in this Ordinance.

Section 6.3-2. Organization

6.3-2.1. Members

- A. Number. The Board shall consist of at least 3 but no more than 5 members.
- B. Qualifications. Board members shall:
 - 1. Be residents of the Town.
 - 2. Have knowledge of the problems of urban and rural development.
 - 3. Not be candidates for or members of the Town Council either at the time of appointment or during their term of office.
 - 4. Not be employees of the Town.

6.3-2.2. Term of Office

Members shall serve 3-year terms. The terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor appointed for a term of 3 years.

6.3-2.3. Appointments

The mayor shall appoint Board members. The Town Council shall confirm the appointments by majority vote.

6.3-2.4. Vacancies

- A. A vacancy occurring prior to the expiration of an appointed member's term, shall be filled in the same manner as for the vacating member.
- B. A member, who fills a vacancy, shall serve the remainder of the vacating member's term.

6.3-2.5. Chairperson

The Board shall elect annually a chairperson and a vice chairperson from the members.

6.3-2.6. Removal

The Town Council may remove a member for cause upon written charges and after a public hearing by majority vote.

6.3-2.7. Compensation

Members shall serve without compensation.

6.3-2.8. Legal Advisor

The Town Solicitor shall serve as legal advisor to the Board.

Section 6.3-3. Powers and Duties

6.3-3.1. Appeals

- A. Duty. Hold hearings on and decide appeals where a person alleges error in any order, requirement, decision, determination, or denial of an application by the Administrator.
- B. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board that a stay would cause imminent peril to life or property. In such a case, proceedings shall be stayed only by a restraining order granted by the Board or a court having jurisdiction.

6.3-3.2. Variances

Hold hearings on and authorize variance from the strict application of the provisions of this Ordinance.

6.3-3.3. Special Exceptions

Hold hearings on and authorize special exceptions.

6.3-3.4. Text and Map Interpretations

- A. Hold hearings on and make interpretations of the text of this Ordinance.
- B. Hold hearings on and resolve uncertainties in the location of zoning district boundaries.

Section 6.3-4. Meetings and Hearings**6.3-4.1. Rules**

The Board shall adopt rules for the conduct of its business.

6.3-4.2. Secretary

The Board shall designate a Secretary to keep minutes of its proceedings, meetings, hearings, and other official actions.

6.3-4.3. Quorum

At least 2 members are required for the conduct of any business.

6.3-4.4. Processing of Applications and Appeals

- A. Within 60 days of receiving an application or appeal, the Board shall hold a public hearing, give public notice of the hearing, and make a decision on the application or appeal.
- B. Public Notice.
 - 1. How Given. Public notice shall be given by publishing a legal notice in a newspaper of general circulation at least 15 days prior to a public hearing on an application or an appeal.
 - 2. Contents. The public notice shall specify the time, place, and nature of the hearing.
- C. Hearing. The Board shall schedule a public hearing not less than 5 and not more than 10 days after publication of the legal notice.

6.3-4.5. Testimony Before the Board

- A. The Board may compel witnesses to attend hearings.
- B. The Board shall include recommendations from the Planning and Zoning Committee in the testimony taken at public hearings.
- C. Applicants and appellants shall have the burden of presenting the information needed by the Board to make its determination.

6.3-4.6. Actions

- A. All proceedings and actions of the Board are public records which shall be available to the public.
- B. The Board shall take actions or make decisions by written resolution within 7 days of a public hearing. The resolution shall state the grounds and the findings supporting its action or decision. The minutes shall include the full text of resolutions and a record of each member's vote.
- C. Decisions.
 - 1. Appeals. The Board may reverse or affirm, either wholly or partially, or it may modify the order, requirement, decision, determination, or permit application appealed from.
 - 2. Applications.
 - a) The Board may approve or deny, either wholly or partially, an application.
 - b) The Board may impose conditions on approval of an application.

6.3-4.7. Limitation on Reapplication

The Board shall not hear or accept an appeal or an application requesting the same relief for the same property for a period of 12 months from the date of the resolution taking action on the property.

Chapter 6.4. Use Regulations

Section 6.4-1. General

6.4-1.1. Establishment of Zoning Districts

The zoning districts and their identifying symbols are:

OS	Open Space
RS	Residential Suburban
R	Residential 1-Family and Townhouse
R1	Residential Multiple-Family
RMH	Residential Manufactured Housing Community
TC	Town Center <i>[Added to list, 06/08/2015].</i>
C1	Neighborhood Commercial
C2	General Commercial
I	Industrial
RR	Railroad.

Source Water Protection Overlay District (Wellhead Protection and Excellent Groundwater Recharge Potential Areas) *[New zone added, 06/08/2015].*

6.4-1.2. Rules for Interpretation of Uses

- A. General. A use not specifically listed as permitted in a zoning district is prohibited unless determined similar in accordance with *Source Water Protection Overlay District (Wellhead Protection and Excellent Groundwater Recharge Potential Areas) [New zone added, 06/08/2015].*
- B. **Rules** for Interpretation of Uses, *Section 0*
- C. Determination of Similar Uses.
 1. A determination as to whether a use is similar to a use permitted by right shall be considered an expansion of the use regulations of the zone and not as a variance applying to a particular situation. Any use found similar shall be included in the list of uses permitted by right.
 2. All applications for permits for a building or a use not specifically listed among any of the uses or buildings permitted by right in any zone shall be submitted to the Town Council for approval.
 3. The following standards shall govern the determination of a similar use:
 - a) That the use is not listed in any other classification of permitted buildings or uses.
 - b) That the use is more appropriate and conforms to the basic characteristics of the zoning district to which it is to be added than to any other district and that the use closely resembles and contains the same characteristics as the classification to which it is to be added.
 - c) That the use does not create dangers to health and safety, and does not create offensive noise, vibrations, dust, hear, smoke, odor, glare, or other objectionably influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
 - d) That the use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.
 4. The determination of similar uses shall not apply to off-street parking or signs.

Section 6.4-2. Zoning Districts

6.4-2.1. Open Space District (OS)

- A. Intent.
 1. To preserve areas with natural limitations to development such as floodplains and reclaimed landfills as well as other limitations determined by the Council..
 2. To provide areas for certain non-intensive uses such as parks and recreation facilities.
- B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.*

6.4-2.2. Residential Suburban 1-Family District (RS)

[Zone Name Revised 03/27/2006]

A. Intent

1. To provide for low-density residential development and such accessory uses as may be necessary or are normally compatible with residential surroundings.
2. To insure compatibility with existing uses.

To provide sufficiently large parcels that are suitable for cluster developments containing mixes of residential units. *[Added 03/27/2006]*

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.3. Residential 1-Family and Townhouse District (R)****A. Intent.**

1. To provide for medium-density residential development and such accessory uses as may be necessary or are normally compatible with residential surroundings.
2. To protect existing development from incompatible uses.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.4. Residential Multiple Family District (R1)****A. Intent.**

1. To provide for a variety of housing types, ranging from large single-family-dwellings to townhouses to multiple-family dwellings and such accessory uses as may be necessary or are normally compatible with residential surroundings.
2. To protect existing development from incompatible uses.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.5. Residential Manufactured Housing Community District (RMH)****A. Intent.**

1. To provide for planned residential manufactured home developments.
2. To provide locations for manufactured home communities in areas where public facilities are available.
3. To establish basic standards for the design of manufactured home communities that minimize their impact on surrounding properties.

B. Permitted Uses and Structures. The following uses are permitted in a manufactured home community:

1. Dwelling, manufactured.
2. Management headquarters, recreational facilities, open storage areas for boats and campers that:
 - a) Are related to the operation of the manufactured home community and do not occupy more than 10% of the minimum tract area.
 - b) Are intended to serve only the residents of the community.
 - c) Present no visible evidence of their commercial character that would attract customers who are not residents of the community.

6.4-2.6. Town Center District (TC)

A. Intent

1. To preserve and strengthen Clayton's small town atmosphere by encouraging a mix of retail, office, and residential uses consistent with the scale and existing character of the town center.
2. To encourage the economic stability and improvement of the town center.
3. To provide a modification procedure, utilizing site plan review, to alleviate undue hardship relating to parking and other bulk regulations in order to maintain the small town atmosphere of the town center.
4. To emphasize small-scale retail, office, and service uses.
5. To provide for a limited amount of multiple-family dwellings in conjunction with retail, office and service uses, but only on the second and third stories of commercial buildings.
6. To provide for the continuation of single and two family homes typical in town centers.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.7. Neighborhood Commercial District (C1)**

A. Intent.

1. To provide primarily for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of a relatively small residential area.
2. To enhance the general character of the district and its compatibility with its residential surroundings.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.8. General Commercial District (C2)**

A. Intent. To provide sufficient space and appropriate locations for commercial and service uses serving a wide area but which are not characterized by warehousing, heavy trucking activity, open storage, and do not generate extensive dust, odor, or noise.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.***6.4-2.9. Industrial District (I)**

A. Intent.

1. To provide sufficient space in appropriate locations for certain types of business and manufacturing uses.
2. To protect surrounding areas from the adverse effects of industrial uses by encouraging these uses to locate in modern, landscaped buildings.

B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.*

C. Additional Regulations.

1. Uses permitted in this district must be conducted within a completely enclosed building.
2. Raw, in process, and finished materials, supplies, and waste material must be stored in a completely enclosed building.
3. The Planning and Zoning Committee must approve a site development plan prior to the issuance of a Certificate of Zoning Compliance.

6.4-2.10. Railroad District (RR)

- A. Intent.
1. To recognize the substantial impact of the railroad presence in the Town.
 2. To establish a review procedure for evaluating the impacts of certain intensive railroad uses on the Town.
 3. To provide for certain non-railroad industrial uses in the Railroad Zone *[Added 03/08/2004]*.
- B. Permitted Uses and Structures. Uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.*

6.4-2.11. Source Water Protection Area Overlay District

- A. A. Intent. See also Section 6.6-4.1.
1. Safeguard public drinking water supply from contamination.
 2. Comply with requirements of the Delaware Source Water Protection Law 2001 as codified in the *Delaware Code*, Title 7, Chapter 60, Subchapter VI Source Water Protection, Section 6082 (b) and (f).
- B. Permitted Uses and Structures. Uses and structures shall be the same as allowed in the underlying zoning district set forth in Table 1, as further modified, restricted, or prohibited in Section 6.6-4.

Section 6.4-3. Permitted Uses and Structures

Permitted uses and structures shall be allowed as set forth in *Table 1. Permitted Uses and Structures.*

Section 6.4-4. Accessory Uses**6.4-4.1. Purpose**

This section provides the general provisions governing accessory uses and specific regulations for certain uses. This section is not intended to limit permitted accessory uses to those described herein.

6.4-4.2. General Provisions

Except as provided otherwise, accessory uses are permitted in all zones as long as such a use is:

- A. Clearly customarily incidental and subordinate to the principal use.
- B. Is operated and maintained under the same ownership and on the same lot as the principal use.
- C. Does not include structures or structural features inconsistent with permitted uses.
- D. Does not include residential occupancy.

6.4-4.3. Commercial Vehicles in Residential Zones

In any residential zone, 1 commercial vehicle, not exceeding 1 ton capacity, may be parked on a lot.

6.4-4.4. Storage in Residential Zones

- A. Heavy Equipment.
1. Tractors, earth movers, construction machinery, and similar heavy equipment and building supplies are permitted on residential lots only if they are stored in enclosed structures.
 2. The structure, in which heavy equipment or building supplies is stored, may not be used either for human habitation or for the conduct of any business.
 3. The wheels or any other means of transporting such heavy equipment shall not be removed heavy equipment vehicles shall not be affixed to the ground.
- B. Boats and Campers. Boat trailers, self-propelled campers, camp trailers, and boats may be stored in the open on residential lots only in the side or rear yards.

6.4-4.5. Pets in Residential Zones

The keeping of household pets is permitted in residential zones. Household pets include dogs, cats, canaries, parakeets, and other kindred animals and fish normally kept as household pets. Household pets do not include mules, donkeys, cows, bulls, swine, sheep, goats, fowl, and other domesticated animals unless located on a parcel of land consisting of at least 20 acres.

6.4-4.6. Satellite Dish Antennas in Residential Zones

- A. General.
 - 1. Only 1 satellite dish antenna, not exceeding 10 feet in diameter, may be installed on a residential lot.
 - 2. Transmitting satellite dishes are not permitted.
 - 3. A building permit is required before a satellite dish antenna is installed.
- B. Ground-Mounted Dish Antennas.
 - 1. May be installed only in rear yards.
 - 2. Must be set back at least 5 feet from a property line.
 - 3. Must employ, to the extent possible, colors and materials that blend with the surroundings.
- C. A Roof-Mounted Dish Antenna may be installed when an applicant for a building permit demonstrates that a ground-mounted dish antenna is unable to obtain sufficiently clear reception.

6.4-4.7. Home Occupations

- A. General. A home occupation is an activity carried out for gain by an occupant of a dwelling conducted as an incidental and subordinate use in the dwelling unit.
- B. Purpose. This section permits a home occupation as an accessory use if it is compatible with the residential character of the neighborhood in which it is located and is conducted so as not to disturb or cause discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.
- C. Permit Requirements.
 - 1. Permit Required. No home occupation shall be conducted on a premise until a permit is obtained.
 - 2. Application Procedure
 - a) An application for a Home Occupation Permit shall be filed with the Administrator.
 - b) The application shall include a description of the proposed home occupation.
 - c) The Administrator shall forward the application to the Town Council for review at its next regularly-scheduled meeting.
- D. Required Conditions. Home occupations shall comply with the following regulations.
 - 1. The home occupation use shall be confined to the principal residence of the individual so engaged, shall be excluded from any yard or accessory building, and shall be clearly incidental and subordinate to the primary residential use.
 - 2. No alteration shall be made in either the internal or external structural form of the residential building or the external appearance for purposes of any home occupation. The removal of partitions or floors or parts thereof, shall be construed as an alteration of the external or internal structural form and is, therefore, prohibited.
 - 3. No evidence of any home occupation shall be visible from off the lot where it is conducted.
 - 4. Employees of a home occupation shall be limited to permanent residents of the dwelling unit. This restriction would not apply to independent contractors who make occasional or periodic visits to the site of the home occupation.
 - 5. There shall be no sales of goods or displays of goods on the premises.
 - 6. Any commercial vehicle used in conjunction with the occupation shall be subject to the provisions of this Ordinance governing commercial vehicles in residential zones.
 - 7. No storage of equipment or materials used in a home occupation shall be outside the principal residence.
 - 8. No change shall be made in any non-communications utility line, meter or service to accommodate a home occupation and utility use shall not unreasonably exceed that normally or previously used at such residence.
 - 9. No equipment or process shall be used in any home occupation which emits radiation or creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses

off the property used for such home occupation. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference.

