

Draft

Attachment 1.

Proposed changes to the UDC for the proposed:

Scenic Byway (SB) Overlay District

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ARTICLE 16. – OVERLAY DISTRICTS

DIVISION 40.16.100 SCENIC BYWAY (SB) OVERLAY DISTRICT.

SECTION 40.16.110 PURPOSE.

- A. The purpose of this Division is to provide the principles, standards, general provisions, and review criteria of the Scenic Byway (SB) Overlay District.
- B. The protection, preservation, and enhancement of designated scenic resources is critical to the County, and promotes the health, prosperity and welfare of all citizens of the County and enhances the quality of life for all. The SB Overlay District is intended to preserve, protect and enhance the scenic resources of designated scenic byways within the County.
- C. The purpose of the SB Overlay District is as follows:
 - 1. To assure maximum preservation and enhancement of the district's outstanding and unique scenic features and resources,
 - 2. To minimize grading, tree removal, signage and changes to the existing character of roadways and the natural topography of areas along and adjoining designated scenic byways,
 - 3. To reduce, to the maximum extent feasible, visual intrusions into the district that are not compatible with the scenic qualities, features and resources of the district,
 - 4. To assure that the design and placement of buildings and other improvements preserve, complement, and/or enhance views from scenic byways,
 - 5. To assure that new development, redevelopment, infill development and other changes within the district are compatible with the scenic resources and intrinsic qualities of the district, and consistent with:
 - a. The goals, objectives and management strategies of Corridor Management Plans for designated scenic byways; and/or
 - b. The Design Guidelines established for the district.
 - 6. To achieve scenic viewshed protection along state-designated scenic byways through the establishment of sub-districts that regulate building placement, visible building height and landscape and buffering.
 - 7. To encourage the use of conservation design techniques, as defined in the UDC, to orient buildings outside the scenic viewshed of any state-designated scenic byway.

SECTION 40.16.111 APPLICABILITY.

- A.** The boundaries of an SB Overlay District encompass the land area within the unincorporated areas of the County as identified and delineated on the New Castle County Zoning Map.
- B.** Major and minor applications and sign permits are subject to the requirements of the SB Overlay District. All other application types are exempt.
- C.** The SB Overlay District shall be in addition to, and shall overlay all other zoning districts within established SB District boundaries, so that any parcel of land lying in the SB Overlay District shall also lie in one or more of the other zoning districts provided for by this Code.
- D.** The requirements and regulations of the SB Overlay District are in addition to the regulations of the underlying district. Where conflicts arise between the standards and/or requirements of the underlying zoning district and the SB Overlay District, the SB Overlay District requirements will apply.
- E.** Uses shall be permitted in accordance with the underlying zoning district(s), except as modified by this Division.
- F.** All applications subject to the requirements of this Division should also satisfy the objectives of the applicable Corridor Management Plan and the guidance of the Design Guidelines Manual for the specific overlay district in which the application is located..

SECTION 40.16.112 DESIGNATION.

- A.** Prior to adoption of a Scenic Byway (SB) Overlay District, an area or road must first be designated as a Scenic Byway by the federal government or the State of Delaware.
- B.** Adoption of an SB Overlay District shall amend the Comprehensive Development Plan and thereby be consistent with the Plan, including a district's Corridor Management Plan.

SECTION 40.16.113 SCENIC BYWAYS AND CORRIDOR MANAGEMENT PLANS.

- A.** Designated scenic byways must have a duly approved Corridor Management Plan (CMP). The CMP includes a detailed inventory of the character-defining features of the byway and specific recommendations regarding protection, preservation and enhancement of the scenic resources of the byway.
- B.** The CMP must be consulted for design, regulatory, and management guidance, in addition to the other requirements of this Division..

SECTION 40.16.114 GUIDING PRINCIPLES.

- A. Goals and Objectives.** Protection, preservation, and enhancement of the character-defining features, unique qualities and scenic resources of the byway; including scenic, natural, cultural, historic, archeological, and recreational features.
- B. Scenic Viewshed Protection.** The primary protection and enhancement objective is scenic viewshed protection.
- C. Conservation Design.** To the maximum extent feasible, applications must utilize conservation design strategies, consistent with the goals and objectives of the district and the definition found in 40.33.300.
- D. Context Sensitive Solutions.** To the maximum extent feasible, applications must utilize context sensitive solutions, materials, and methods compatible with the character of the surrounding landscape.
- E. Enhanced Resource Protection.** In addition to the protections and other standards of Article 10, applications within SB Overlay Districts should also preserve and protect additional natural, cultural, and other character-defining site features, including but not necessarily limited to, stone walls, old lanes, fence rows, and cultural remnants of past human settlement. These features should be integrated into the overall plan for the property.
- F. Minimal Impact.** Applications must avoid visual intrusions into the scenic viewshed to the maximum extent feasible. If intrusions are unavoidable, the nature, intensity and quantity of the intrusion must be minimized. All unavoidable intrusions must be mitigated with an appropriate level of compensating features.
- G. Open Space.** Designs should support district-wide open space systems that protect scenic vistas, resource areas, and other character-defining features; and should be configured to provide a contiguous and viable greenway and recreational system within the district.

SECTION 40.16.115 DEVELOPMENT STANDARDS.

A. ..

B. Scenic Byway (SB) Overlay Districts are composed of four (4) elements: roadways, corridors, viewsheds, and other areas. For the purposes of this Article these elements are referred to as Sub-districts as follows:

- 1. Sub-district 1 (SD-1):** Those portions of the SB Overlay District that are within the public road right-of-way and are thereby under the jurisdiction of the Delaware Department of Transportation (DelDOT).
- 2. Sub-district 2 (SD-2):** Those portions of the SB Overlay District that are within two-hundred (200) feet of both sides of the public road right-of-way of a designated scenic road (SD-1) and which are also within the established viewshed. SD-2 may also be referred to as the Inner Corridor.
 - a. SD-2 are the protective areas immediately adjacent to scenic road rights-of-way that require the highest degree of viewshed protection.**
 - b. Unless otherwise permitted by this Division, existing landscapes and features within SD-2 must be protected, conserved and enhanced.**
 - c. Development must avoid intrusions into this sub-district. Where intrusions are unavoidable, impacts must be minimized and mitigated with a sufficient level of compensating features.**
 - d. Buildings should not be constructed in this sub-district, however, in unavoidable situations, a street yard setback will be established to provide the least intrusion possible, but in no case shall there be a street yard setback of less than one-hundred (100) feet in a scenic corridor.**
 - e. Scenic corridors shall be protected with conservation easements.**
- 3. Sub-district 3 (SD-3):** Those portions of the SB Overlay District that are between two-hundred (200) feet and one-thousand (1, 000) feet of the public road right-of-way (SD-1) and which are also within the established viewshed. SD-3 may also be referred to as the Outer Corridor.
 - a. Development within this sub-district should be avoided to the maximum extent feasible.**
 - b. Development permitted with this sub-district must harmonize with the natural and scenic environment, maximize conservation design strategies, and minimize impacts and intrusions into the viewshed.**
 - c. If intrusions are proposed within the sub-district, the visual impacts must be mitigated.**
 - d. Intrusions that maximize distances from the scenic roadway(s) shall have reduced mitigation requirements.**
- 4. Other Areas, Sub-district 4 (SD-4):** All other portions of the SB Overlay District that are not within Sub-districts 1, 2 or 3. Developments within SD-4 are not subject to the requirements of this Division, with the exception of Visible Building Height restrictions when SD-4 is closer than 600 feet to the right-of-way. Areas of SD-2 or SD-3 that are not within the established viewshed are considered part of SD-4.

C. Access. Changes to the scenic roadway shall be minimized. Points of access must be carefully considered and minimized through the use of common driveway easements and new public roadways that avoid multiple and individual driveways along scenic roadways.

D. Other sub-district development standards are listed in Table 40.16.115.

Table 40.16.115. Sub-district standards.

	Sub-district 2 (0 to 200')	Sub-district 3 (>200' to 1,000') ¹	Sub-district 4
Street Yard Setbacks	100-foot minimum	Per underlying district	Per underlying district
Visible Building Height ²			
--- 0 to 100', as measured from r/w of SD-1	Not permitted	n/a	Not permitted
--- 100 to 150', "	20 percent	n/a	20 percent
--- 150 to 200', "	40 percent	n/a	40 percent
--- 200 to 400', "	n/a	60 percent	60 percent
--- 400' to 600', "	n/a	80 percent	80 percent
--- 600' or greater, "	n/a	100 percent	n/a
Landscaping ³	Per 40.04.240	Per 40.04.240	n/a
Grading and Earthwork	Limit to 3-foot maximum cut or fill	Limit to 6-foot maximum cut or fill	n/a

SECTION 40.16.116 DESIGN REVIEW ADVISORY COMMITTEE (DRAC).

A Design Review Advisory Committee shall be established for each SB Overlay District pursuant to Section 40.30.450.

SECTION 40.16.117 DESIGN GUIDELINES MANUAL.

- A. In addition to the standards set forth herein, each SB Overlay District will adopt design guidelines as part of the establishment of the SB Overlay District.
- B. Design guidelines will be a reference document, providing guidance in implementing this Division.
- C. Design guidelines will provide general instructions to applicants regarding design approaches, alternative solutions, appropriate materials and elements that are compatible with the district; and other information to assist an applicant in achieving the goals and objectives of the district.

¹ If located within the established viewshed.

² If located within the established viewshed, the portion of the underlying district's permitted height that is allowed to be seen from a scenic roadway. Does not apply to structures outside of the viewshed or structures within the viewshed that are determined to be visual accents.

³ See recommendations for Sec. 40.04.240 landscape standards.

SECTION 40.16.118 SIGNS WITHIN SCENIC OVERLAY DISTRICTS.

In addition to other requirements of this Article, signs within Scenic Overlay Districts must comply with the following:

- A. General.** The practice of 'least control' should be utilized so to avoid sign clutter inconsistent with the visual character of the SB Overlay District and to minimize, to the greatest extent practicable, the amount of signage within the district.
- B. Prohibited Signs.** In addition to the prohibitions outlined in Sub-sec. 40.06.040, the following signs are prohibited in the Overlay District:
 - 1. Electronic variable message signs (EVMS),
 - 2. Marquee signs,
 - 3. Projecting signs,
 - 4. Roof signs.
- C. Size.** Signs in the Overlay District will be limited to seventy-five percent of the sign area permitted in the underlying zoning district, or one and one-half square feet, whichever is greater.
- D. Height.** Signs in the Overlay District will be limited to fifteen feet or one-half the height of the underlying zoning district, whichever is less.
- E. .**
- F. Lighting.** If lit, the light source should be exterior to the sign using shielded, low wattage, and diffuse white light. Back-lit and illuminated signs are prohibited. For the purposes of off-premises advertising, billboards and other off-premises signage, Scenic Byway Overlay Districts are considered 'greenways' pursuant to Sec. 40.06.070.

SECTION 40.16.119 SCENIC EASEMENTS.

- A.** Protected scenic resources require an easement.
- B.** Historic and conservation easements may be used to secure protection of scenic resources.
- C.** Portions of lots that are protected by easements shall be credited as part of any required open space.

SECTION 40.16.120 MODIFICATIONS

The following modifications are permitted in the Scenic Byway (SB) Overlay District:

- A.** The general requirements of the UDC may be modified in order to further the goals and objectives of scenic viewshed protection, subject to review and approval by the County.
- B.** Specifically, the requirements of the following divisions and/or sections may be modified in a Scenic Byway (SB) Overlay District if the goal of protecting, conserving or enhancing the byway is achieved.

1. ARTICLE 3. – USE REGULATIONS

- a.** Division 40.03.500. – Loading and parking standards.
 - i.** Sec. 40.03.522. – Off-street parking. Off-street parking may be reduced for cause, provided public safety is satisfied.

2. ARTICLE 4. – DISTRICT INTENSITY AND BULK STANDARDS

- a.** Division 40.04.100. District performance standards.
 - i.** Sec. 40.04.110. – District and bulk standards.
 - (1)** *Sec. 40.04.110.A. Minimum open space ratio.* Protected resources may be preserved by scenic easements on lots and credited toward minimum open space requirements.
 - (2)** *Sec. 40.04.110.D. Minimum lot area.* Bufferyards and scenic corridors may occur on lots.
- b.** Division 40.04.200. – Landscaping.
 - i.** Sec. 40.04.240. Scenic corridors. Scenic corridors may be permitted on private lots if a protective easement is provided.
- c.** Division 40.04.300. – Bufferyard performance standards.
 - i.** Sec. 40.04.302. In Scenic Byway Overlay Districts bufferyards are also required in minor land development and minor subdivisions applications.

3. ARTICLE 20. – SUBDIVISION AND LAND DEVELOPMENT DESIGN PRINCIPLES

- a.** Division 40.20.200. Subdivision layout.
 - i.** Sec. 40.20.210. – Blocks. Modifications to block design shall be permitted if conservation design is utilized and scenic viewshed protection is achieved.
 - ii.** Sec. 40.20.220. – Lots. Modifications to lot design shall be permitted if conservation design is utilized and scenic viewshed protection is achieved. Applicants are encouraged to use conservation design techniques to site buildings outside the scenic viewshed and are permitted to use flexibility in configuring the size of lots and the placement of buildings on lots. Smaller lots, zero lot-lines and other flexible siting techniques are permissible provided the applicant demonstrates a logical configuration and consistent approach to lot sizes and setbacks.

4. ARTICLE 21. – IMPROVEMENT AND DESIGN STANDARDS

- a.** Division 40.21.100. Streets.
 - i.** Sec. 40.21.161. – Curbs. Curbs may be required in Scenic Overlay Districts, subject to plan review of specific applications. If roadway or other areas are intended to be dedicated to the State (DeIDOT), DeIDOT may determine curb need, pending proposed entrance and any internal roadway intensity.