10. The number of parking spaces available to a dwelling unit housing a home occupation shall comply with *Section 6.6-1. Off-Street Parking and Loading*.
11. A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the district.
12. No vehicle repair or storage associated with the home occupation shall be permitted.
13. The home occupation shall not involve the use of commercial vehicles for the delivery of material to or from the premises.
14. No home occupation shall be open to visitors without prior appointments.
15. If the home occupation is to be conducted on rental property, the property owner's authorization for the proposed home occupation shall be obtained prior to the issuance of a home occupation permit.
16. Home occupations shall be subject to all other State and local laws, ordinances, and licensing requirements.

Section 6.4-5. Temporary Uses

6.4-5.1. Intent and Purpose

The temporary use permit is intended to allow for the short-term placement of activities in temporary facilities or outside of buildings. These activities shall be regulated so as to avoid incompatibility between them and surrounding areas.

6.4-5.2. Permitted Temporary Uses

- A. Real estate sales offices within approved development projects.
- B. Christmas tree sale lots for a period not to exceed 30 consecutive calendar days; however, a permit shall not be required when a sale is in conjunction with an established commercial business.
- C. Other seasonal products sales, such as pumpkins and Christmas trees.
- D. Circuses and carnivals.
- E. Temporary outdoor display/sales of merchandise in any zone under the following conditions:
 1. No more than 8 such displays/sales are conducted in any calendar year.
 2. The sales/displays are not conducted for a period of more than 4 consecutive days.
 3. The merchandise is customarily sold on the premises.
 4. The premises are utilized for a permanently established business.
- F. Fairs, festivals and concerts, when not held within premises designed to accommodate such events, such as auditoriums, stadiums or other public assembly facilities.
- G. Farmers' markets and swap meets.
- H. On- and off-site contractors' construction yards.
- I. Temporary large-scale promotional balloons (e.g., roof mounted hot air balloons) in any zone under the following conditions:
 1. No more than 4 such promotions are conducted in any calendar year.
 2. The promotions are not conducted for a period of more than 7 consecutive days.
 3. The promotions are related to merchandise or services which are customarily available on the premises.
 4. The premises are utilized for a permanently established business.
- J. Similar temporary uses which, in the opinion of the Administrator, are compatible with the zoning district and surrounding land uses.

6.4-5.3. Procedure for Obtaining a Temporary Use Permit

- A. A temporary use permit is required for every temporary use permitted in this Ordinance.
- B. The permit must be obtained prior to the commencement of the use.
- C. An application for a temporary use permit shall be filed with the Administrator.
- D. Temporary uses may be subject to additional permits, other departmental approvals and licenses and inspections as required by any applicable laws or regulations.

6.4-5.4. Criteria for Issuing a Temporary Use Permit

The Administrator may approve a temporary use permit application when the proposed use meets the following criteria:

- A. The operation of the requested use at the location proposed and within the time period specified will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- B. The proposed site is adequate in size and shape to accommodate the temporary use.
- C. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.
- D. Adequate temporary parking to accommodate vehicular traffic to be generated by such use will be available either on-site or at alternate locations acceptable to the Administrator.
- E. The use would not jeopardize the public peace, safety or general welfare, or be injurious or detrimental to properties adjacent to, or in the vicinity of, the proposed location of the activity.

6.4-5.5. Conditions for Approval

The Administrator may impose the following conditions on the issuance of a temporary use permit as appropriate:

- A. Provision of temporary parking facilities, including vehicular access and egress.
- B. Regulations to deal with nuisance factors such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat.
- C. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- D. Provision of sanitary and medical facilities.
- E. Provision of solid waste collection and disposal.
- F. Provision of security and safety measures.
- G. Regulation of signs.
- H. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested.
- I. Submission of a performance bond or other surety devices to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.
- J. Submission of a site plan indicating any information required by this Ordinance.
- K. Requirement that the approval of the temporary use permit is contingent upon compliance with applicable provisions of other ordinances.
- L. Such other conditions which will ensure the operation of the proposed temporary use in an orderly and efficient manner and in accord with the intent and purpose of this Ordinance.

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Chapter 6.5. Bulk Regulations

Section 6.5-1. Basic Bulk Regulations

Permitted uses and structures shall be developed in accordance with the standards in *Table 2. Basic Bulk Regulations*.

Section 6.5-2. Supplemental Bulk Regulations

6.5-2.1. Accessory Buildings and Structures

- A. No accessory building shall be located in any required yard that abuts a street. However, an accessory building may be located in a required yard that abuts an alley.
- B. An accessory building or structure other than a garage that does not abut a public street:
 - 1. Location. Only within a rear yard.
 - 2. Setbacks.
 - a) Front. Same as principal building.
 - b) Side. 3 feet.
 - c) Rear. 5 feet.
 - 3. Coverage. Maximum 25 percent of rear yard.
- C. Garage.
 - 1. Location. Front, side, or rear yard.
 - 2. Setbacks.
 - a) Front. Same as principal building or structure.
 - b) Side. 3 feet.
 - c) Rear. 5 feet.
 - 3. Coverage. Maximum 25 percent of rear yard.
- D. Filling Station Pumps and Pump Islands. Filling station pumps and pump islands may be placed within required yards, but they must be located at least 15 feet from any lot line.

6.5-2.2. Cluster Development

[Repealed and Reenacted 03/27/2006]

- A. Definition. A form of development that permits a reduction in lot areas and other bulk requirements, provided there is no increase in either the number of lots or the overall density of development allowed in the zone, and the remaining area is set aside for open space.
- B. Where Permitted. Only in the RS Zone.
- C. Purposes.
 - 1. To encourage the provision of community open space and recreational amenities.
 - 2. To provide flexibility in lot layout.
 - 3. To encourage a mix of housing types.
 - 4. To promote quality site design.
 - 5. To reduce construction cost of development, thereby reducing the final costs of the product.
 - 6. To promote development which is sensitive to the terrain and minimizes impervious surfaces.
 - 7. To support the preservation of interesting natural features, such as mature tree stands, water features, mature woodland, and animal habitats.

D. Review Criteria.

1. Individual lots, buildings, streets, and parking areas shall be designed to minimize alteration of the natural site features to be preserved.
2. The usability of open space intended for a recreation or public use shall be determined by the size, shape, topography and location requirements of the particular purpose proposed for the site.
3. Open space shall include irreplaceable natural features, such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, wetlands or cultural features.
4. Open space intended for recreation or public use shall be easily accessible to pedestrians, and accessibility shall meet the needs of the handicapped and elderly.
5. The suitability of open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings or length of public or private streets.
6. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between development and the land.
7. Individual lots, buildings and units shall be arranged and situated to relate to surrounding properties, to improve the view from the buildings, and to lessen the land area devoted to motor vehicle access.
8. Individual lots, buildings, units and parking areas shall be situated to avoid the adverse effects of shadows, noise and traffic on the residents of the site.
9. All residential structures within a subdivision shall front on and gain access from an interior subdivision street, parking area or court. In no instance shall a residential structure in a subdivision be accessible from a County or state highway.

6.5-2.3. Fences, Walls, Hedges, and Shrubbery

- A. Setback. The building line and yard requirements of this Ordinance shall not apply to fences, walls, hedges, or shrubbery.
- B. Fence Materials.
 1. Generally. Fences shall be constructed of materials specifically designed for fences.
 2. Residential Zones. In residential zones and on property used residentially, barbed wire, razor wire, or any similar material, or wire measuring less than 11 gauge is prohibited.
 3. Non-Residential Zones. Where barbed or razor wire fence is used in a non-residential zoning district, a landscape screen shall be provided between the fence and any street or residential use.
- C. Height Limitations

	Residential			Non-Residential			
	Double Frontage Lots	Lots Bordering Alleys	All Other Lots	Double Frontage Lots	Lots Bordering Alleys	All Other Lots	With Planning and Zoning Committee Authorization
1. Front Property Line	4 feet	4 feet	4 feet	4 feet	4 feet	4 feet	Not authorized
2. Side Property Line	6½ feet	6½ feet	6½ feet	6½ feet	6½ feet	6½ feet	8 feet
3. Rear Property Line	3½ feet	6½ feet	6½ feet	6½ feet	6½ feet	6½ feet	8 feet
4. Corner Lot							
a) Above the curb level of the intersecting streets for a distance of 20 feet from the intersection, and	3½ feet	3½ feet	3½ feet	3½ feet	3½ feet	3½ feet	Not authorized
b) Within the isosceles triangle formed by connecting the ends of the respective 20-foot distances.							

D. RESERVED

- E. Lots Bordering Alleys
 - 1. Gate Required. A fence on a property bordering an alley must have a gate that provides access to the property from the alley.
 - 2. Setback Required. Fences bordering alleys shall be placed at least 1 foot away from an alley's right-of way. Outward swinging gates must also be placed so that they do not swing open into the alley right-of way or outside the 1-foot required setback.
- F. Height Increases Permitted. In non-residential zones, the Planning and Zoning Committee may authorize, without a variance, increases in fence heights in the side and rear yards as indicated in the standards governing height limitations. In doing so, the Committee must make a finding that safety concerns or the nature of a particular use indicates need for a fence higher than the maximum specified under height limitations.
- G. Measurement of Height. Measurements shall be made from the surface of the ground next to the fence, wall, or hedge, and where the yards on the 2 sides differ in elevation, measurements shall be made from the surface of the yard with the higher elevation. *[Amended 03/25/2002]*

6.5-2.4. Height Limits—Exemptions

The height limitations of this Ordinance do not apply to the following:

Chimneys	Ornamental towers or spires	Smoke stacks
Church spires	Public Monuments	Water towers
Flag poles	Radio and television antennas for residential use	

6.5-2.5. Screening and Landscaping

- A. Landscape Screen in Multi-Family, Commercial, Industrial, and Railroad Zones
 - 1. When Required. When a lot is occupied by a use permitted in the Multi-Family, Commercial, Industrial, or Railroad Zones and abuts a residential district.
 - 2. Where Required. Along the side and rear lot lines of the adjacent residential district.
 - 3. Specifications for Screen.
 - a) The screen shall consist of a planted visual barrier composed of green plants and trees arranged to form both a high and a low level screen.
 - b) High Level. The high level portion of the screen shall consist of evergreen trees planted at an initial height of not less than 5 feet, planted at intervals of not more than 10 feet on center.
 - c) Low Level. The low level portion of the screen shall consist of evergreen shrubs planted at an initial height of not less than 2 feet and spaced at intervals of not more than 5 feet on center.
 - 4. Width of Screen.
 - a) R1 Zone: 15 feet
 - b) C2 Zone: 15 feet
 - c) I Zone: 15 feet
 - d) RR Zone: 25 feet
- B. Scenic Corridors.
 - 1. Applicability. This Section applies to homes on double frontage lots adjacent to scenic corridors.
 - 2. Standards.

Table 6. Landscaping Standards for Lots Adjoining Scenic Corridors sets forth the standards governing landscaping on lots adjacent to Scenic Corridors.

6.5-2.6. Manufactured Homes

- A. General. A manufactured housing community shall comply with all sanitary and other requirements prescribed by law or regulations.
- B. Utilities.
 - 1. All utility lines, including electrical, telephone, and TV cable, shall be underground.
 - 2. All utilities, other than electric power and except for short, lateral spurs connecting individual homes, shall be located within a street right-of-way unless the Town directs otherwise.
 - 3. Each manufactured home site shall have an individual, metered water and sewer connection to a central water and sewer system.
- C. Site Design.
 - 1. Topography of the site shall be engineered to facilitate drainage and drainage facilities shall be provided.
 - 2. Natural amenities and green area.
 - a) The site design shall demonstrate a reasonable effort to preserve the site's natural amenities.
 - b) The site design shall include a landscaped or wooded strip of open space along street frontages and along the borders of adjacent lots as required in the Development Standards for Manufactured Housing Communities.
- D. Additional Development Standards. In addition to the applicable standards in *Table 2. Basic Bulk Regulations*, manufactured home communities must comply with the standards in *Table 3. Manufactured Home Bulk Regulations*.
- E. Access, Circulation, and Parking.
 - 1. Access to a manufactured home community shall be from a minor residential street.
 - 2. The number and location of access drives shall be based on traffic safety and the protection of surrounding properties.
 - 3. Individual manufactured homes shall not have direct access to a street outside the manufactured home community's boundaries.
 - 4. Standards for interior access drives.
 - a) Interior access drives shall be properly lighted.
 - b) Interior access drives shall be hard surfaced and maintained in accordance with applicable specifications and ordinances.
 - 5. Parking.
 - a) See *Section 6.6-1. Off-Street Parking and Loading*.
 - b) The off-street parking spaces located on each manufactured home lot shall be hard-surfaced.
- F. Ownership.
 - 1. The entire land area used for a manufactured home community shall be maintained in single ownership throughout the entire life of the park.
 - 2. Multiple ownership may be permitted as follows:
 - a) If done so under the laws of the State of Delaware dealing with unit properties, and
 - b) An applicant for a manufactured home community declares multiple ownership as part of the application to the Town for the establishment of the park.

- G. Installation of Manufactured Homes.
1. Anchoring.
 - a) Every manufactured home shall be anchored to a manufactured home stand either prior to its occupation or use, or within 7 days of its placement in a manufactured home community, whichever occurs first.
 - b) The anchoring system shall be designed to resist a minimum wind velocity of 90 miles per hour.
 2. Stability.
 - a) Prior to occupancy or use, every manufactured home shall have skirts installed. The design of these skirts shall be coordinated throughout the park and shall complement the appearance of the park.
 - b) No manufactured home shall rest permanently on the wheels used to transport it.
 3. Hitch. The hitch or tow bar, used to transport a manufactured home, shall be removed when the manufactured home is placed on its manufactured home stand.
- H. Site Plan Permit Required.
1. Prior to the issuance of building permits, a site plan and community impact study for development of the entire manufactured home community shall be submitted to the Planning and Zoning Committee.
 2. Once the Planning and Zoning Committee has approved a site plan for an entire manufactured home community development, the Building Inspector may issue building permits for individual manufactured homes whose applications propose minor variations from the approved site plan, such as patios, decks or small storage areas.