- ii. Sec. 40.21.162. – Sidewalks. Sidewalks may be required in the Scenic Overlay District, subject to plan review of specific applications. If sidewalks are required for public safety and/or accessibility purposes, trails and multi-use pathways, in lieu of sidewalks are also permitted. Alternative material may be utilized, subject to acceptability of design by County and/or State agencies. Alignments may vary to adjust to existing topographic and natural features. Other forms of egress easements or agreements are encouraged to ensure public accessibility or connectivity to existing paths and trails.
- b. Division 40.22.210. – Grading and drainage.**
 - i. Sec. 40.22.210. - Storm drainage. Storm drainage and stormwater management features shall conform to County green technology best management practices, and be designed in a contextual and compatible manner, maximizing natural features and plantings.
- c. Division 40.22.500. – Other utilities.**
 - i. Sec. 40.22.510. – Electric and communications utilities. Undergrounding of facilities may be required in minor, as well as major subdivisions and land development projects in Scenic Overlay Districts.
- d. Division 40.22.600. – Parking and loading.**
 - i. Sec.40.22.610.B. Waiver of parking lot design standards. Waivers are permitted in Scenic Overlay Districts in order to achieve district goals, preserve scenic viewsheds and to create parking facilities that are contextual and compatible with the scenic beauty in the district.
- e. Division 40.22.700. – Exterior lighting standards. Waivers to the standards of this division may be permitted in order to avoid light pollution in scenic viewsheds.**
- 5. ARTICLE 23. – LANDSCAPING, TREES, AND EROSION. Modifications to this article are permitted in order to achieve forest, landscaping and plantings that mimic the natural features and native plant species of the district and enhance scenic viewsheds. Artificial and ornamental plantings schemes are strongly discouraged. Bufferyard and scenic corridor standards may be increased in order to advance scenic viewshed protection and enhancement.**
- 6. ARTICLE 26. – MODIFICATIONS**
 - a. Division 40.26.200. Zoning modification. Modifications to construction envelopes, bufferyards, street yard setbacks and road frontage may be permitted by the Department without the necessity of seeking a variance if scenic viewshed protection is fully achieved.**

SECTION 40.16.121 EXEMPTIONS AND VARIANCES.

- A. Modifications.** Where applications are in strict conformity to the goals, objectives, and standards of the SB Overlay district, and where the Department has discretionary authority, strict adherence to the design and development criteria of the underlying base zoning district may be waived and/or modified.
- B. Subdivisions Variances.**⁴ Modifications to subdivision standards in addition to those permitted by Article 26 may be considered by the Planning Board, as required by Sec. 40.31.452 through 40.31.455.
- C. Zoning Variances.** Dimensional variances to zoning standards will be considered by the Board of Adjustment, as required by Sec. 40.31.140.
- D. Deprivation Standards.** If application of the standards of the SB Overlay District would render a property under the deprivation standards of Sec. 40.31.620 without use, then the applicant will be permitted to construct one (1) single-family house.

SECTION 40.16.122 REVIEW PROCEDURES.

- A.** Applications must demonstrate compliance with the purpose, goals and objectives of the district, and conform to the guidance of the district's Design Guidelines Manual.
- B.** Any proposed land development application within a Scenic Byway (SB) Overlay District shall follow the procedures of Article 31, except as modified by this Division.
- C.** In addition to the review requirements of Article 31, required applications within the SB Overlay District shall submit a Site Analysis Plan pursuant to Appendix 1, sub-section 3.K.
- D.** Applications shall protect and/or enhance the scenic viewshed as specified in this Division. If an application does not fully protect and/or enhance the scenic viewshed, it must include a 'Scenic' Environmental Impact Assessment Report (S-EIAR) with the application pursuant to Sec. 40.10.701. If an S-EIAR is provided, the Site Analysis Plan is not required.
 - 1.** The S-EIAR must demonstrate how the application has:
 - a.** Avoided intrusions to the scenic viewshed to the maximum extent feasible;
 - b.** Minimized intrusions into the scenic viewshed to the maximum extent feasible; and
 - c.** Sufficiently mitigated unavoidable intrusions with an appropriate level of compensating features.
 - 2.** Any accents and/or mitigated intrusions within the scenic viewshed shall be context-sensitive and compatible with the scenic and natural character of the byway.

⁴ Granting of a subdivision variance is by the Planning Board pursuant to the standards and processes of Section 40.31.452 through 40.31.455. Dimensional variance requests are considered a zoning variance and heard and decided by the Board of Adjustment. See Article 31 for clarification.

SECTION 40.16.123 DEFINITIONS.

This Section contains the definition of words used in this Division and is supplemental to other definitions used in this Chapter found in Section 40.33.300.

Corridor. The road or highway right-of-way and the adjacent area that is visible from and extending along the highway. The distance the corridor extends from the highway could vary with the different intrinsic qualities.⁵

Corridor Management Plan or CMP. A corridor management plan is a written document that specifies the actions, procedures, controls, operational practices, and strategies to maintain the archaeological, cultural, historic, natural, recreational, and scenic qualities that support a scenic byway's designation. The plan should be developed with community involvement, provide for the conservation and enhancement of the byway's intrinsic qualities as well as the promotion of tourism and other economic development, and provide an effective management strategy to balance these concerns while providing for the users' enjoyment of the byway.

Features, character-defining. Elements and features within a scenic area or byway that, if lost or altered as a result of a transportation improvement or other action, would change the byway's character and value.

Greenway. A linked system of open spaces, parklands, historic and cultural sites, wildlife management areas and natural preserves. Connection corridors between such resources generally will be linear in nature and can include such features as natural areas, hiking trails, bike paths, city sidewalks, stream corridors, rivers abandoned railroad rights-of-way, or scenic roads.

Intrinsic quality. Scenic, natural, historic, cultural, recreational, or archeological features that are considered representative, unique, irreplaceable, or distinctly characteristic of an area.⁶

Scenic byway. A public road having special scenic, historic, recreational, cultural, archeological, and/or natural qualities that have been recognized as such through legislation or some other official declaration.⁷

State scenic byway. A road or highway under State, Federal, or local ownership that has been designated by the State through legislation or some other official declaration for its scenic, historic, recreational, cultural, archeological, or natural qualities.⁸ The Red Clay Valley Scenic Byway is a State Scenic Byway.

Scenic corridor. A scenic corridor is a specific term referenced in Sec. 40.04.240 of the UDC that generally refers to landscaping and buffering requirements along certain roads. The dimensions of a scenic corridor vary and as defined in Sec. 40.04.240. The Scenic Byway Overlay District has specific and unique scenic corridor requirements.

Scenic easement. A portion of a lot or parcel that is covered by an easement, running in favor of the County, or a nonprofit agency, providing protection and/or enhancement of the scenic qualities of such

⁵ As defined in the National Scenic Byways Program; FHWA Docket No. 95-15, Federal Register / Volume 60 No. 96 / May 18, 1995.

⁶ FHWA Docket No. 95-15.

⁷ Ibid.

⁸ Ibid.

land. Conservation easements, historic easements and permanent agricultural easements may be utilized to meet all or a portion of a required scenic easement.

Scenic resource. A general term of reference for elements, features, viewsheds, intrinsic qualities, physical improvements, etc. of a road or corridor that provide scenic beauty and/or character.

Scenic viewshed. The land area generally adjacent to and visible from a scenic byway or road. A scenic viewshed is identified using a motorist's line of sight, as measured from multiple observation points along the roadway, with a point of view located between three (3) and four (4) feet above the roadway pavement. The scenic viewshed includes all land area visible from the observation points in a winter, or leaf-off condition.

Vista points. Vista points designate broad, expansive views, the scenic boundary of which are primarily defined by forest cover within the public viewshed (i.e. visible from scenic roadways).

Visual accents. Visual accents include visually significant landscapes and landforms within the public viewshed (i.e. visible from scenic roadways) that serve as indicators of natural, cultural, and/or historic processes, contain multiple resources that together form visually significant groupings, or are clear examples of superior features or characteristics. Visual accents can be natural or man-made features which enhance or contribute to the landscape.