6.5-2.7. Projections into Required Yards

Projections into required yards are permitted as set forth in *Table 5. Permitted Projections into Required Yards.*

6.5-2.8. Townhouses

The following are in addition to the standards in *Table 2. Basic Bulk Regulations.*

- A. Tract Area: 3 acres.
- B. Row Design.
 1. Maximum number of dwellings in a row: 6.
 2. The facades of the townhouses in each townhouse group shall be varied in architectural treatment and roof lines.
 3. Offsets.
 - a) No more than 2 adjacent townhouses shall have the same front building line.
 - b) The variation in the building line must be at least 2 feet.
- C. Common Open Space.
 1. A minimum of 25 percent of the gross tract area must be retained in open space and deeded for common use by the residents of the development.
 2. Property owners shall be responsible for the liability and maintenance of common areas.
- D. Central sewage and water must be available to the development.
- E. When the rear lot lines of townhouses abut one another, a 20-foot wide alley must be provided.

6.5-2.9. Town Center Zone

Except for building height, the Planning and Zoning Committee shall determine the bulk regulations and parking requirements for new, changed or expanded uses in the TC Zone. In making this determination, the Committee shall make the following findings:

- A. That the placement of buildings and structures is compatible with the neighborhood and with existing development in character and scale.
- B. That proposed parking spaces, building coverage, and overall design of the project are sufficient to avoid congestion and will not place unreasonable demand on public facilities.

6.5-2.10. Dwellings Adjoining Scenic Corridors

The Planning and Zoning Committee may recommend and the Town Council may require that homes adjoining a Scenic Corridor be either oriented to face the corridor or subject to the Scenic Corridor Landscaping Standards in *Section 6.5-2.5. B.*

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Chapter 6.6. Regulations Applying to All Districts

Section 6.6-1. Off-Street Parking and Loading

6.6-1.1. Purpose and Scope

A. Purposes.

1. To relieve congestion and facilitate the movement of vehicular traffic.
2. To facilitate the movement of police, fire, and other emergency vehicles.
3. To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen vehicle movements in the vicinity of intensive pedestrian traffic.
4. To protect adjoining residential neighborhoods from on-street parking.
5. To promote the general convenience, welfare, and prosperity of commercial and other uses which depend upon off-street parking and loading facilities.

B. Scope.

1. When Required. Off-street parking and loading facilities shall be provided as an accessory use under the following conditions
 - a) When any use is established or changed.
 - b) When any building or structure is erected, altered, renovated, or expanded.
2. The parking and loading requirements in this part of the Ordinance are in addition to requirements in other parts of this Ordinance.
3. The parking and loading requirements in this part of the Ordinance do not limit special requirements or conditions that may be imposed on site plan approvals or conditional use approvals.
4. Parking and loading facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle.

6.6-1.2. Off-Street Parking

A. Definition. An off-street parking space is a temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

B. Computation of Required Number of Spaces.

1. Number. The minimum number of required off-street parking spaces shall be determined according to
Table 7. Required Off-Street Parking Spaces.
Where the computation results in a fractional space, it shall be counted as 1 additional required space.
2. Number of Employees. The number of employees shall be based on the maximum number of persons employed on the premises at one time on a typical day or night, whichever is greater. Seasonal variations in employment may be considered in determining an average day or night.

C. Location of Off-Street Parking Facilities.

1. General. All required parking facilities shall be located on the same lot with the building or use served.
2. Exceptions. Required parking facilities may be located within 300 feet from the building or use served when:
 - a) A change in use or an enlargement of a building requires an increase in the number of parking spaces.
 - b) Spaces are provided collectively to serve 2 or more buildings.
3. Joint Use. Houses of worship, auditoriums or educational institutions may make arrangements with business establishments, which normally have different hours of operation, for sharing up to 100 percent of their required parking facilities.

- D. Design Standards.
1. Minimum Size of an Off-Street Parking Space. 200 square feet.
 2. Drainage and Maintenance.
 - a) Drainage. Off-street parking facilities shall be drained to eliminate standing water and to prevent damage to adjoining public and private properties.
 - b) Maintenance. Off-street parking facilities shall be maintained in a clean, orderly, and dust-free condition and not used for the sale, repair, dismantling, or servicing of vehicles, equipment or supplies.
 3. Surface Materials. Parking spaces and interior drive aisles shall have all-weather surfaces. Materials used for drainage shall be erosion resistant and in compliance with other Town requirements.
 4. Separation from Walkways and Streets. Off-street parking spaces shall be separated from walkways, sidewalks, streets, and alleys by a wall, fence, curbing, sufficient distance, or other approved device so that parked vehicles do not extend into public areas.
 5. Entrances and Exits.
 - a) General. A parking facility shall have only 1 entrance from and 1 exit onto a single street. The entrance and exit may be separate or combined.
 - b) Location and Design. The location and design of entrances and exits shall be in accordance with Town specifications.
 6. Interior Drive Aisles. The width of interior drive aisles shall be appropriate to the types of parking spaces provided.
 7. Marking. In lots of 10 or more spaces, each space shall be marked with painted lines, curbs, or other means to indicated individual spaces. Signs or other markers shall be posted to ensure efficient traffic operation within the parking lot.
 8. Lighting. Adequate lighting shall be provided in parking lots intended to be used at night. Lighting fixtures shall be arranged to minimize glare on adjacent residential properties.
 9. Screening.
 - a) When Required. When off-street parking areas for 10 or more vehicles are located closer than 50 feet to a lot in a residential district, or to any lot used for residential purposes and where such parking areas are not entirely screened visually from such lot by an intervening building or structure.
 - b) Height. 6 feet.
 - c) Materials. Screening shall consist of a continuous compact evergreen hedge, foliage, wall, or solid fence.

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6.6-1.3. Off-Street Loading

- A. Definition. An off-street loading space is a space or berth used for the loading or unloading of cargo, products, or materials from vehicles that is not on a dedicated street.
- B. Computation of Required Number of Spaces.
 - 1. Minimum Number. The minimum number of required off-street loading spaces shall be determined according to *Table 8. Required Off-Street Loading Spaces*.
 - 2. Single and Mixed Uses. A building, occupied by 1 use, shall provide the off-street loading spaces required for the specific use. A building, occupied by 2 or more uses, generally operating during the same hours, shall provide spaces for not less than the sum of the spaces required for each use.
 - 3. Waiver or Reduction Permitted. The Board of Adjustment may waive the requirement for or reduce the number of required loading spaces for buildings containing less than 10,000 square feet under the following circumstances:
 - a) When the character of a particular use makes unloading facilities unnecessary.
 - b) Where community loading facilities are available.
 - c) Where providing loading space is impractical.
- C. Location of Off-Street Loading Facilities. All required loading facilities shall be located within or on the same lot with the building or use served.
- D. Design Standards.
 - 1. Sizes of Off-Street Loading Spaces.
 - a) General Minimum Specifications.
 - 1) Square Footage. 540.
 - 2) Width. 12 feet.
 - 3) Depth. 35 feet.
 - 4) Vertical Clearance. 14.5 feet.
 - b) Funeral Homes.
 - 1) Width. 10 feet.
 - 2) Depth. 25 feet.
 - 3) Vertical Clearance. 8 feet.
 - 2. Drainage and Maintenance.
 - a) Drainage. Off-street loading facilities shall be drained to eliminate standing water and to prevent damage to adjoining public and private properties.
 - b) Maintenance. Off-street loading facilities shall be maintained in a clean, orderly, and dust-free condition and not used for the sale, repair, dismantling, or servicing of vehicles, equipment or supplies.
 - 3. Entrances and Exits.
 - a) General.
 - 1) An entrance to or exit from a building, designed for truck loading and unloading, shall be designed to provide at least 1 off-street loading space.
 - 2) Off-street loading spaces, designed to be approached directly from a major thoroughfare, shall have required maneuvering space on the premises.
 - b) Location and Design. The location and design of entrances and exits shall be in accordance with Town specifications.

Section 6.6-2. Signs

6.6-2.1. Purposes

- A. To encourage the effective use of signs as a means of communication in the Town.
- B. To minimize the adverse effects of signs on nearby public and private property.
- C. To regulate the size, location, height, and construction of all signs placed for public observance.
- D. To avoid excessive clutter and competition among sign displays in their demand for public attention.
- E. To promote renovation and proper maintenance of signs.

6.6-2.2. Applicability and Effect

- A. Applicability. These sign regulations apply within every existing and future zone throughout the Town. A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with this Ordinance.
- B. Effect
 1. Establishes a permit system that allows a variety of types of signs in commercial and industrial zones and a limited variety of signs in other zones, subject to the standards and permit procedures of this Ordinance.
 2. Allows certain signs that are small, unobtrusive, and incidental to the principal use of the lots on which they are located, subject to the substantive requirements of this Ordinance.
 3. Provides for temporary signs without commercial messages in limited circumstances in the public rights-of-way.
 4. Prohibits all signs not expressly permitted by this Ordinance.
 5. Provides for the enforcement of the provisions of this Ordinance.

6.6-2.3. Definitions

Animated Sign. Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

Sign Area. The entire face of a sign, including the advertising surface and any framing, trim, molding, by not including the supporting structure.

Banner. Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Building Sign. Any sign attached to any part of a building as contrasted to a freestanding sign.

Beacon. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source. also any light with one or more beams that rotate or move.

Building Marker. Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.

Changeable Copy Sign. A sign or portion of a sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or surface of the sign

Commercial Message. Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

Exempt Sign. A sign that is not required to comply with the regulations of this Ordinance.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Flashing. Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

Freestanding Sign. A sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Illuminated Sign. A sign lighted by or exposed to artificial lighting either by lights on or in the sign directed toward the sign.

Incidental Sign. A sign, generally informational, that has a purpose secondary to the use of the premises on which it is located, such as "Entrance," "Loading Only," "No Hunting," "No Parking," "No Trespassing," "Posted," "Private Drive," "Telephone," and other similar directives. No sign with a commercial message legible from a position off the premises on which the sign is located shall be considered incidental.

Marquee. Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee Sign. Any sign attached to, in any manner, or made a part of a marquee.

Nonconforming Sign. A sign that does not conform to the requirements of this Ordinance.

Off-Premises Sign. A sign containing a commercial message about a business, product, service, or other commercial activity conducted, offered, or sold at a location other than the premises on which the sign is located.

Pennant. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

Portable Sign. A sign that is not affixed to a building, a structure, or the ground.

Projecting Sign. A sign that is wholly or partly dependent upon a building for support and that projects more than 12 inches from such building.

Residential Sign. Any sign located on a property zoned or used for residential purposes that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located if offering such service at such location conforms with all requirements of this Ordinance.

Roof Sign. A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

Roof Sign, Integral. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, which that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than 6 inches.

Sign. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

Suspended Sign. A sign hanging down from a marquee, awning, or porch that would exist without the sign.

Temporary Sign. Any sign that is intended to be displayed for a short period of time and is not permanently mounted.

Wall Sign. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure.

Window Sign. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

6.6-2.4. Computation

- A. Computation of Area of Individual Signs. The area of a sign face (which is the entire sign area of a wall sign or a sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, decorative fence or wall when such fence or wall otherwise meets the requirements of this Ordinance and is clearly incidental to the display wall.
- B. Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When 2 identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.
- C. Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction; or (2) the newly-established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

6.6-2.5. Signs Allowed on Private Property with and without Permits

- A. Types of Signs Allowed.
 1. Signs shall be allowed on private property in the Town only in accordance with *Table 9. Regulations Governing Types of Signs.*
 2. The designations in the table mean the following:
 - a) "P" means that a sign is allowed in a zone district without prior approval.
 - b) "S" means that a sign is allowed only with a permit
 - c) "N" means that a sign is not allowed in the zoning district under any circumstances..
 3. The notes at the bottom of the table describe special conditions.
- B. Area, Size, Location, and Number of Signs Allowed. Although allowed in accordance with the previous section, a sign designated "P" or "S" must conform to the area, size, location, and number requirements in *Table 10. Regulations Governing Area, Size, Location, and Number of Signs.*
- C. Sign Characteristics. In addition to the requirements governing type, area, size, location, and number, signs must comply with the requirements in *Table 10. Regulations Governing Area, Size, Location, and Number of Signs.*

6.6-2.6. Permit Requirements

- A. Permit Required.
 - 1. A permit is required for every sign that is erected, constructed, posted, painted, altered, maintained, or relocated as specified in this Ordinance.
 - 2. Signs erected in the public right-of-way shall comply with *Section 6.6-2.5.* of this Ordinance.
 - 3. A sign permit will not be issued for any sign that does not comply with the requirements of this Ordinance in every respect.
- B. Permit Application Process.
 - 1. Applications for sign permits shall be filed with the Administrator.
 - 2. A separate permit application is required for each individual sign.
 - 3. The application shall include a sketch, drawing, or specifications that contains the following information:
 - a) Location of the sign.
 - b) Construction materials.
 - c) Method of illumination.
 - d) Manner of securing or fastening the sign.
 - e) Additional information needed to determine compliance with this Ordinance and other applicable laws.

6.6-2.7. Design, Construction, and Maintenance

- A. Design and Construction.
 - 1. All signs shall comply with applicable provisions of the Building Code and Electrical Code of the Town.
 - 2. Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- B. Maintenance Required.
 - 1. All signs shall be maintained in good appearance, repair, and condition against breakage, discoloration of material components, and structural defects.
 - 2. All signs shall be in compliance with applicable building codes, electrical codes, and this Ordinance at all times.

6.6-2.8. Signs in the Public Right-of Way, Exempt Signs, and Prohibited Signs

- A. Signs in the Public Right-of-Way. No signs shall be allowed in the public right-of-way, except as follows.
 - 1. Permanent Signs. Including:
 - a) Signs posted by a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
 - b) Bus Stop signs erected by a public transit company
 - c) Information signs of a public utility nature regarding poles, lines, pipes, or other facilities.
 - d) Awnings, projecting, and suspended signs projecting over a public right-of-way in conformance with applicable sections of this Ordinance.
 - 2. Emergency Signs. Warnings erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.