Visible Building Height. That portion of a building that is permitted to be viewed from the scenic road, unless the structure is determined to be a visual accent.

Visual intrusions. Elements and/or improvements that are not compatible with the character and nature of a scenic area and do not add to the protection, nor enhancement of, a scenic area's character-defining features and/or intrinsic qualities.

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Attachment 2.

Proposed changes to the UDC relative to a new Design Review Advisory Committee (DRAC)

Scenic Overlay (SO) District

Contents

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PART II- CODE

CHAPTER 40 – UNIFIED DEVELOPMENT CODE

ARTICLE 30. COUNTY COUNCIL AND ADMINISTRATIVE BODIES

DIVISION 40.30.400 ADMINISTRATIVE AGENTS

SECTION 40.30.450 DESIGN REVIEW ADVISORY COMMITTEE (DRAC).

A DRAC shall be established for each Hometown Overlay District, and each Scenic Byway Overlay District. The Department shall be the professional staff for each Committee.

A. Purposes and duties of each Committee shall be:

- 1. For a Hometown Overlay District DRAC:**
 - a.** The Committee shall review plans for land development applications for compliance with the Community Redevelopment Plan and/or Design Guidelines manual and make recommendations to the Department.
 - b.** The Committee shall review the community standards and make recommendations for revisions and updates to the Community Redevelopment Plan and/or Design Guidelines manual.
 - c.** Any other purpose provided in Division 40.26.400.
- 2. For a Scenic Byway Overlay District DRAC:**
 - a.** The Committee shall review plans for major and minor land development applications for compliance with the Corridor Management Plan and/or Design Guidelines manual and make recommendations to the Department.
 - b.** The Committee shall review the community standards and make recommendations for revisions and updates to the Corridor Management Plan and/or Design Guidelines manual.
 - c.** Any other purpose provided in Article 16.

- B.** The Committee shall adopt bylaws and rules in accordance with Article 30. Each Committee shall comply with the following:
1. All public meetings shall be open to the public.
 2. A majority of the Committees' members shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum.
 3. In the event that any member is no longer a resident of the County; is convicted of a felony or an offense involving moral turpitude; violates rules of the board; fails to attend any three (3) consecutive, regularly scheduled meetings except where such absence is deemed by the chairman to be due to illness, incapacity, or a family crises; or, has three (3) unexcused absences in one (1) year, that member shall forfeit his/her membership on such committee. "Regularly scheduled meeting" shall mean a meeting at which a committee member is expected to be present. The chairman of each committee shall forward a letter to the County Executive stating that a vacancy exists on the board and the name of the member who held the forfeited position. The County Executive shall terminate the appointment of such person with the consent of the County Council.
- C.** Members. The District Council person(s), in whose councilmanic district a Hometown Overlay or Scenic Byway Overlay District is found, shall make recommendations to the County Executive who shall appoint members subject to County Council consent. The County Executive shall appoint members subject to the following guidelines:
1. The minimum number of members shall be five (5) and the maximum number shall be nine (9). The chairperson shall be appointed and serve at the pleasure of the County Executive. The Vice-chairperson is appointed by the Chairperson. The Chairperson shall be in charge of all proceedings, and take such action as necessary to preserve order and integrity of all proceedings.
 2. Each Hometown Overlay District committee shall, with the exception of the chairperson, be comprised equally of business and homeowner/residential interests.
 3. The Hometown Overlay District committee shall be comprised of residents or property owners of the area affected by the overlay district and the surrounding area identified in the Community Redevelopment Plan, except that one (1) registered landscape architect and one (1) registered architect who resides outside of the community may be appointed to the committee.
 4. Each Scenic Byway Overlay District committee shall, with the exception of the chairperson, be comprised of business, homeowner, and community organization interests, except that at least one (1) registered landscape architect or one (1) expert in scenic byways/viewshed protection who resides outside of the district may be appointed to the committee.
 5. Each committee member shall be appointed for a term of three (3) years. Initial appointments shall be staggered as one (1), two (2) and three (3) year appointments, with each subsequent appointment to be three (3) years. An individual may serve until replaced and may be reappointed any number of times.
- D.** Land development review procedures.

1. Any proposed major or minor land development application within a Scenic Byway Overlay District shall follow the procedures of Article 31 with the addition of a review by the Design Review Advisory Committee (DRAC). The Department shall review all other land use applications located within any Scenic Byway Overlay. The Department may refer an application to the DRAC for their recommendation if the Department determines that the proposed activity is not consistent with the Corridor Management Plan and/or Design Guidelines Manual.
2. Upon submission of an application, the Department shall notify the appropriate DRAC of the application and schedule a public meeting for the next regularly scheduled monthly meeting in compliance with legal notice requirements. Both the applicant and the Department shall be responsible for public notification in accordance with Section 40.31.340.
3. The Department shall prepare a preliminary report for the DRAC prior to the public meeting. The Department's preliminary report shall include a discussion of the appropriateness of the application in relation to the Corridor Management Plan and/or Design Guidelines manual and this Chapter.
4. A public meeting for review of the application shall be held by the DRAC and the Department. The applicant shall be present to provide a brief description of the project and answer questions by the Committee and those in attendance. Based upon its public review, the DRAC shall provide a written recommendation to the Department within ten (10) days of the public meeting. If the DRAC fails to submit a recommendation within those ten (10) days, the Department shall proceed with its review of the application.
5. The DRAC's written recommendation shall advise the Department of the project's conformance with the goals, objectives and standards of the Corridor Management Plan and/or Design Guidelines manual. The Committee may make suggestions or recommendations for desired revisions to further enhance the project or to correct deficiencies.
6. Upon receipt of the DRAC recommendation, the Department shall issue a final report to the applicant. In doing so, the Department shall give due consideration to the public meeting comments and DRAC recommendation in determining conformance with the Corridor Management Plan and/or Design Guidelines manual. A revised exploratory plan or land development application may be required to incorporate the proposed changes identified in the final report. Architectural details, elevations and other design-related elements shall be shown on a landscape plan or on a separate plan. The Department will subsequently respond to the applicant as part of its review in accordance with this Code. Dimensional standards varied by this process and other Corridor Management Plan and/or Design Guideline manual elements shall be noted and depicted on all subsequent plan and/or application submissions.
7. The Department may refuse acceptance of plans that are in substantial noncompliance with this Chapter or Corridor Management Plan and/or Design Guidelines manual and may require subsequent reviews by the DRAC upon submission of revised plans.

8. In the event that an applicant submits supplemental materials to the Department to contradict a recommendation from the DRAC, an additional DRAC meeting, following the notification process outlined in Section 40.26.460 B., may be required to provide an opportunity for the DRAC to revisit its prior recommendation in light of any new materials including, but not limited to, all supplemental materials received by the Department from the applicant and the Department's official position. The DRAC shall then have ten (10) days from the date of the public meeting to provide a supplemental recommendation to the Department. If the DRAC fails to submit a supplemental recommendation within those ten (10) days, the Department shall proceed with its review of the application.

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Attachment 3.

Proposed elements of the UDC requiring coordination, correction, update and/or revision relative to a proposed:

Scenic Overlay (SO) District

Items requiring cross references and coordination with the UDC update.

The following is a list of required cross references, additions and/or modifications to other sections of the Code. This section also includes questions of possible changes requiring client feedback. These cross references are listed here for convenience of review only. The final legislative draft will show the changes in the appropriate locations based on the preferences of the Client and the UDC update.

Amendments (or Cross-references) Required to Existing UDC Language:

Section 40.02.240. Special Districts: Amend section by adding Scenic Byway (SB) Overlay District.

Create a new Section 40.02.246: "The purpose and intent of the Scenic Byway (SB) Overlay District"

Section 40.04.240. Scenic Corridors: Amend to include minor subdivisions and land development applications within Scenic Byway (SB) Overlay Districts as an additional regulated application type.

Section 40.05.420. Calculation for total protected land: Amend Table 40.05.420 to add line item for Scenic Resources that is cross-referenced to new Article 16, and adjust Article 10 as well.

Division 40.06.000. Applicability: Add Scenic Byway (SB) Overlay Districts as a zone with specific sign restriction standards.

Sub-section 40.06.030. : Add Scenic Overlay District restrictions as appropriate.

Section 40.06.070. Off-Premises Advertising. : Add Scenic Overlay District as a 'greenway' for purposes of this section. Clarify the meaning of 'greenway' or replace with different term. Add a definition to Sec. 40.33.300.

Add new Section 40.06.080 with sign standards in the Scenic Byway (SB) Overlay District.

Add Article 16. SCENIC BYWAY (SB) OVERLAY DISTRICTS

Add language to Sec.40.20.110.G. regarding landscaping in scenic corridors.

Add reference to flexible lot standards in the Scenic Byway (DB) Overlay District in Sec. 40.20.220.F

Section 40.20.225. Required open space. Need cross reference between 40.20.225 and this proposed Article (16). Also need to adjust required open space to include scenic easements, and scenic easements on private lots. Also need to cross reference to definitions.

Add "...and minor residential developments in the Scenic Byway (SB) Overlay District" to the first sentence in SEC. 40.20.225.A.

Sec. 40.21.130.B. ADD A NEW SUB-SEC "F" that references the Scenic Byway Overlay District and its standards for roads.

Sec. 40.21.162 and 163: Include reference to flexible standards for pedestrian trail and pathway alternatives for the SB Overlay District.

Article 23.- Landscaping, Trees and Erosion. NEED TO ADD A 'SCENIC BYWAY' CLARIFICATION TO THIS ARTICLE - SEE APPLICABILITY IN SEC. 40.23.010. I.E.: Minor developments in Scenic Overlay Districts.

ESTABLISH A BUFFER YARD (SCENIC CORRIDOR) OPACITY STANDARD for "Scenic Corridors" AND THEN REFERENCE THE APPROPRIATE STANDARDS IN TABLE 40.23.140.

SEC. 40.23.150.B. Provide options to turf in Scenic Byway Overlay District.

SEC. 40.23.151. Provide options to standardized street tree placement in the Scenic Byway Overlay District.

Section 40.30.450. Add Scenic Overlay Districts to Section 40.30.450. See changes to this Section in the attachment here.

DIVISION 40.26.500 - APPLICATION REVIEW PROCEDURES. Amend section 40.26.510 to add "Y" for Minor Plans in Scenic Overlay Zones for Pre-Application Sketch Plan Review, and "Y" for Planning Board hearing only if DRAC hearing did not take place and plan is located in viewshed.

Section 40.31.112.A & E. Pre-Application Sketch Plans.: Add 'major and minor plans located in or within the viewshed of scenic overlay districts.'

Amend Section 40.31.112.D.9 to read: Scenic corridors, viewsheds and/or vistas into or out of the site (including visual accents and vista points pursuant to County Scenic River and Highway Studies);

Section 40.31.113. Exploratory Plan Review Stage. : Add major and minor plans in viewshed of Scenic Overlay District.

Appendix 1. Section K: Add reference to include “and major and minor plans in, or within the scenic viewshed of a Scenic Overlay District”.

The following are general items that need coordination: Conflicting or confusing definitions/sections in the existing Code:

For Corridors:

There is conflicting language in the Code regarding ‘corridors’ that needs resolution.

From Article 25 - Design, Division 40.25.100.-Hamlet and Village design. Section 40.25.150. – Definitions.
Corridor. A lineal geographic system incorporating transportation and/or greenway trajectories. A transportation corridor may be a lineal transect zone.” (This definition only applies to Article 25 projects. The definition of a ‘corridor’ is not in Section 40.33.300, but should be. This definition is different than the federal, state and other definition for corridors. Needs to be coordinated)

From Article 33 - Definitions, Division 40.33.300.-General definitions.
Corridor. NOT DEFINED

For Easements:

The following are definitions for ‘easements’ found throughout the County Code. There is not a definition for ‘scenic easements’ but there are limited references to them. Some of the easement definitions listed below need to be better coordinated and synthesized.

From Chapter 12 – Drainage, Article 1-In General, Sec. 12.01.003. - Definitions.
Easement means any portion of a parcel subject to an agreement between the property owner and another party which grants the other party the right to make limited use of that portion of the property for a specified purpose.

From Sec. 12.03.003.A.7.
Drainage easements.

From Sec. 12.05.006. Sediment and stormwater regulations and design standards.
Stormwater easements

From Chapter 40, Article 20-Subdivisions and Land Development Principles, Section 40.20.242. – Easements.
Where required, all lots shall provide easements for sewer, water, drainage, gas, telephone, or cable TV necessary to serve the subdivision. Such easements shall be located in either street rights-of-way, alleys, side or rear yards.

From Chapter 40, Article 20-Subdivisions and Land Development Principles, Section 40.20.420. – Public Easements.

During the planning of a property, the County may require the granting of a variety of easements on private property or lots. These easements may be for any of the following purposes: drainage, utilities, access to public utilities or drainage areas, and conservation easements.

Sec. 40.23.250. - Existing vegetation.

Where natural vegetation will be preserved on-lot or within open space, scenic easements¹, bufferyards, or parking lots, that plant material shall be credited towards that specific landscaping requirement in accordance with Table 40.23.250.²

From Chapter 40, Article 33 - Definitions, Division 40.33.300.-General definitions.

Access easement. That portion of a lot used for ingress/egress to an abutting lot and shown on a record plan by a recorded easement declaration. In no case shall a street right-of-way be construed to mean an easement.

Conservation easement. A portion of a lot that is covered by an easement, running in favor of the County, or a nonprofit agency providing that such land shall be left in a natural state or open space access easement. The area of the lot, exclusive of the easement, shall meet the minimum lot area requirements of Article 4.³

Easements. Any portion of a parcel subject to an agreement between the property owner and another party which grants the other party the right to make limited use of that portion of the property for a specified purpose. See *Conservation easement*.

From Chapter 40, Appendix 1, Item 1.D. Record plans:

Cross access easement

From Chapter 40, Appendix 1, Item 2. Land development plan requirements:

Utility easements

Delaware State Law, Title 7: CONSERVATION, Part VII: Natural Resources, Chapter 69: Conservation Easements

Chapter 69, providing for the creation, conveyance, acceptance and duration of Conservation Easements to preserve scenic and environmental resources.

For Greenways:

The following are definitions for 'greenways' found throughout the UDC. There is not a common definition for 'greenways' but there are references to them in various locations. Needs to be better coordinated and synthesized.

From Article 6 – Sign Regulations, Division 40.06.000.-Applicability, Section 40.06.070.-Off-premises advertising.

¹ Note that scenic easements are not defined in the UDC.

² Note that this section references 'scenic easements', but they are not defined anywhere. Also, scenic easements are not listed as unique in the list of public easements in Section 40.20.420.