- B. Exempt Signs. The following signs shall be exempt from regulation under this Ordinance:
 - 1. Any public notice or warning required by a valid and applicable federal, state, county, or Town law, regulation, or ordinance.
 - 2. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than 3 feet beyond the lot line of the parcel on which such sign is located.
 - 3. Works of art that do not include a commercial message.
 - 4. Holiday lights and decorations with no commercial message, but only between November 15 and January 15.
 - 5. Traffic control signs on private property such as “Stop,” “Yield,” and similar signs, the face of which meet the state Department of Transportation standards and which contain no commercial message.
- C. Prohibited Signs
 - 1. Beacons.
 - 2. Pennants.
 - 3. Strings of lights not permanently mounted to a rigid background, except those exempt under the previous section.
 - 4. Inflatable signs and tethered balloons.
 - 5. Off-premises signs.

6.6-2.9. Changeable Copy Signs—Special Regulations

[Subsection added 08/13/2007]

- A. Changeable copy signs may be incorporated into a sign face when the changeable component of the sign face occupies less than 70 percent of the total area of that sign face.
- B. Changeable copy sign area shall be integrated into the sign face and shall be enclosed by a border or similar enclosure so as to form one sign panel.
- C. The changeable copy sign area text message and/or graphics shall not change any more than one time in any given 30-second period, except for time and temperature displays which may change more frequently than every 30 seconds.
- D. The colors, text styles, graphic patterns, and brightness of the changeable copy sign area shall be compatible with and complimentary to the colors, text styles, graphic patterns and brightness of other signs on the premises, and signs on other properties in the immediate vicinity.

6.6-2.10. Abandoned and Nonconforming Signs

- A. Abandoned Signs. A sign is abandoned when any of the following conditions exist:
 - 1. When a sign remains on a property in excess of 30 days after the expiration of a sign permit.
 - 2. Where the condition of the sign indicates abandonment due to breakage, discoloration of material components, or structural defects.
 - 3. When a sign’s content or message bears no relation to the business activity conducted on the property.
- B. Nonconforming Signs. See Section 6.6-3.5.

6.6-2.11. Enforcement and Penalties

- A. Property Owner Responsible for Compliance. The owner of a property on which a sign is located shall be presumed to be the owner of the signs and is responsible for compliance with these sign regulations.
- B. Penalty for Violation. The Administrator shall remove any sign erected or maintained in violation of this Ordinance if the violation is not corrected within 30 days of receiving a written notice describing the violation.

Section 6.6-3. Nonconformities

6.6-3.1. Definition and Intent

- A. Definition. Nonconformities are existing structures, lots, signs, and uses of land, which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the current provisions of or future amendments to this Ordinance.
- B. Intent. This Ordinance intends to permit nonconformities to continue until they are removed, but not to encourage their survival. However, normal repair and maintenance of nonconforming buildings and signs is permitted. Nonconforming uses are incompatible with permitted uses in their respective districts. Further, nonconformities shall not be enlarged upon, expanded, or extended and shall not be used as grounds for addition other structures or uses prohibited elsewhere in the same zoning district.

6.6-3.2. Nonconforming Uses

- A. General.
 - 1. Unless otherwise provided, the use of any building, structure, or land, that legally existed when this Ordinance became effective or when a provision of this Ordinance was amended, may be continued.
 - 2. Nonconforming uses may not be enlarged extended, reconstructed, or structurally altered except as provided in this Ordinance.
- B. Continued Existence.
 - 1. The casual, intermittent, temporary, or illegal uses of land or buildings shall not be sufficient to establish the continued existence of a nonconforming use.
 - 2. The existence of a nonconforming use on a part of a lot or parcel shall not be construed as establishing a nonconforming use on the entire lot or parcel.
 - 3. The Administrator shall determine the continued existence of a nonconforming use. When unable to conclude the continued existence of a nonconforming use, the Administrator shall refer the matter to the Board of Adjustment. The Board shall hold a hearing on the matter in accordance with its rules.
- C. Discontinuance. When any nonconforming use of land ceases for a period of 1 year, regardless of whether any fixtures or equipment are removed, the legal nonconforming status is terminated. Any subsequent use of land shall conform to the provisions of this Ordinance for the zone in which such land is located.

6.6-3.3. Nonconforming Structures

- A. Buildings not Conforming as to Height, Area, or Bulk. A building, that is nonconforming in only height, lot area, or yard requirements, may be altered or extended as long as the alteration or extension does not increase the degree of nonconformity in any respect.
- B. Nonconforming Dwellings in Commercial and Industrial Districts. A dwelling, used for non-residential purposes in a commercial or an industrial zone, shall be considered a conforming structure in the application of height area, and bulk requirements.
- C. Replacement of Mobile or Manufactured Home in Nonconforming Mobile Home Parks. In a nonconforming mobile home park, a mobile or manufactured home may be removed and replaced with another manufactured home as long as it is replaced within 1 year of removal. The replacement manufactured home must comply with laws, ordinances, and regulations in effect at the time of replacement.
- D. Destruction.
 - 1. A building, which incurs damage amounting to more than 50% of its fair market value immediately prior to the damage, loses its rights as a legal nonconforming structure. Any reconstruction, restoration, or alteration of such a structure must conform to this Ordinance.
 - 2. A building, which incurs damage amounting to less than 50% of its fair market value immediately prior to the damage, may be repaired or reconstructed and used as it was before

incurring damage as long as repairs or reconstruction are completed within 12 months of the date damage was incurred.

- E. A nonconforming dwelling may be rebuilt in any zoning district regardless of the extent of damage.

6.6-3.4. Nonconforming Lots

A single-family detached dwelling or mobile home may be erected on a nonconforming lot, even though the lot does not meet current dimension and size requirements, in zoning districts that permit these uses under the following conditions:

- A. The lot was lawfully recorded prior to the effective date of this Ordinance.
- B. The improvements conform to all other applicable requirements of this Ordinance.

6.6-3.5. Nonconforming Signs in Residential Districts

The following applies to nonconforming signs in residential districts.

- A. A nonconforming sign in a residential district may be maintained, but it shall not be replaced, reconstructed, moved, structurally relighted, unless in compliance with this Ordinance.
- B. A nonconforming sign may continue in use unless subject to removal in accordance with this Ordinance.
- C. Removal, replacement, reconstruction, relocation, or structural alteration of a nonconforming sign shall constitute loss of legal nonconforming status.
- D. Supporting structures for a legal nonconforming sign may be used for a conforming sign as long as the support structures comply with this Ordinance and other applicable laws and regulations.
- E. No permits for additional signs shall be issued for lots having any nonconforming signs.

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Section 6.6-4. Source Water Protection Overlay Zoning District Regulations

[Section added 06/08/2015]

6.6-4.1. Purposes.

- A. Ensure that land use activities are conducted in such a way as to minimize the impact on and reduce the risk of contamination to, excellent groundwater recharge potential areas and wellhead protection areas which are the sources for public drinking water in the Town of Clayton.
- B. Satisfy the requirements of the Delaware Source Water Protection Law 2001 as codified in the *Delaware Code*, Title 7, Chapter 60, Subchapter VI Source Water Protection, Section 6082 (b) and (f).
- C. Establish land-use and development standards in environmentally sensitive areas that are in addition to other standards and regulations in this Zoning Ordinance, the Clayton Subdivision Ordinance and other applicable local, state, and federal standards and regulations.

6.6-4.2. Definitions

The following definitions pertain to the Source Water Protection Overlay Zoning District.

Aboveground Storage Tank (AST). A single containment vessel greater than 250 gallons as defined in the *Delaware Regulations Governing Aboveground Storage Tanks*. ASTs with a storage capacity greater than 12,499 gallons containing petroleum or hazardous substances, and ASTs with a storage capacity greater than 39,999 gallons containing diesels, heating fuel or kerosene are subject to the design, construction, operations, and maintenance requirements of the Delaware AST regulations.

Best Management Practices. Structural, nonstructural and managerial techniques that are recognized to be the most effective and practical means to control nonpoint source pollutants yet are compatible with the productive use of the resource to which they are applied. These are used in both urban and agricultural areas.

Contamination. Any physical, chemical, biological, or radiological substance that enters the hydrologic cycle through human action and may cause a deleterious effect on ground water resources.

Excellent Groundwater Recharge Potential Areas. Those areas with high percentage of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis delineated by the Delaware Geological Survey and presented in the *Report of Investigations No. 66, Ground-water Recharge Potential Mapping in Kent and Sussex Counties, Delaware, Geological Survey, 2004*.

Green Technology Best Management Practices (BMP's). Those practices that achieve stormwater management objectives by applying the principles of filtration, infiltration and storage most often associated with natural vegetation and undisturbed soils while minimizing a reliance on structural components. They may also be constructed using an imported soil medium and planted with vegetation designed to promote the natural hydrologic process. These practices include, but are not limited to, vegetative filtration, riparian buffer plantings, bio-retention areas, vegetative flow conveyance, as well as recharge and surface storage in undisturbed natural areas.

Ground Water. Water contained in interconnected pores located below the water table in an unconfined aquifer or located in a confined aquifer.

Hazardous Waste. A solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible, illness, or pose a substantial present or potential a hazard to human health or the environment when improperly treated, stored, transported, or disposed of, otherwise managed. Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the *Delaware Regulations Governing Hazardous Waste*.

Infiltration. The passage or movement of water through the soil profile.

Impervious Cover. The sum of parking lots, roads, buildings, sidewalks, or other created surfaces through which rainwater cannot pass or infiltrate the soil.

Land Disturbing Activity. A land change or construction activity for residential, commercial, industrial, and institutional land use.

Leadership in Energy and Environmental Design (LEED). A rating system developed and administered by the U.S. Green Building Council based in Washington D.C.. It is designed to promote design and construction practices that increase profitability while reducing the negative environmental impacts of buildings and improving occupant health and well-being. The LEED rating system offers four certification levels for new construction which includes Certified, Silver, Gold and Platinum, corresponds to the number of credits accrued in five green design categories: sustainable sites, water efficiency, energy and atmosphere, materials and resources and indoor environmental quality. LEED standards cover new commercial construction and major renovation projects, interiors projects and existing building operations.

Natural Condition. Open space that is essentially unimproved and set aside, dedicated, designed, or reserved for public or private use.

On-site Wastewater Treatment and Disposal System. Conventional or alternative, wastewater treatment and disposal systems installed or proposed to be installed on land of the owner or on other land to which the owner has the legal right to install the system.

Public Water Supply Well. Any well from which the water is used to serve a community water system by section 22.146 (Public Water Systems) in the *Delaware State Regulations Governing Public Drinking Water Systems*.

Public Drinking Water System. A community, non-community, or non-transient non-community water system, which provides piped water to the public for human consumption. The system must have at least 15 service connections or regularly serve at least 25 individuals daily for at least 60 days.

Runoff. That portion of precipitation or snow melt that has not evaporated or infiltrated into the soil, but flows on land or impervious surfaces.

Sanitary Landfill. A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

Source Water Protection Areas. Wellhead Protection Areas and Excellent Ground Water Recharge Potential Areas.

Stormwater. The runoff of water from the surface of the land resulting from precipitation or snow or ice melt.

Stormwater Management:

- A. For water quantity control,** a system of vegetative, structural, and other measures that may control the volume and rate of stormwater runoff, which may be caused by land disturbing activities or activities upon the land; and
- B. For water quality control,** a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities upon the land.

Underground Storage Tank (UST). One or a combination of Tanks including underground Pipes, the volume of which is 10% or more below ground, as defined in the Delaware Regulations Governing Underground Storage Tank Systems, dated March 12, 1995.

Note: *The following USTs are not subject to the design, construction, operation, and maintenance requirements of the Delaware UST Regulations: (1) Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons; and, (2) any UST less than 110 gallons.*

Water Quality. Those characteristics of stormwater runoff from an impervious surface or a land disturbing activity that relate to the chemical, physical, biological, or radiological integrity of water.

Water Quantity.

- A. Those characteristics of stormwater runoff that relate to the volume of stormwater runoff to downstream-gradient areas resulting from land disturbing activities.
- B. Those characteristics of stormwater that relate to the volume of stormwater that infiltrates the land surface and enters the underlying aquifer.

Wellhead Protection Area. Surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are likely to reach such well, or well field.

6.6-4.3. Source Water Protection Area Boundaries.

- A. Official Boundaries. The official boundaries for Source Water Protection Areas are as follows.
 - 1. Wellheads. Prepared by DNREC, Division of Water Resources, Water Supply Section.
 - 2. Excellent Groundwater Recharge Potential Areas. Prepared by the Delaware Geological Survey, *Digital Ground-Water Recharge Potential Map for Kent and Sussex Counties, 2002* or as subsequently amended.
- B. Map Updates.
 - 1. DNREC periodically shall provide the Town of Clayton with updated excellent groundwater recharge potential and wellhead protection area maps which, upon approval by Town Council, are referenced by this Zoning Ordinance and shall be made available to the public upon request prior to any public hearing.
 - 2. Map Updates—Responsible Parties.
 - a) DNREC Source Water Assessment and Protection Program (SWAPP) may, when based on sound science and information, revise and update the maps depicting the boundaries of wellhead protection areas.
 - b) The Delaware Geological Survey (DGS) may, when based on sound science and information, revise and update the maps depicting the boundaries of good or excellent ground-water recharge potential areas.
- C. Challenges to Mapped Boundaries.
 - 1. When there appears to be a conflict between official boundary maps and actual site conditions, the applicant may engage the services of a Professional Geologist to prepare a report intended to determine more accurately the precise boundary of the Source Water Protection Area. This Report shall include all of the following:
 - a) A detailed topographic layout of the subdivision and/or area to be developed prepared by a Delaware-registered professional land surveyor, professional engineer, or professional geologist.
 - b) Evidence derived from a site-specific investigation that may include aquifer testing, test borings, test pits, observation wells, groundwater elevations, and topography surveys as appropriate for the types of source water protections area that clearly demonstrate that the area in question does not meet the definition of a Source Water Protection Area as defined in this Section.
 - c) Any challenges to the delineation of the excellent groundwater recharge potential areas shall follow the methods used in the Delaware Geological Survey Publication: *Report of Investigations No. 66, Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware*. Challenges must be approved by DGS.
 - 2. Identification on Development Plans Required. Development plans depicting development or land disturbance shall delineate the locations of Source Water Protection Areas. If a tract proposed for development contains no Source Water Protection Areas, the plan shall include a statement affirming this.

6.6-4.4. Applicability.