³ Note that conservation easements are highly restrictive, requiring minimum lot areas (not defined as net or gross) to be met in addition to the conservation easement.

Greenways. The County Council may by ordinance establish greenways, which shall be defined as strips of land six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of all the roads, routes and waterways so designated, or such boundaries as are specifically delineated by ordinance of the council.

From Article 25 - Design, Division 40.25.100.-Hamlet and Village design. Section 40.25.150. – Definitions.
Greenway. An open space corridor in largely natural conditions which may include trails for bicycles and pedestrians.

From Article 33 - Definitions, Division 40.33.300.-General definitions.
Greenway. A linked system of open spaces, parklands, historic and cultural sites, wildlife management areas and natural preserves. Connection corridors between such resources generally will be linear in nature and can include such features as natural areas, hiking trails, bike paths, city sidewalks, stream corridors, rivers abandoned railroad rights-of-way, or scenic roads.

The following is a list of the instances where ‘Scenic’ or ‘Greenway’ is used in the Code (note that certain terms are without definition):

From Chapter 40 – Unified Building Code:

Article 4. – District Intensity and Bulk Standards

Sec. 40.04.210. – Required landscaping.scenic corridor would replace the street bufferyards....

Sec. 40.04.240. - Scenic corridors.⁴

Article 6 – Sign Regulations

Sec. 40.06.030. – Specificationsdesignated scenic or historic byways....

Sec. 40.06.070. – Off-premises advertising.scenic, historic or recreational character or value.⁵

Article 10. – Environmental Standards

Sec. 40.10.701. – Environmental impact assessment report. Resources. Prepare an inventory of federal, state or locally identified irreplaceable historical, archaeological, paleontological or scenic resources on site and within five hundred (500) feet of the proposed site, determination of the proposed development's impact on the resources and identification of any mitigation.⁶

Article 23. – Landscaping, Trees and Erosion

Sec. 40.23.250. – Existing vegetation.scenic easements⁷....

Article 30. – County Council and Administrative Bodies

Sec. 40.30.330. – Historic Review Board. Conduct and maintain an ongoing survey of the County for the purpose of developing a comprehensive inventory of buildings, structures, sites, objects, districts, landscapes and/or scenic landmarks⁸ of historical, architectural, cultural, archaeological or

⁴ Note that scenic corridors are not defined in the UDC.

⁵ Note that scenic character or value is not defined in the UDC.

⁶ Scenic resources is a general term, could mean several things, is subjective and not necessarily enforceable.

⁷ Note that scenic easements are not defined in the UDC.

⁸ It appears that the inventory of ‘scenic landmarks’ is the purview of the Historic Review Board

educational benefit. This inventory will be available to all County departments and for public review in the office of the Department during regular business hours.

Article 31. - Procedures and Administration

Sec. 40.31.112. – Pre-application sketch plan review/conference. Scenic viewsheds or vistas into or out of the site (visual accents and vista points pursuant to County Scenic River and Highway Studies)⁹

Article 33. - Definitions. Division 40.33.300. - General Definitions.

Conservation design. A series of holistic land development design goals that maximize protection of key land and environmental resources, preserve significant concentrations of open space and greenways, evaluate and maintain site hydrology, and ensure flexibility in development design to meet community needs for complimentary and aesthetically pleasing development. Conservation design encompasses the following objectives: conservation/enhancement of natural resources, wildlife habitat, biodiversity corridors, and greenways (interconnected open space); minimization of environmental impact resulting from a change in land use (minimum disturbance, minimum maintenance); maintenance of a balanced water budget by making use of site characteristics and infiltration; incorporation of unique natural, scenic and historic site features into the configuration of the development; preservation of the integral characteristics of the site as viewed from adjoining roads; and reduction in maintenance required for stormwater management practices. Such objectives can be met on a site through an integrated development process that respects natural site conditions and attempts, to the maximum extent possible, to replicate or improve the natural hydrology of a site.

Chapter 40. Appendix 1. – Applications and Plan Requirements

3. Other reports and applications, K. Site Analysis Plan.any scenic viewsheds¹⁰ into and out of the site, ridgelines and historic resources.

⁹ Note that scenic viewsheds and vistas are not defined in the UDC.

¹⁰ Note that scenic viewsheds are not defined in the UDC.

Draft

Attachment 4

Proposed Amendments to Certain Sections of:

Chapter 40 – UNIFIED DEVELOPMENT CODE

As a part of the adoption of the proposed:

Scenic Byway (SB) Overlay District

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PART II- CODE

CHAPTER 40 – UNIFIED DEVELOPMENT CODE

ARTICLE 1. – TITLE AND APPLICABILITY

ARTICLE 2. – ESTABLISHMENT OF ZONING DISTRICTS

DIVISION 40.02.200 STATEMENT OF PURPOSE AND INTENT OF DISTRICTS.

SECTION 40.02.240 SPECIAL DISTRICTS.

Five (5) of the special districts are applied to existing development areas and two (2) of the special districts were created to allow a limited amount of Heavy Industry (HI) and Extraction (EX). The Neighborhood Conservation (NC) district applies to neighborhoods or planned areas whose character is already set by existing uses and lotting, and which should be protected or conserved. The Diversified Planned Unit Development (DPUD) district is only for existing DPUD developments. The Historic (H) District is an overlay district to preserve the County's historic heritage. The Hometown (HT) Overlay district may be used for communities built before zoning regulations were established (pre-1954) and with a unique development pattern that does not conform to existing zoning standards. The Scenic Byway (SB) Overlay District is applied to designated scenic byways within the County. ***

SECTION 40.02.246 SCENIC BYWAY (SB) OVERLAY DISTRICT.

(add statement of purpose and intent here or leave in new Division 40.16.)

ARTICLE 3. – USE REGULATIONS

ARTICLE 4. – DISTRICT INTENSITY AND BULK STANDARDS

DIVISION 40.04.200 LANDSCAPING.

SECTION 40.04.240 SCENIC CORRIDORS.

Major subdivision and land development plans, and minor subdivision and land development plans within Scenic Byway Overlay Districts, shall be required to provide a scenic corridor in accordance with this section. Scenic corridors shall be established along all arterial and collector roads in the Suburban Reserve (SR) District, in the Suburban (S) District land south of the C&D canal, and along roads designated as scenic in the Brandywine, Red Clay, and White Clay Scenic Rivers and Highway Studies. Scenic corridors shall be comprised of open space and shall meet the following criteria.

SCENIC CORRIDOR STANDARDS

Buffer Width	Landscape Requirements	Landscape Requirements
		Within Scenic Byway Overlay District
50'	Existing forest to be preserved	Existing forest to be preserved or combination of forest preservation plus additional landscaping up to 6 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential
>50' to 100'		Existing forest to be preserved or combination of forest preservation plus additional landscaping up to 12 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential
>100' to 150'	6 plant units per 100 linear feet of street frontage	Existing forest to be preserved to the greatest extent feasible, or combination of forest preservation plus additional landscaping up to 10 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential
>150' to 200'	5 plant units per 100 linear feet of street frontage	Existing forest to be preserved to the greatest extent feasible, or combination of forest preservation plus additional landscaping up to 8 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential
>200' to 400'	3 plant units per 100 linear feet of street frontage	Existing forest to be preserved to the greatest extent feasible with priority given to forest that maximizes scenic viewshed protection, or combination of forest

		preservation plus additional landscaping up to 4 planting units per 100 linear feet of street frontage, whichever achieves the greatest screening potential
400' or greater	1 plant unit per 100 linear feet of street frontage	Existing forest to be preserved to the greatest extent feasible, with priority given to forest that enhances scenic viewshed protection, plus 2 plant units per 100 linear feet of street frontage
600' or greater	Minimum 30 acres preserved for agricultural use (no landscaping required)	Existing forest to be preserved to the greatest extent feasible, with priority given to forest that enhances scenic viewshed protection, plus 1 plant unit per 100 linear feet of street frontage. If at least 30 acres of scenic viewshed protection are provided, no landscaping is required

ARTICLE 5. – SITE CAPACITY AND CONCURRENCY CALCULATIONS

DIVISION 40.05.400 SITE RESOURCE CAPACITY.