- A. All major subdivisions, conditional use site plans, site plans, and revised subdivision or site plans received for approval or re-approval by the Clayton Planning & Zoning Committee and/or Town Council shall meet the requirements set forth in this Section prior to approval, except as provided in Section 6.6-4.5 Exemptions.
- B. All public drinking water well systems constructed after the effective date of this ordinance are required to comply with this Zoning Ordinance as well as the provisions of the Clayton Subdivision Ordinance and other applicable local, state, and federal standards and regulations.
- C. For developments that are located partially in Zone 1, Zone 2, or Zone 3 of the Source Water Protection Overlay Zone area:
 - 1. Only those portions in the Source Water Protection Overlay Zone area are required to comply with applicable source water protection standards; and
 - 2. Existing, developed land, located in the Source Water Protection Overlay Zoning District, shall be treated as nonconforming uses with respect to the applicable provisions of this Zoning Ordinance.
- D. The uses and bulk standards which govern the underlying zoning designations attached to the properties within the Source Water Protection Overlay Zone shall apply in all instances except where uses are specifically prohibited by this Section and except pertaining to impervious cover. Where issues of impervious cover are concerned, the provisions of the Source Water Protection Overlay Zone are the governing provisions and override the existing zoning for the property.

6.6-4.5. Exemptions.

The following are exempt from the requirements of this ordinance:

- A. Recorded subdivisions.
- B. Revisions to recorded subdivision plans that do not result in the creation of additional lots.
- C. Conditional use applications not requiring development-plan review.
- D. Improvements to existing residential lots, including additions to existing one-family dwellings, and the placement of sheds and fences.

6.6-4.6. Environmental Assessment Report.

- A. Definition. A report that documents that post-development recharge will be no less than predevelopment recharge for both water quality and quantity when computed on an annual basis.
- B. When Required. Whenever land proposed for development contains Source Water Protection Areas.
- C. Elements. The Environmental Assessment Report shall include at least the following elements:
 - 1. Site description of proposed development within the water resource protection area.
 - 2. Climatic water balance comparing pre-development and post-development recharge potential for both water quantity and quality.
 - 3. Subsurface exploration including borings, test pits, and infiltration tests.
 - 4. Design of ground-water recharge facilities that assure water quality as well as water quantity.
 - 5. Construction and maintenance considerations.
 - 6. Recommended ground-water monitoring plan.
 - 7. Water management agreement between the applicant and the county providing for monitoring and maintenance of the recharge system. The applicant will abide by the Ground Water Management Agreement as written in the *DNREC Supplement to the Source Water Protection Guidance Manual for the Local Governments of Delaware: Ground-Water Recharge Design Methodology* dated May 2005 or as later revised.

6.6-4.7. Source Water Protection (SWP) Area Standards.

- A. SWP Zone 1. Surface area extending 150-foot radius around a wellhead.
 1. Development Standards.
 - a) Impervious Cover. Impervious cover shall be prohibited on lands located in a Zone 1 area with the exception of buildings, pumps, water storage tanks, generators and related appurtenances, and access associated with the well and related treatment and distribution facilities.
 - b) Stormwater. Stormwater runoff shall be diverted away from wellheads.
 2. Prohibited Uses. The following uses are prohibited in SWP Zone 1 areas.
 - a) On-site community and private wastewater treatment and disposal systems.
 - b) Underground and aboveground storage tank systems subject to the registration requirements of DNREC.
 - c) Junk/scrap/salvage yard.
 - d) Mines/gravel pit.
 - e) Hazardous Waste Treatment, Storage and Disposal Facilities, as defined in 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste*.
 - f) Sanitary and Industrial Landfills, as defined in 7 DE Admin. Code 1201, *Delaware Regulations Governing Solid Waste*.
- B. SWP Zone 2. Remaining surface area of the wellhead protection area outside of SWP Zone 1 and excellent groundwater recharge potential areas.
 1. Standards for New Construction and Development.
 - a) New development in SWP Zone 2 Source Water Protection Overlay SWP Zone areas may not exceed 20% gross impervious cover.
 - b) New development may exceed the 20% gross impervious cover threshold up to 50% gross impervious cover provided that the applicant demonstrates, through an environmental assessment report prepared by a registered professional geologist or registered professional engineer familiar with the hydro-geologic characteristics of Kent County using climatic water budget, that the post-development recharge quantity will meet or exceed the pre-development recharge quantity.
 - c) Roof Drains. For all new construction, all structures shall be required to discharge roof drains into recharge facilities designed per the *Delaware Sediment and Stormwater Regulations* dated January 1, 2014 or as later revised. For all new construction, including residential, all structures shall be required to discharge roof drains onto permeable surfaces.
 - d) Stormwater. Stormwater from new development shall be treated using water quality best management practices in accordance with current requirements of the *Delaware Sediment and Stormwater Regulations* dated January 1, 2014 or as later revised.
 2. Prohibited Uses. The following uses are prohibited in SWP Zone 2.
 - a) On-site community wastewater treatment and disposal systems.
 - b) Underground storage tank systems subject to the registration requirements of DNREC.
 - c) Chemical processing/storage facility.
 - d) Junk/scrap/salvage yard.
 - e) Mines/gravel pit.
 - f) Hazardous Waste Treatment, Storage and Disposal Facilities, as defined in 7 DE Admin. Code 1302, *Delaware Regulations Governing Hazardous Waste*.
 - g) Sanitary and Industrial Landfills, as defined in 7 DE Admin. Code 1201, *Delaware Regulations Governing Solid Waste*.
- C. SWP Zone 3. Where a SWP Zone 2 wellhead protection area overlays an excellent groundwater recharge potential area.
 1. Wellhead Protection Areas in SWP Zone 3 shall be preserved in a natural condition.
 2. Impervious cover shall not be permitted.

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Chapter 6.7. Administration and Enforcement

Section 6.7-1. Administrator Named

The Town Foreman or designee is the administrator of this Ordinance.

6.7-1.1. Responsibilities

The Administrator is responsible for interpreting and securing compliance with the provisions of this Ordinance.

6.7-1.2. Appeals of Administrative Decisions

- A. An appeal from any administrative decision, requirement, interpretation, or determination may be made to the Board of Adjustment.
- B. Such appeal must be made within 30 days after the decision to be appealed has been made.

Section 6.7-2. Certificates of Zoning Compliance

6.7-2.1. Purpose

A Certificate of Zoning Compliance is required to insure that a building or the proposed use of a building or premises complies with the provisions of this Ordinance prior to the issuance of a Building Permit.

6.7-2.2. Certificate Required

A Certificate of Zoning Compliance is required prior to:

- A. The use of any premises
- B. The excavation of any building
- C. The erection or structural alteration of any building
- D. The use or occupancy of any building
- E. Changes in the use of any building
- F. The erection of any fence. *[Amended 03/25/2002]*

6.7-2.3. Application Procedure

- A. An application for a Certificate of Zoning Compliance shall be filed with the Administrator.
- B. The Administrator shall review the application and issue a Certificate if the application is in compliance with the applicable provisions of this Ordinance.
- C. The Administrator shall keep a file of Certificates issued.

6.7-2.4. Building and Manufactured Home Placement Permits

- A. Building Permits. No building shall be erected, constructed, altered, moved, converted, extended, or enlarged unless a Building Permit has been obtained from Kent County. However, the County shall not issue a Building Permit without a Certificate of Zoning Compliance.
- B. Manufactured Home Placement Permits. No manufactured home shall be placed for occupancy unless a Placement Permit has been obtained from Kent County. Separate Placement Permits shall not be required for each manufactured home in an approved manufactured home park or within a manufactured home park established prior to the adoption of this Ordinance. In any case, the County shall not issue a Placement Permit without a Certificate of Zoning Compliance.

6.7-2.5. Appeals

- A. A applicant, whose application for a Certificate of Zoning Compliance is denied, may file an appeal with the Board of Adjustment.
- B. Such appeal must be made within 30 days after the denial has been made.

Section 6.7-3. Variances

6.7-3.1. Purpose

The purpose of a variance is to grant relief from the strict application of the provisions of this Ordinance.

6.7-3.2. Application Procedure

- A. An application for a variance shall be filed with the Administrator.
- B. The Administrator shall review the application for completeness.
- C. The Administrator shall forward the application to the Board of Adjustment for scheduling a public hearing.

6.7-3.3. General Criteria for Granting

A variance may be granted when, owing to special conditions or exceptional situations, a literal interpretation of this Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property as long as:

- A. The variance relates to a specific parcel of land, and the hardship is not shared generally by other properties in the same zoning district and vicinity.
- B. The variance can be granted without substantial detriment to the public good.
- C. The benefits from granting the variance would substantially outweigh any detriment.
- D. The variance would not substantially impair the intent and purposes of the comprehensive plan or this Ordinance.

6.7-3.4. Criteria for Granting Variance from Parking and Loading Requirements

In addition to the *General Criteria for Granting* a variance, the Board may permit variance from parking and loading requirements under the following circumstances.

- A. Location of Off-Street Parking. The Board may permit required off-street parking to be provided adjacent to or within a reasonable distance from a property when practical difficulties, such as the acquisition of adjacent property or unusual hardships in connection with the property, are encountered in providing required parking on the premises.
- B. Number of Spaces. The Board may permit a waiver or reduction in the parking or loading space requirements as follows:
 1. Parking and Loading. When the character of a use or building makes unnecessary the full provision of parking or loading facilities.
 2. Loading.
 - a) Where adequate community facilities are provided.
 - b) For uses containing less than 10,000 square feet where construction of existing buildings, access problems, or lot sizes make impractical the provision of the required number of loading spaces.

6.7-3.5. Use Variances Not Authorized

These provisions governing variances shall not be construed to permit the Board, under the guise of a variance, to authorize a use of land not otherwise permitted in this Ordinance.

6.7-3.6. Duration and Revocation

- A. The duration of a variance is 12 months from the approval date.
- B. If a landowner, developer, agent, representative, or designee fails to make substantial progress in developing the land within 12 months, the variance is automatically revoked.
- C. The Board of Adjustment may grant only 1, 6-month extension if applicant can demonstrate that delays were beyond his/her control.

Section 6.7-4. Conditional Use Permits**6.7-4.1. Definition and Purpose**

A conditional use is a permitted use that is appropriate in a zoning district at a particular location only when certain criteria are met. The purpose of a Conditional Use Permit is to provide an additional level of review for these uses in order to determine their appropriateness at their proposed locations.

6.7-4.2. When Required.

A conditional use permit is required in accordance with *Table 1. Permitted Uses and Structures*.

6.7-4.3. Application Procedure

- A. An application for a Conditional Use Permit shall be filed with the Administrator.
- B. The Administrator shall review the application for completeness.
- C. The Administrator shall forward the application to the Town Council for scheduling a public hearing.

6.7-4.4. General Criteria for Granting

- A. The Town Council may authorize a conditional use when it finds from the evidence of record that the proposed use:
 - 1. Is in harmony with the purposes and intent of the comprehensive plan.
 - 2. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures.
 - 3. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties
 - 4. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity.
 - 5. Will have no detrimental effect on vehicular or pedestrian traffic.
 - 6. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area.
 - 7. Will not, in conjunction with existing, proposed, and potential development, overburden existing public services and facilities.
 - 8. Meets all other applicable standards, laws, and regulations including applicable provisions of this Ordinance.
 - 9. Meets all other Additional Requirements For Certain Conditional Uses.
- B. An applicant for a Conditional Use Permit shall have the burden of presenting the information needed by the Town Council to make a determination.

6.7-4.5. Duration and Revocation

- A. The duration of a Conditional Use Permit is 12 months from the approval date.
- B. If a landowner, developer, agent, representative, or designee fails to make substantial progress in developing the land within 12 months, the Conditional Use Permit is automatically revoked.
- C. The Town Council may grant only 1, 6-month extension if applicant can demonstrate that delays were beyond his/her control.

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Section 6.7-5. Specific Requirements for Certain Conditional Uses

The following requirements are in addition to the General Requirements for Granting Conditional Use Permits.

- A. Communications Towers.
 - 1. Bulk and Lighting Regulations.
 - a) Setback from all lot lines. Equal to the height of the tower.
 - b) Distance from other uses.
 - 1) From overhead transmission lines: 2 times the height of the tower.
 - 2) From Residential Zones and institutional uses such as churches, educational institutions, daycare centers: 2 times the height of the tower plus 200 feet.
 - c) Lighting. Except as required by the Federal Aviation Administration or other federal or state agencies, a tower may not have artificial or strobe lighting at night.
 - 2. An application to erect a communications tower shall include the following information.
 - a) Description of the tower including technical information regarding its design.
 - b) A site and landscape plan.
 - c) Documentation of the tower's structural integrity.
 - d) Proof of ownership of or owner's written authorization to use the property on which the tower is proposed to be located.
 - e) Statement of intent on whether space will be made available for other communications service providers.
 - f) Written statement showing that there are no existing towers or other elevated structures that can provide the antenna platform and/or that colocation is infeasible or impractical.
 - g) Written evidence of how the proposed tower complies with other laws and regulations governing communications towers particularly those of the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA).
 - h) Other information needed for the Council to review the application.
- B. Dwellings in the TC Zone.
 - 1. In the TC Zone, the Town Council may authorize more than 1 multiple-family dwelling in conjunction with a commercial building.
 - 2. In addition to determining whether an application meets the General Criteria for Granting, the Board must also make a finding that this conditional use:
 - a) is in keeping with the intent of the TC Zone.
 - b) would not result in a proliferation of multiple-family dwellings in commercial buildings in the town center.
- C. Educational Institutions.
 - 1. An educational institution must comply with the applicable standards, laws, and regulations.
 - 2. The Council may refer applications to appropriate state or other governmental agencies for review and comment.
- D. Two-Family Conversions.

When a single-family dwelling is changed to a 2-family dwelling, the following applies:

 - 1. Each 2-family dwelling must have separate direct access to the outside.
 - 2. Interior access between the units is not permitted.
 - 3. Each unit must have its own kitchen and bathroom facilities. These facilities must comply with applicable building and occupancy codes.
 - 4. Minimum floor area for each unit: 800 square feet.
 - 5. Each unit must have its own water and sewer connections.

E. Bus Maintenance Facility.

[Subsection added 08/13/2007]

1. Definition. Any building, structure, premises, or land area used for any of the following activities in connection with buses.
 - a) Maintenance, servicing, or repair.
 - b) Dispensing, but not sales, of fuels for the buses regularly stored or parked on the subject property.
 - c) Storage or parking.
2. Design Standards.
 - a) A separate, marked parking space shall be provided for each bus that will be parked or stored at a bus maintenance facility.
 - b) Employee Parking Areas.
 - 1) In addition to the parking spaces for buses, parking for employees shall be provided in accordance with the requirements for industrial uses.
 - 2) Employee parking areas shall be designed in accordance with the off-street parking standards set forth in Section 6.6-1.2.
 - c) Surface Materials. Parking spaces and interior drive aisles shall have all-weather surfaces. Materials used for drainage shall be erosion resistant and in compliance with other Town requirements.
 - d) Separation from Walkways and Streets. Bus maintenance facilities shall be separated from walkways, sidewalks, streets, alleys, and other public rights-of-way by a wall, fence, curbing, sufficient distance, or other approved device so that parked vehicles do not extend into public areas.
 - e) Entrances and Exits.
 - 1) General. A bus maintenance facility shall have only 1 entrance from and 1 exit onto a single street. The entrance and exit may be separate or combined.
 - 2) Location and Design. The location and design of entrances and exits shall be in accordance with Town specifications.
 - f) Interior Drive Aisles. The width of interior drive aisles shall be appropriate to the types of parking spaces provided.
 - g) Marking. Each space shall be marked with painted lines, curbs, or other means to indicated individual spaces. Signs or other markers shall be posted to ensure efficient traffic operation within the parking lot.
 - h) Lighting. Adequate lighting shall be provided when a bus maintenance facility is intended to be used at night. Lighting fixtures shall be arranged to minimize glare on adjacent residential properties.
 - i) Screening.
 - 1) When Required. When a bus maintenance facility is located closer than 50 feet to a lot in a residential district, or to any lot used for residential purposes and where such facility is not entirely screened visually from such lot by an intervening building or structure.
 - 2) Height. 6 feet.
 - 3) Materials. Screening shall consist of a continuous compact evergreen hedge, foliage, wall, or solid fence.
3. Development-Plan Review Criteria. The applicant shall submit a site plan that includes the following information.
 - a) Site-plan review information listed in Section 6.7-5.4B.
 - b) Design standards outlined in Subsection 2 above.

F. Uses in the RR and I Zones.

An application for Conditional Uses Permit in the I and RR Zones must include an Environmental Impact Study. *[Revised 03/08/2004]*

1. The study shall analyze the effect of the proposed development on natural drainage channels and streams, natural growth, soils, air and water quality.
2. The study shall also analyze the effect of the proposed development on the use and development of the adjoining properties and the general neighborhood by considering the following:
 - a) Noise.
 - b) Dust.
 - c) Odor.
 - d) Traffic.
 - e) Lighting.
 - f) Smoke.
 - g) Erosion.
 - h) Sediment Control.
 - i) Flooding.
 - j) Change in natural ground cover.
 - k) Other items that the Town Council requires to take action on the application.

Section 6.7-6. Site Plan Permits**6.7-6.1. Purposes**

- A. To ensure that proposed new developments conform to the Comprehensive Plan.
- B. To avoid adverse impacts on neighboring properties and public facilities.
- C. To reduce traffic hazards and improve traffic circulation.
- D. To preserve existing natural features.
- E. To assure adequate light and air to buildings on and off properties subject to site plan review.
- F. To provide adequate access and parking.
- G. To avoid overcrowding of people and buildings on properties subject to site plan review.
- H. To ensure the provision of recreational amenities and open space.
- I. To require, where appropriate, the provision of common open space, parking areas, and private drainage systems.

6.7-6.2. When Required

A Site Plan Permit is required in accordance with *Table 1. Permitted Uses and Structures.*

6.7-6.3. Application Procedure

- A. An application for a Site Plan Permit shall be filed with the Administrator at least 15 days prior to a regularly-scheduled Planning and Zoning Committee meeting.
- B. The Administrator shall review the application for completeness.
- C. The Administrator shall forward the application to the Committee for review at a regularly-scheduled meeting.

- D. Planning and Zoning Committee Review and Action.
 - 1. The Committee shall review the application in accordance with the purposes for Site Plan Permits.
 - 2. In making its decision, the Committee shall state how the proposed site plan complies with the purposes for Site Plan Permits.
 - 3. The Committee may attach conditions to approval of a Site Plan Permit.
 - 4. Any conditions imposed by the Planning and Zoning Committee must be met in order for the Administrator to issue a Certificate of Zoning Compliance.

6.7-6.4. Application Requirements

A Site Plan Permit application must include:

- A. Community impact study.
 - 1. The study shall analyze the immediate and long-term effects that the proposed development would have on public services by assessing the following:
 - a) Estimated revenue that the proposed development would generate to the Town.
 - b) Estimated costs of the public improvements and services that would be required to serve the proposed development.
 - 2. The services, that a community impact study should include, are:
 - a) Educational institutions.
 - b) Utilities, such as water, sewer service, storm drainage.
 - c) Transportation services, such as traffic signals, traffic circulation, street and road improvements, and pedestrian facilities.
 - d) Public safety services, such as police and fire protection.
 - e) Refuse collection and disposal.
 - f) Recreation facilities.
 - g) Other items that the Planning and Zoning Committee requires to take action on the proposed development application.
- B. A site plan, prepared by a competent professional, drawn to scale that includes at least the following information:
 - 1. Location, dimensions, and first floor elevations of all buildings and structures.
 - 2. Existing and proposed parking areas.
 - 3. Existing and proposed access roads.
 - 4. Drives and walkways.
 - 5. Topography and major vegetative features.
 - 6. Existing and proposed grading
 - 7. Location of landscape screens.
 - 8. Recreation and open space areas.
 - 9. Location of flood hazard areas.
 - 10. Location of source water protection areas.
 - 11. Stormwater management plan.
- C. Where appropriate, documents governing proposed covenants, restrictions and maintenance responsibilities for common areas and a provision that the Town of Clayton may enforce liens against the common owners for failure to abide by the liability and maintenance provisions.
- D. Additional information or drawings required by the Planning and Zoning Committee or necessary to show how the proposed development fits in with the purposes for site plan review.

6.7-6.5. Compliance with and Amendments to Approved Site Plans

- A. Compliance Required. Land, for which a Site Plan Permit has been approved, shall be developed and used only in accordance with the approved plan. Use and development of such land, not in accordance with an approved Site Plan Permit, is prohibited and is a violation of this Ordinance.
- B. Amendments.
 - 1. Requests to amend an approved site plan shall be filed with the Administrator.
 - 2. The Administrator may approve minor amendments.
 - 3. Major changes in an approved site plan shall be referred to the Planning and Zoning Committee for review. The procedure for such review shall be the same as for a new Site Plan Permit.

6.7-6.6. Duration and Revocation

- A. The duration of a Site Plan Permit is 12 months from the approval date.
- B. If a landowner, developer, agent, representative, or designee fails to make substantial progress in developing the land within 12 months, the Site Plan Permit is automatically revoked.
- C. The Planning and Zoning Committee may grant only 1, 6-month extension if applicant can demonstrate that delays were beyond his/her control.

Section 6.7-7. Amendments

[Section repealed and replaced 03/14/2011]

6.7-7.1. Types of Amendments and Who May Initiate

- A. Text Amendment. Addition, supplement, change, or modification to the text of this Ordinance.
- B. Zoning Map Amendment. An addition, supplement, change, or modification to the zoning map.
 - 1. Comprehensive Rezoning. Rezoning following the adoption of a Comprehensive Plan pursuant to Title 22, Section 702(c) of the Delaware Code or amendments thereto.
 - 2. Local Rezoning. Change(s) in zoning district(s) for one or more parcels outside of the comprehensive rezoning process.

6.7-7.2. Who May Initiate

- A. A petition for text amendment may be initiated by a resolution of the Town Council or at the request of the Planning and Zoning Committee.
- B. A petition for a local rezoning may be initiated by a resolution of the Town Council, a motion of the Planning and Zoning Committee, or a petition of the owner of the property proposed for a zoning change.

6.7-7.3. Application Submission

- A. An application for map or text amendment shall be submitted to the Administrator at least 15 days prior to the Planning and Zoning Committee's next regular meeting.
- B. The Administrator shall forward the application to the Committee for review and recommendation prior to the Town Council's public hearing.

6.7-7.4. Planning and Zoning Committee Review

- A. The Planning and Zoning Committee shall forward a recommendation on each proposed amendment to the Town Council.
- B. The Planning and Zoning Committee's recommendation shall incorporate the applicable review criteria in Section 6.7-6.5C.

6.7-7.5. Town Council Public Hearing

- A. Town Council to Hold Hearing. Pursuant to Title 22, Section 304 of the Delaware Code, the Town Council shall hold a public hearing on each proposed amendment to the text of this Ordinance or the zoning map.
- B. Hearing Time Frame.

[Subsection revised 08/08/2016]

- 1. The public hearing shall be held within no fewer than 15 days, of but not more than 60 days, following publication of the hearing notice in a newspaper of general circulation in the Town as required in this Section.

2. If the hearing does not take place within 60 days following newspaper notice, the hearing shall be re-advertised.
- C. Conduct of Public Hearing. All interested parties and citizens shall be given an opportunity to be heard, but presentation times may be limited as directed by the Town Council.
- D. Review Criteria.
 1. Text Amendment.
 - a) The relationship of the proposed change to the general purpose and intent of this Ordinance and the Comprehensive Plan.
 - b) Information as to why the existing zoning text should be changed.
 2. Comprehensive Rezoning. Whether every parcel of land in the Town shall be placed in a zoning classification that is in accordance with the uses of land provided for the current Comprehensive Plan pursuant to Title 22, Section 702(c) of the Delaware Code.
 3. Local Rezoning.
 - a) Facts existing in the vicinity of the proposed change and the relationship of the proposed change to the general purpose and intent of the Comprehensive Plan.
 - b) Whether the proposed zoning classification is in accordance with the land uses provided for in the Comprehensive Plan pursuant to Title 22, Section 702(c) of the Delaware Code.

6.7-7.6. Public Notice Provisions

- A. Text Amendment.
 1. Newspaper Notice. The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - a) The location, date, and time of the public hearing.
 - b) Information on where full details of the application may be obtained, including hours of availability and phone number.
 2. Town Hall Posted Notice. Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.
- B. Comprehensive Rezoning.
 1. Newspaper Notice. The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 2. The location, date, and time of the public hearing.
 3. Information on where full details of the rezoning may be obtained, including hours of availability and phone number.
 4. Mailed Notice. The Town shall send notice by regular mail to the last known address of each property owner whose zoning district is proposed to be changed at least 15 calendar days prior to the public hearing.
 5. Town Hall Posted Notice. Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.
- C. Local Rezoning.
 1. Newspaper Notice. The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - a) Type of application.
 - b) Short description of the proposed action.
 - c) Description of the parcel and the approximate street location or address.
 - d) Location, date, and time of the public hearing.

- e) Information on where full details of the application may be obtained, including hours of availability, and phone number.
2. Notice to Owner/Applicant. The Town shall notify by regular mail the owner and/or applicant of the time and place of the public hearing.
3. Notice to Nearby Property Owners. The Town shall send by regular mail a copy of the public hearing notice to the last known address of all property owners within a 100-foot radius of the property measured at each property line at least 15 calendar days prior to the public hearing. The notice shall contain the same information as in the newspaper notice.
4. Property-Posted Notice. The Town shall prepare and the applicant shall erect a sign giving notice of a public hearing on all subject properties at least 15 calendar days in advance of a public hearing.
 - a) Location.
 - 1) The posted sign shall be placed in a conspicuous location (no greater than 7 feet from a residential or local road right-of-way, and no greater than 10 feet from a collector or arterial right-of-way); one (1) along each adjacent right-of-way and shall be perpendicular to the street so as to be clearly visible to the public.
 - 2) The Town shall have the discretion to require the applicant to move the posted sign to a more acceptable location if the Town determines that the location is inappropriate for public viewing. The Town shall also have the discretion to permit only one (1) posted sign on corner lots of less than one (1) acre.
 - 3) If a posted sign already exists at the site, the notice for the public hearing may be affixed to the existing sign.
 - b) Size, Composition, and Format. The posted sign shall meet the following criteria.
 - 1) Be at least 4 feet high and 4 feet wide.
 - 2) Be double-faced and weatherproof.
 - 3) Have a yellow background with 2-inch black letters in a sans serif typeface.
 - 4) Be at least 3 feet from the ground.
 - c) Contents. The sign shall display prominently the following information.
 - 1) Type of application.
 - 2) Existing zoning.
 - 3) Requested zoning.
 - 4) Area of the property.
 - 5) Phone number to call for additional information.
 - d) Maintenance.
 - 1) The applicant shall be responsible to clean or replace any posted sign no more than once when it has been defaced to the extent that the information displayed on it is no longer legible.
 - 2) It shall be unlawful for any person, except the applicant or the Town Council or an authorized agent of either, to remove or tamper with any such sign during the period it is required to be maintained under this section.
 - e) Proof of Posting. The applicant shall provide the Town with photographic proof of posting and a signed affidavit prior to the public hearing. Failure of any such posted notice to remain in place after posting shall not be deemed a failure to comply with these standards or be grounds to challenge the validity of any decision made on the application unless the notice was removed by the applicant or at his or her direction.
 - f) Removal. The applicant shall remove the posted sign within 10 days after the Town Council has made a decision on the application. If the posted notice sign is giving notice of other public hearings concerning the property, the posted notice sign shall remain until after those hearings have taken place.

5. Town Hall Posted Notice. Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.

6.7-7.7. Adoption and Notice of Adoption

- A. Ordinance Required to Adopt. An amendment to the text of this Ordinance and changes to the zoning map shall be made by Ordinance.
- B. Notice of Adoption. Following the adoption or denial of an amendment to the text of this Ordinance or the zoning map, notice of such action shall be published in an official newspaper of general circulation in the Town.

6.7-7.8. Limitation on Reapplication

No application for an amendment, supplement, change, or modification or repeal requesting the same relief in regard the same property shall be received for a period of one (1) year following the decision on the matter by the Town Council.

Section 6.7-8. Violations and Penalties

6.7-8.1. Administrator Authorized to Institute Action

The Administrator is authorized and directed to institute appropriate actions to put an end to any violations of this Ordinance.