SECTION 40.05.100 CALCULATION FOR TOTAL PROTECTED LAND.

Table 40.05.420 provides the procedure for calculating a site's total protected land. Step 1 determines the base site area. Steps 2—4 determine the land to be protected. All applicants, residential and nonresidential, must begin by completing this calculation. Where the site is in more than one (1) zoning class, or where the site is to be divided into residential and nonresidential uses, separate calculations are required. Any area excluded from the base site area shall not be included in the resource calculation. With approval from the Department, contiguous land of like kind may be purchased or restricted by a conservation easement to increase development potential.

Table [40.05.420](#)

CALCULATION FOR TOTAL PROTECTED LAND

Step 1	Enter gross site area as determined by actual survey.	ac.
	Subtract land within existing roads' ultimate rights-of-way; or land within major utilities' rights-of-way (minimum 50-foot width within subject property)	- ac.
	Subtract land cut off from use by railroad, highway, or water body	- ac.
	Subtract all water bodies having an area greater than 1 acre	- ac.
	Subtract land previously dedicated as open space	- ac.

	Equals Base Site Area				= ac.
Step 2	Measure all natural resources in the base site area and enter in the Acres Measured Column 2. If resources overlap, measure only that resource with the highest resource protection ratio. These numbers provide each resource's area of land. Multiply by Resource Protection Ratio for the district Columns 3 or 4, and insert result in column 5.				
			Multiply Column 2 by Resource Protection Ratio		
	Natural Resource	Acres Measured Column 2	CN, CR, ON, OR, BP, I, HI Districts Column 3	All other districts Column 4	Protected Land Column 5
	Floodplain/Floodway		1.00	1.00	
	Wetland		1.00	1.00	
	Cockeysville Formation Drainage Area - WRPA		0.50	0.50	
	Riparian Buffer		1.00	1.00	
	Drainageways		0.00	0.40	
	Cockeysville Formation - WRPA		0.50	0.50	
	Sinkhole		1.00*	1.00*	
	Wellhead - WRPA Class A		1.00*	1.00	
	Wellhead - WRPA Class B & C		0.50	0.50	
	Recharge Areas - WRPA		0.50*	0.50	
	Slope or Geologic Sites - CNA		0.90	1.00	
	Steep slopes (< 25%)		1.00	1.00	
	Steep slopes (15—25%)		0.25	0.50	
	Rare Species Site - CNA		1.00	1.00	
	Forests, Mature - CNA **		0.70	0.85	
	Forests, Mature **		0.50	0.70	
	Forests, Young CNA **		0.40	0.60	
	Forests, Young **		0.20	0.50	
	Other CNA		0.25	0.25	
	Historic	See Article 15			
	Scenic	See Article 16			
Step 3	Sum of Step 2 column equals Total Resource Land				
Step 4	Protected Resource Land equals sum of Protected Land column				
NOTES:					
* There are other standards of protection which include mandatory mitigation or construction in Article 10.					
** Any future developer shall be required to use the original forest cover as set forth in Sections 40.03.301C and E.					

ARTICLE 6. – SIGN REGULATIONS

DIVISION 40.06.000 APPLICABILITY.

With regard to Section 40.06.060 Schedule of Sign Restrictions, the following rules shall govern:

Neighborhood Conservation (NC), Suburban Reserve (SR), Suburban Estate (SE), Suburban (S), Suburban Transition (ST), and Traditional Neighborhood (TN) districts shall all be considered residential districts.

Commercial Neighborhood (CN) shall be considered the same as former Code C-1.

Commercial Regional (CR) shall be considered the same as former Code C-2 or C-3.

Office Neighborhood (ON) shall be considered the same as former Code O-1.

Office Regional (OR) shall be considered the same as former Code O-2.

Business Park (BP), Industrial (I) and Heavy Industrial (HI) shall be considered the same as M-1, M-2 and M-3.

Commercial or employment areas in hamlets and villages, or commercial areas in a TN District shall be considered as business districts and regulated as C-1 Districts.

All signs in TN Districts shall be limited more strictly pursuant to the design guidelines which are required as part of the plan approval process in order to meet the character of the area. Signs in the State right-of-way are regulated by 17 Del. C. §§ 1107 (Prohibition on advertising within right-of-way of any highway) and 1108 (Location and condition of advertising).

SECTION 40.06.030 SPECIFICATIONS.

Generally. General specifications for signs shall be as follows:

All signs shall have permanent foundations or permanent attachments to building walls unless specifically permitted as a temporary sign.

All signs erected must observe all setbacks, height and area restrictions of this Article.

Signs must be maintained in proper, safe condition.

The construction of all signs shall comply with applicable regulations of Chapter 6.

Gooseneck reflectors and lights shall be permitted on ground signs, roof signs and wall signs, provided that the reflectors shall provide proper shielding so as to prevent glare upon adjacent residential property and rights-of-way.

Notwithstanding any other sections of this Article, the maximum height above the ground for signs, including ground signs, roof signs and off-premise advertising signs, shall be limited by the height limitation for buildings in the zoning district in which the sign is erected or maintained, but no sign shall exceed forty-five (45) feet in height. Where a sign is oriented to an elevated roadway, the height of the sign shall be measured from the elevated road surface nearest the sign.

SECTION 40.06.070 OFF-PREMISES ADVERTISING.

Greenways. The County Council may by ordinance establish greenways, which shall be defined as strips of land six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of all the roads, routes and waterways so designated, or such boundaries as are specifically delineated by ordinance of the council. For the purpose of this section, the entirety of Scenic Overlay Districts are considered Greenways. In establishing such greenways, the County Council shall find that the area to be so designated meets the following standards:

The area has unique scenic, historic or recreational character or value.

The area is primarily residential or agricultural in character.

Off-premises advertising signs are or would be an intrusion on the unique value of these areas and in conflict with the essential character of the area.

Prohibitions. No off-premises advertising sign shall be permitted within the greenways established, and no off-premises advertising sign shall be erected oriented toward or situated to be observed from any greenway.

SECTION 40.06.080 SIGNS WITHIN SCENIC BYWAY OVERLAY DISTRICTS.