6.7-8.2. Penalties for Violations

- A. Initial Violation. Any person or corporation, who shall violate any provision of this Ordinance, shall fail to comply with any requirements of this Ordinance, or shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance, shall be guilty of a violation and shall be liable to a fine of not more than \$50.00.
- B. Subsequent Violations.
 1. Defined. A subsequent violation is defined as each and every day that any person or corporation shall violate any provision of this Ordinance, shall fail to comply with any requirements of this Ordinance, or shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
 2. Penalty. An entity, who commits a subsequent violation, shall be charged with such violation and shall be assessed for a violation in the amount of \$100.00 each day without the necessity of a separate citation or summons issued by the Town of Clayton.

6.7-8.3. Responsible Parties

The owner or owners of any building or premises, or part of such building or premises, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection with such building or premises, and who have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.

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Table 1. Permitted Uses and Structures

Table 1. Permitted Uses and Structures		OS Zone	RS Zone	R Zone	R1 Zone	RMH Zone	TC Zone	C1 Zone	C2 Zone	I Zone	RR Zone
Blank	Not Permitted										
P	Permitted										
CUP	Conditional Use Permit [Sec. 6.7-4]										
SPP	Site Plan Permit [Sec. 6.7-5.5]										
D	See Sec. 6.1-2 Definitions										
	Accessory uses and structures See Section 6.4-4. Accessory Uses.	P	P	P	P	P	SPP	P	P	P	P
	Antique shop						SPP	P	P	P	
	Appliance sales, service, and repair limited to 2,500 square feet of gross floor area						SPP	P	P	P	
	Automobile filling or service station	D					SPP	P	P	P	
	Automobile, truck or bus sales, storage, or service within enclosed building								P	P	
	Bakery, commercial									SPP	
	Bakery, retail provided that products prepared on premises are sold on the premises						SPP	P	P	P	
	Bank, including drive-in facilities that provide sufficient storage space for drive-in vehicles						SPP	P	P	P	
	Barber or beauty shop						SPP	P	P	P	
	Bicycle sales and repair shop						SPP	P	P	P	
	Building materials store with enclosed storage area								P	P	
	Building materials supply or distribution facility									SPP	
	Bus Maintenance [Added 08/13/2007]									CUP	
	Clothing manufacture									SPP	CUP
	Cluster residential development See Section 6.5-2.2. Cluster Development		SPP	SPP	SPP						
	Common open areas for storage of recreational vehicles					P					
	Communications towers	D	CUP				CUP	CUP	CUP	CUP	CUP
	Community residential shelter	D		CUP	CUP	CUP	CUP	CUP	CUP		
	Contractor's construction equipment, supplies, storage yard									SPP	
	Day care center, child	D		CUP	CUP	CUP	CUP	CUP			
	Delicatessen including catering services						SPP	P	P	P	
	Drug store						SPP	P	P	P	
	Dry cleaning and laundry establishments limited to 2,500 square feet						SPP	P	P	P	
	Dwelling, duplex				SPP		SPP				
	Dwelling, manufactured	D				P					
	Dwelling, multiple-family	D									
	Generally				SPP						
	1 unit located only on second or third story of a commercial building						SPP				
	More than 1 unit located only on second or third story of a commercial building						CUP				
	Dwelling, semi-detached when incorporated into a cluster development [Added 03/27/2006]	D		D							
	Dwelling, single-family including modular	D		P	P	P	SPP				
	Dwelling, townhouse	D			D	SPP					
	Dwelling, triple-attached when incorporated into a cluster development [Added 03/27/2006]	D		D							
	Dwelling, two-family	D			SPP		SPP				
	Eating and drinking establishments, excluding drive-in						SPP	P	P	P	
	Educational institution	D		CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
	Electrical equipment fabrication									SPP	CUP
	Farm equipment sales and service									SPP	
	Fertilizer storage in bags or bulk storage of dry fertilizer, but not manufacture or processing									SPP	
	Florist shop						SPP	P	P	P	
	Food and beverage stores						SPP	P	P	P	
	Food production, processing, packaging, and canning									SPP	CUP
	Funeral home						SPP	P	P	P	
	Furniture and carpet stores						SPP	P	P	P	

Table 1. Permitted Uses and Structures		OS Zone	RS Zone	R Zone	R1 Zone	RMH Zone	TC Zone	C1 Zone	C2 Zone	I Zone	RR Zone
Blank	Not Permitted										
P	Permitted										
CUP	Conditional Use Permit [Sec. 6.7-4]										
SPP	Site Plan Permit [Sec. 6.7-5.5]										
D	See Sec. 6.1-2 Definitions										
	Garages, parking or storage with enclosed storage area								P	P	
	Garden supply store						SPP	P	P	P	
	Garden, orchard, or nursery, but not commercial greenhouses	P	P	P	P		SPP	P	P	P	
	General farming, cultivation of field crops	P									
	Gift shop						SPP	P	P	P	
	Grain and feed supply									SPP	
	Grain storage, blending, and packing, but not milling									SPP	
	Grocery store						SPP	P	P	P	
	Guest house			P	P						
	Hardware store						SPP	P	P	P	
	Hobby supply store						SPP	P	P	P	
	Ice manufacture and storage, including dry ice									SPP	CUP
	Laundromat, self-service limited to 2,500 square feet of gross floor area	D					SPP	P	P	P	
	Liquor store						SPP	P	P	P	
	Lumber and building materials store with enclosed storage area								P	P	
	Lumber yard									SPP	
	Machine shop									SPP	
	Manufacture of products raw or previously prepared materials [Revised 03/08/2004]	D								CUP	CUP
	Manufactured housing community					SPP					
	Newsstand						SPP	P	P	P	
	Nonconforming uses and structures See Section 6.6-3. Nonconformities.	P	P	P	P	P	P	P	P	P	P
	Office machine sales, service, and repair limited to 2,500 square feet of gross floor area						SPP	P	P	P	
	Office supply store						SPP	P	P	P	
	Offices, general business						SPP	P	P	P	
	Offices, professional						SPP	P	P	P	
	Paint store						SPP	P	P	P	
	Parking facilities						SPP	P	P	P	
	Pet shop, including grooming provided that all operations are conducted within a completely enclosed, soundproofed building						SPP	P	P	P	
	Placement and maintenance of track and auxiliary facilities for track operations limited to the movement of rolling stock through Town limits, but excluding switching marshalling, or classification and similar activities										P
	Places of worship		P	P	P		SPP	P	P	P	
	Printing, publishing, engraving, photographic processing, or blueprinting									SPP	
	Private club, lodge, or meeting hall						SPP	P	P	P	
	Public buildings	D	CUP	CUP	CUP	CUP	SPP	P	P	P	
	Public park and recreation areas	P		P	P		SPP	P	P	P	
	Public safety facility	D	P	P	P	P	P	P	P	P	P
	Public utility service facilities except electric substations and relay stations	D	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
	Public utility service facilities including electric substations	D								CUP	
	Public utility service lines	D	P	P	P	P	P	P	P	P	P
	Railroad fueling, sanding, and watering stations										CUP
	Railroad passenger or freight terminals										CUP
	Railroad power houses										CUP
	Railroad repair shops										CUP
	Railroad roundhouses										CUP
	Railroad switching operations										CUP

Table 1. Permitted Uses and Structures		OS	RS	R	R1	RMH	TC	C1	C2	I	RR
Blank	Not Permitted	Zone	Zone	Zone	Zone	Zone	Zone	Zone	Zone	Zone	Zone
P	Permitted										
CUP	Conditional Use Permit [Sec. 6.7-4]										
SPP	Site Plan Permit [Sec. 6.7-5.5]										
D	See Sec. 6.1-2 Definitions										
	Recreational facilities					P					
	Retail sales and personal services, general						SPP	P	P	P	
	Shoe repair shop limited to 2,500 square feet of gross floor area						SPP	P	P	P	
	Similar uses in accordance with <i>Section 0</i>	P	P	P	P	P	SPP	P	P	P	P
	Specialty shop						SPP	P	P	P	
	Sporting goods store including small arms ammunition smokeless powder and primers used in small arms ammunition as defined under the National Fire Protection Association Code						SPP	P	P	P	
	Stationery store						SPP	P	P	P	
	Studios for artists, photographers, teachers, sculptors, or musicians						SPP	P	P	P	
	Television, radio, electrical equipment sales, service, and repair limited to 2,500 square feet of gross floor area						SPP	P	P	P	
	Temporary uses in accordance with <i>Section 6.4-5. Temporary Uses</i>	P	P	P	P	P	P	P	P	P	P
	Tobacco shop						SPP	P	P	P	
	Truck terminal									SPP	CUP
	Variety and dry goods stores						SPP	P	P	P	
	Veterinarian office, kennels, animal hospital									SPP	
	Warehousing or storage excluding hazardous materials									SPP	CUP
	Wearing apparel store						SPP	P	P	P	
	Wholesale establishment with enclosed storage area								P	P	
	Yard, garden, and farm equipment sales rental and service with enclosed storage area								P	P	

Note Permitted uses shall be modified in accordance with any applicable standards set forth in Section 6.6-4 Source Water Protection Overlay Zoning District Regulations.

Uses permitted in the RR Zone revised 03/08/2004

C2 Uses added to I Zone 06/08/2009

Note added 06/08/2015

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Table 2. Basic Bulk Regulations

Zone	D.U. Type	Min. Tract Area	Max. Density Per Acre	Lot Area Per D.U. (sq. ft.)	Lot Width, Interior (feet)	Lot Width, Corner or End Unit (feet)	Front Yard Depth (feet) <small>1,2,3,4,5</small>	Side Yard Depth, Interior (feet)	Side Yard Depth, Corner (feet)	Rear Yard Depth (feet)*	Green Area	Max. Bldg. Height (feet)
OS	N/A		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A		N/A
RS	1-Family	None	4 D.U.	10,000	75	85	20	10	15	30		35
R	1-Family	None	4.2 D.U.	8,000	50	50	20	10	10	30		35
	Townhouse See also Sec. 6.5-2.8.	3 acres	8 D.U.	Inner: 2,000 End: 3,000	20	30	20	N/A	10	30		35
R-1	1-Family	None	4.2 D.U.	8,000	50	50	20	10	10	30		35
	2-Family	None	4.2 D.U.	8,000	50	50	20	10	10	30		35
	Townhouse See also Sec. 6.5-2.8.	3 acres	8 D.U.	Inner: 2,000 End: 3,000	20	30	20	N/A	10	20		35
	Multi-family	None	15 D.U.	1,700	80 per unit	80 per unit	25	10	10	30		35
RMH	See Table 3. <i>Manufactured Home Bulk Regulations.</i>											
TC	See Section 6.5-2.9.											35
C1	N/A			8,000	50	50	20	15	15	30		35
C2	N/A			9,000	60	60	40	15	15	30		35
I	N/A			44,000	100	100	50	25	50	40		35
RR	N/A			44,000	100	100	50	25	50	40		35

Notes Applying to Entire Table

- When a lot abuts a public alley, one-half of the alley width may be considered as a portion of a required yard.
- Where the street frontage in a block, or within 400 feet of the lot in question, is partially built-up, the minimum front yard for a new building shall be the average of the existing front yards on either side of the lot with a variation of 5 feet permitted.
- Front Yards Abutting Future Streets. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, the depth of the front or side yard setback shall be measured from the official line to the nearest line of the building. Where no official line is established, the right-of-way of any of any major thoroughfare designated on the Major Thoroughfare Plan shall be assumed to extend at least 30 feet on each side of the center line of the existing right-of-way for the purpose of measuring front or side yards.
- Reverse frontage lots must have a front yard setback on each street.
- Front yard setback required on each street side of a corner lot as long as the buildable width remains at least 30 feet for lots of record at the time of passage of this Ordinance.
- The Zoning Administrator or the Planning and Zoning Committee may recommend and the Town Council may approve exceptions to the above-noted setback requirements as relief for construction upon lots adjacent to a Scenic Corridor.

[RS Setbacks revised 02/10/2002]

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Table 3. Manufactured Home Bulk Regulations

Standard	Basic Requirement	Additional Requirements
Minimum tract area	20 acres	
Maximum density	5.5 dwellings per acre	
Minimum number of home sites	40 sites	
Lot area		
Single-wide manufactured home	5,000 square feet	
Double-wide manufactured home	6,000 square feet	
Lot depth	110 feet	
Yards		
Front	25 feet	
Side		
— 1 side	5 feet	
— sum of both sides	25 feet	
Rear	7.5 feet	
Distance between manufactured homes	30 feet	Must be increased proportionately if additions are anticipated. Unenclosed exterior decks or patios with supporting structures less than 3 feet high may encroach on the required minimum distances between manufactured homes.
Landscape buffer		
Adjoining arterial street	50 feet	
Adjoining non-arterial streets or adjacent lots	25 feet	
Interior access drive		
Total width	50 feet	
Paved width	24 feet	

Table 4. Cluster Development Bulk Regulations

Standard	Single-Family	Semi-Detached	Triple-Attached
Tract Standards			
Tract Area	25 Acres		
Maximum Density	4 DUs per Acre		
Street Frontage (feet)	Municipal or DelDOT Standards as Applicable		
Lot Standards			
Lot Area Per DU (SF)	7,000	3,500	Interior 2,000; End 3,000
Street Frontage (feet)	30	30	N/A
Lot Width at Front Bldg. Line (feet)	70	30	Interior 20; End 30
Setbacks (feet)			
Front Yard	10	10	10
Side Yard	10	10	10
Rear Yard	25	15	15
Maximum Building Height			
Stories	2 ½	2 ½	2 ½
Feet	35	35	35
Maximum Building Coverage	35%	40%	50%

Notes Applying to Entire Table






1. DU means Dwelling Unit.
2. SF means Square Feet.
3. See Table 3 in the Clayton Subdivision Ordinance for open space requirements.

[Table added 03/27/2006]

Table 5. Permitted Projections into Required Yards

Type of Projection	Front Yard	Interior Side Yard	Corner Side Yard	Rear Yard
Air conditioners and heat pumps either free-standing or wall-mounted	5 feet	5 feet	5 feet	5 feet
Aluminum siding, brick veneer, and similar applications to existing structures	9 inches	9 inches	9 inches	9 inches
Awning in commercial or industrial zones				
Balconies, bay windows, entrances, oriels, and vestibules less than 10 feet wide	3 feet	3 feet	3 feet	3 feet
Carports	5 feet	3 feet	3 feet	5 feet
Chimneys	2 feet	2 feet	2 feet	2 feet
Cornices and eaves	2 feet	2 feet	2 feet	2 feet
Decks, platforms, or similar raised structure	Not permitted	Not permitted	Not permitted	6 feet
Fire escapes	5 feet	5 feet	5 feet	5 feet
Outside stairways	Not permitted	Not permitted	Not permitted	6 feet
Ornamental features, such as sills, leaders, belt courses	6 inches	6 inches	6 inches	6 inches
Porches, steps, stoops, terraces, and similar features				
Open	9 feet	3 feet	3 feet	9 feet
Roof covering porches, steps, stoops, terraces	4 feet	Not permitted	Not permitted	4 feet
Enclosed, including screened-in porches	Not permitted	Not permitted	Not permitted	Not permitted

Table 6. Landscaping Standards for Lots Adjoining Scenic Corridors

Buffer Width	Required Plant Units	Plant Unit Alternative	Number	Size and Type	Illustration
Per setback required	6 plant units per 100 linear feet	Standard Plant Unit	1 2 13	canopy tree 1-1/2" to 2" caliper understory 1-1/2' to 3' high shrubs	
		Alternative Unit A*	1 1 1 11	canopy tree 1-1/2" to 2" caliper understory 5' to 6' high evergreen tree 1-1/2' to 3' high shrubs	
		Alternative Unit B	2 3 7	1-1/2" to 2" caliper understory 5' to 6' high evergreen trees 1-1/2' to 3' high shrubs	
		Alternative Unit C	4 15	5' to 6' high evergreen trees 1-1/2' to 3' high shrubs	
		Alternative Unit D	2 3	canopy trees 1-1/2' to 3' high shrubs	

Note Selection of above noted Plant Unit alternatives and species may be subject to approval by the Zoning Administrator and/or the Planning and Zoning Committee. The Administrator and Planning and Zoning Committee may require certain plant unit alternatives and species, depending upon special circumstances such as visibility for safe automobile operation or the extension of an existing Greenway.
 [Table added 02/13/2006]

Table 7. Required Off-Street Parking Spaces

Building and Use	Required Off-Street Parking Spaces
Automobile Filling Stations	1 space for each gasoline pump, plus 2 additional spaces, plus 1 space for each employee.
Automobile Repair Garage	1 space per 200 square feet of gross floor area used for automobile repair, plus 1 space per employee, plus additional spaces for the gross floor area devoted to retail sales as required in this table.
Beauty Parlor or Barber Shop	2 spaces per chair, plus 1 space per employee.
Dwelling: All Categories	2 spaces per dwelling unit.
Eating and Drinking Establishments	1 space per 100 square feet of gross floor area, plus 1 space per employee.
Educational Institutions	1 parking space per teacher, plus 1 space per non-teaching employee, plus 1 space per 5 students in Grades 10-12
Fire Station	1 space for the fire chief, plus 1 space for the fire department president, plus 2 spaces for each shift of regularly-employed fire fighters.
Funeral Home	35 spaces for each viewing room, plus 1 space per business vehicle, plus 1 space per employee.
Home Occupation	3 spaces located in other than the required front yard and not closer than 5 feet to an adjoining lot line.
Industrial: General	1 space per 2 employees on the largest shift.
Industrial: Wholesale, distribution, general services, machine shops, manufacturing plants or similar establishments.	1 space per 2 employees on the largest shift.
Laundromat	1 space per 2 machines used in the operation of the business
Mobile Home	2.2 spaces per mobile home lot
Offices: General, Professional, Business, Non- Medical, Non-Dental	1 space per 200 square feet of gross floor area
Offices: Medical and Dental	4 spaces per doctor, plus 1 space per 2 employees.
Place of Worship, Auditorium	1 space per 4 seats or bench seating spaces in the principal assembly area.
Private Club or Lodge	1 space per 200 square feet of gross floor area, plus 1 space per employee.
Retail Sales and Services Not Listed Separately	1 space per 200 square feet of gross floor area, plus 1 space per employee.

Table 8. Required Off-Street Loading Spaces

Building and Use	Gross Floor Area in square feet	Required Off-Street Loading Spaces
Retail store, department store, eating and drinking establishment, wholesale establishment, warehouse, general service, manufacturing, or industrial establishment	2,000-10,000	1 space
	10,000-20,000	2 spaces
	20,000-40,000	3 spaces
	40,000-60,000	4 spaces
	Each additional 50,000	1 space
Offices, office building, hospital or similar institution, places of public assembly	10,000-100,000	2 spaces
	100,000-200,000	3 spaces
	Each additional 100,000	1 space
Funeral Home	2,500-4,000	1 space
	4,000-6,000	2 spaces
	Each additional 10,000	1 space
Educational Institutions	All sizes	1 space

Table 9. Regulations Governing Types of Signs

Sign Types	OS Zone	RS Zone	R Zone	R1 Zone	RMH Zone	INS (a)	TC Zone	C1 Zone	C2 Zone	I Zone	RR Zone
P Allowed without a sign permit											
S Allowed only with sign permit											
N Not allowed											
Freestanding											
Residential (b)	P	P	P	P	P	S	P	P	P	P	P
Incidental (c)	P	P	P	P	P	P	P	P	P	P	P
Other	N	N	N	N	S	S	S	S	S	S	S
Building											
Building Marker (d)	P	P	P	P	P	P	P	P	P	P	P
Canopy	N	N	N	N	N	S	S	S	S	S	S
Identification (e)	P	P	P	P	P	P	P	P	P	P	P
Incidental (c)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)	P(f)
Marquee (g)	N	N	N	N	N	S	S	S	S	S	S
Projecting (g)	N	N	N	N	N	S	S	S	S	S	S
Residential (b)	P	P	P	P	P	P	P	P	P	P	P
Roof	N	N	N	N	N	N	N	N	N	N	N
Roof, Integral	N	N	N	N	N	S	S	S	S	S	S
Suspended	N	N	N	N	N	S	S	S	S	S	S
Temporary	P	P	P	P	P	P	P	P	P	P	P
Wall	N	N	N	N	N	S	S	S	S	S	S
Window	N	N	N	N	N	S	S	S	S	N	N
Miscellaneous											
Banner	P	P	P	P	P	S	S	S	S	S	S
Flag (h)	P	P	P	P	P	P	P	P	P	P	P
Portable	N	N	N	N	N	N	N	N	N	N	N

Notes:

- (a) This column does not represent a zoning district. It applies to institutional uses permitted in residential zones such as churches, educational institutions, funeral homes, cemeteries.
- (b) No commercial message allowed on sign.
- (c) No commercial message of any kind allowed on sign if such message is legible from any location off the premises on which the sign is located.
- (d) May include only building name, date of construction, or historical data on an historic site; must be etched into masonry, bronze, or similar material.
- (e) Only name and address of occupant allowed on sign.
- (f) No commercial message of any kind allowed on sign.
- (g) Suspended signs.
- (h) Includes flags of the United States, the State of Delaware, the Town of Clayton, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the Town of Clayton. Such a flag shall not exceed 60 square feet in area. The pole on which such flag is flown shall not be higher than 40 feet. Such flags shall be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these criteria shall be considered a banner and shall be subject to regulation as such.

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Table 10. Regulations Governing Area, Size, Location, and Number of Signs

Sign Type	OS Zone	RS Zone	R Zone	R1 Zone	RMH Zone	INS	TC Zone	C1 Zone	C2 Zone	I Zone	RR Zone
Freestanding											
Area in square feet		2	2	2	12	32	32	32	32	32	32
Height in feet											
Setback in feet											
Number permitted per lot		1	1	1	1	1	?	?	?	?	?
Building											
Area in square feet		2	2	2	2	10	?	?	?	?	?
Number permitted		1	1	1	1	1	?	?	?	?	?
Maximum sign area in square feet (sum of "Area in square feet")		4	4	4	32	32	32	32	32	32	32
Total number of signs permitted (sum of "Number Permitted")		2	2	2	2	2	?	?	?	?	?

Notes Applying to Entire Table

1. The column titled "INS" does not represent a zoning district. It applies to institutional uses permitted in residential zones such as churches, educational institutional, funeral homes, cemeteries.
2. In addition to the setback requirements in this table, signs shall be located such that there is at every street intersection a clear view between heights of 3 feet and 10 feet in a triangle formed by the corner and points on the curb 30 feet from the intersection or entranceway.
3. Lots fronting on 2 or more streets are allowed the permitted signage for each street frontage, but signage cannot be accumulated and used on one street in excess of that allowed for lots with only one street frontage.

Table 11. Regulations Governing Sign Characteristics

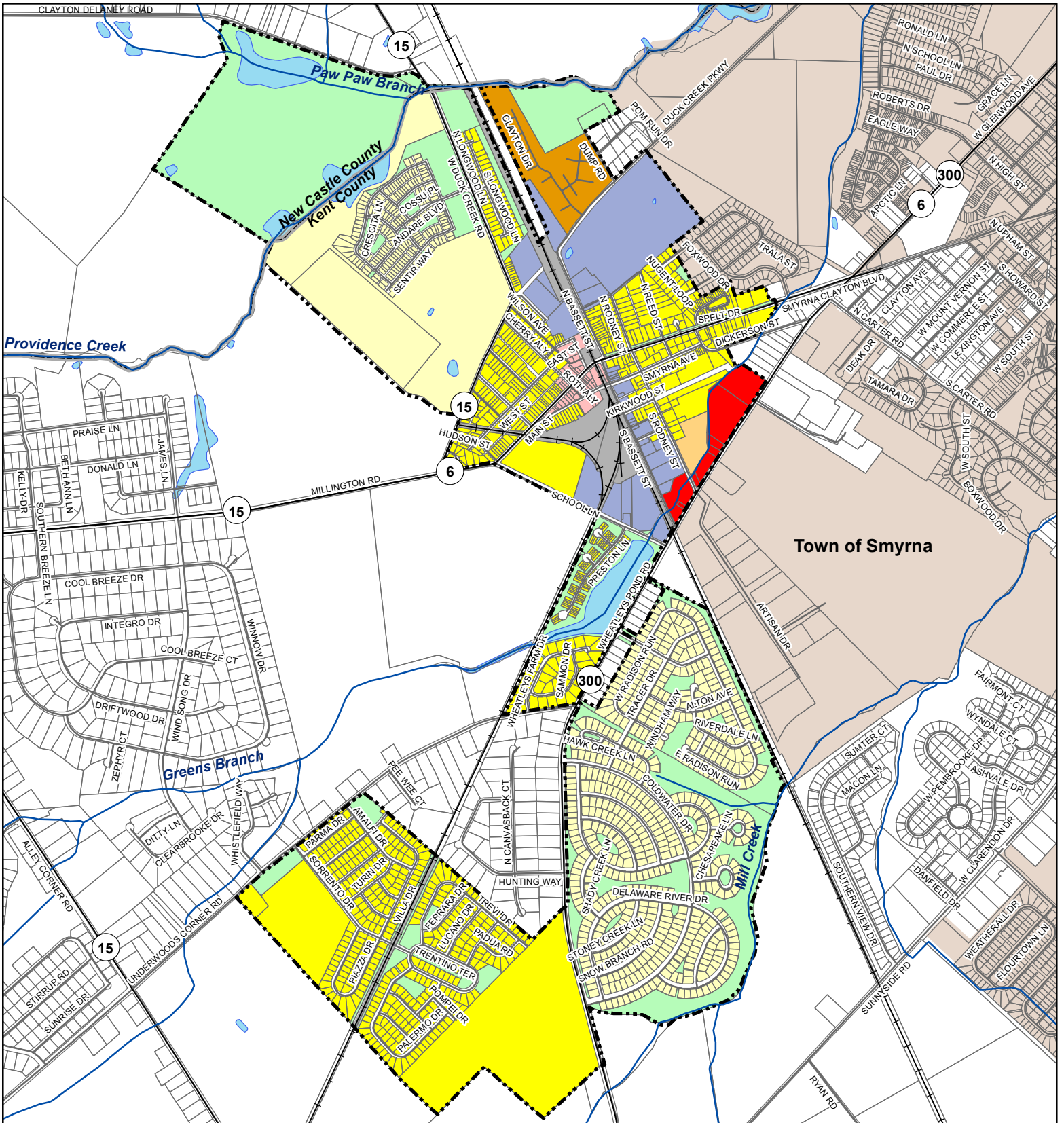
Sign Characteristic	OS Zone	RS Zone	R Zone	R1 Zone	RMH Zone	INS	TC Zone	C1 Zone	C2 Zone	I Zone	RR Zone
P Allowed without a sign permit											
S Allowed only with sign permit											
N Not allowed											
Animated	N	N	N	N	N	N	N	N	N	N	N
Changeable Copy	N	N	N	N	N	P	P	P	P	P	N
Illumination											
External	N	N	N	N	N	S	S	S	S	S	S
Internal	N	N	N	N	N	S	S	S	S	S	S
Exposed bulbs or neon	N	N	N	N	N	N	N	N	N	N	N

Notes Applying to Entire Table:

1. The column titled "INS" does not represent a zoning district. It applies to institutional uses permitted in residential zones such as churches, educational institutions, funeral homes, cemeteries.
2. No direct light or significant glare from the sign shall be cast onto any adjacent lot that is zoned or used for residential purposes.

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Zoning Districts

- OS, Open Space
- RS, Residential Suburban
- R, One-Family & Townhouse
- R1, Multiple-Family
- RMH, Manufactured Housing

- TC, Town Center
- C2, General Commercial
- I, Industrial
- RR, Railroad

Base Map Data

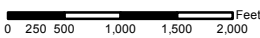
- Clayton Town Limits
- Parcel Boundaries
- Streets & Roads
- Railroads
- Lakes & Ponds
- Rivers & Streams

**TOWN OF CLAYTON
ZONING MAP**
Adopted 12/12/2011



REFERENCE COPY

Consult Official Zoning Map at Clayton Town Hall



Map Sources

Zoning Districts - Clayton Comprehensive Rezoning, 12/12/2011.
Municipal Boundaries - Office of State Planning Coordination, downloaded 09/26/2011.
Streets & Roads - Kent County Department of Planning Services, 06/11/2011;
 New Castle County from Delaware DataMil, 06/21/2011.
Railroads - Delaware Department of Transportation, 1992, amended by IPA to reflect removal of Main Street North tracks.
Rivers Streams, Lakes, & Ponds - U.S. Geological Survey, National Hydrology Dataset-High Resolution, 11/25/2005.

Note

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