(See Attachment 1)

ARTICLE 7. TRANSFER OF DEVELOPMENT RIGHTS AND OTHER INCENTIVES AND BONUSES

ARTICLE 8. NONCONFORMING SITUATIONS

ARTICLE 9. (RESERVED)

ARTICLE 10. ENVIRONMENTAL STANDARDS

ARTICLE 11. TRANSPORTATION IMPACT

ARTICLE 12. WATER AND SEWER IMPACT

ARTICLE 13. (RESERVED)

ARTICLE 14. IMPACT FEES

ARTICLE 15. HISTORIC RESOURCES

ARTICLE 16. OVERLAY DISTRICTS

(See Attachment 1)

ARTICLE 17-19 (RESERVED)

ARTICLE 20. SUBDIVISION AND LAND DEVELOPMENT DESIGN PRINCIPLES

(See Attachment 3)

ARTICLE 21. IMPROVEMENT AND DESIGN STANDARDS

(See Attachment 3)

ARTICLE 22. DRAINAGE, UTILITIES, SEPTIC SYSTEMS, PARKING, LOADING, AND LIGHTING

(See Attachment 3)

ARTICLE 23. LANDSCAPING, TREES AND EROSION

(See Attachment 3)

ARTICLE 24. SPECIAL SUBDIVISIONS

ARTICLE 25. DESIGN

ARTICLE 26. MODIFICATION OF STANDARDS

DIVISION 40.26.500 MODIFICATIONS IN SCENIC OVERLAY (SO) DISTRICTS.

The purpose of this Division is to define the modifications permitted in Scenic Overlay (SO) Districts.

(See Attachment 1)

ARTICLE 27. MAINTENANCE ORGANIZATIONS, OPEN SPACE, AND COMMON FACILITIES

ARTICLE 28-29 (RESERVED)

ARTICLE 30. COUNTY COUNCIL AND ADMINISTRATIVE BODIES

DIVISION 40.30.400 ADMINISTRATIVE AGENTS

SECTION 40.30.450 DESIGN REVIEW ADVISORY COMMITTEE (DRAC).

(see Attachment 2)

ARTICLE 31. PROCEDURES AND ADMINISTRATION

This Article establishes the procedures for all approvals, administrative reviews, and administrative relief required by this Chapter. The flow charts are for illustrative purposes only. (Ord. No. 97-172, § 3(ch. 13, div. 31.000), 12-31-1997)

SECTION 40.31.110 REZONING/MAJOR AND MINOR PLAN REVIEW.

Stage/Steps	Rezoning	Major Plan	Minor Plan
Pre-application Sketch Plan Review			

0 DIVISION 40.30.400 Administrative Agents | *SECTION 40.31.110 Rezoning/major and minor plan review.*

Stage/Steps	Rezoning	Major Plan	Minor Plan
Submission	Y	Optional, Y for major residential plans	Optional, Y for Scenic Overlay District
Conference	Y	Optional, Y for major residential plans	Optional, Y for Scenic Overlay District
Exploratory Plan Review Stage			
Submission	Y	Y	Y
PLUS Review and Report	Y	Y	N
Rezoning Ordinance Introduction	Y	N	N
Exploratory Plan Initial Report	Y	Y	Y
Dept./Planning Board Hearing	Y	Y	N ¹
PB Business Meeting and rezoning Recommendation	Y	N	N
Exploratory Plan Final Report	Y	Y	N
County Council Rezoning Hearing and Decision	Y	N	N
Construction Plan Submission	Y	Y	Y
Record Plan Review Stage			
Submission	Y	Y	Y
Department Review and Approval	Y	Y	Y
Major Plan Rezoning or Major Plan County Council Consent	Y	Y	N
Plan Recordation	Y	Y	Y
Zoning Map Revised	Y	N	N

¹ Yes, only if located in, or within the viewshed of a Scenic Overlay District, and if a DRAC public hearing is not provided.

SECTION 40.31.112 PRE-APPLICATION SKETCH PLAN REVIEW/CONFERENCE.

- A. Applicability.** A pre-application sketch plan review conference is required for all rezoning requests, major residential subdivisions, and all major and minor plans located in or within the viewshed of Scenic Overlay Districts. An applicant may request a pre-application sketch plan review conference for all other major or minor plans at any time. The pre-application sketch plan review conference may be waived by the Department when it is determined, after a review of the submission, that no departmental concerns exist.
- B. Submission requirements.** See Appendix 1 of this Chapter.
- C. Pre-application sketch plan review conference.** The purpose of the pre-application sketch plan review conference is to familiarize the applicant with principles of conservation design, departmental concerns and with the applicable provisions of this Chapter, as well as to permit the Department to assess the proposal and to identify any service problems or concerns in conjunction with the applicant's objectives. If additional studies and/or information are required for the proposed project, those studies and/or information must be provided to the Department prior to exploratory plan approval.
- D. The Department shall use the pre-application sketch plan review conference to also identify conservation, open space and development areas. Site design and management practices shall also be examined to determine how minimal disturbance can be achieved while maintaining a high standard of community design. Discussion points will include:**
 - 1.** Greenway linkages on- and off-site (trails, biodiversity corridors, habitat areas, CNA's, etc.);
 - 2.** Interconnectivity issues (pedestrian, vehicular, mass transit, etc.) and access issues;
 - 3.** Open space linkages (parks, public and private open space and conservation areas);
 - 4.** Article 10 resource protection areas;
 - 5.** On-site, of regional scope (extending off-site), fully protected vs. partially protected resources;
 - 6.** Soil associations;
 - 7.** Farmland concentrations (agricultural districts, preservation easement purchases);
 - 8.** Existence and location of historic and cultural resources;
 - 9.** Scenic corridors, viewsheds and/or vistas into or out of the site (including visual accents and vista points pursuant to County Scenic River and Highway Studies);
 - 10.** Natural drainage patterns (pre-development), boundaries and discharged points based on characteristics such as soils, topography, vegetation and other local watershed issues; and
 - 11.** Development options given zoning district and resource protection objectives.
- E. Subsequent submission.** For all rezonings, major residential subdivisions and major and minor plans located in or within the viewshed of Scenic Overlay Districts, the applicant shall have six (6) months from the date of the pre-application sketch plan review conference to submit an exploratory plan. The Department may require a new pre-application sketch plan review conference if an exploratory plan submission is not made within six (6) months.

SECTION 40.31.113 EXPLORATORY PLAN REVIEW STAGE.

- F. *Applicability.* An exploratory plan review is required for all land development plans, including those proposals for which a rezoning is sought. For all major plans, rezonings, and major and minor plans located in or within the viewshed of Scenic Byway Overlay Districts, the Department initial report and PLUS report is required prior to Planning Board public hearing.

ARTICLE 32. (RESERVED)

ARTICLE 33. DEFINITIONS

DIVISION 40.33.200 USE DEFINITIONS.

SECTION 40.33.300 GENERAL DEFINITIONS.

(See Attachment 1)

APPENDICES

APPENDIX 1. – APPLICATION AND PLAN REQUIREMENTS

K. *Site analysis plan.* For all major residential subdivisions, and major and minor plans in, or within the scenic viewshed of a Scenic Byway Overlay District, the applicant shall be required to submit a site analysis plan as the first phase of the exploratory sketch plan review process. The site analysis plan shall serve as a basis for the planning process and shall be used to determine the best areas of the site for open space preservation, land conservation and development. The site analysis plan allows both the applicant and the Department the opportunity to utilize the natural site conditions to determine how the development of each tract can be designed to minimize environmental degradation while achieving highest possible community character design standards. The information that shall be required on the site analysis plan includes:

1. Existing topography;
2. Pre-development drainage patterns and local watershed information;
3. All fully and partially protected resources pursuant to Article 10 of this Chapter located on and within one thousand (1,000) linear feet of the tract;
4. Soils information as shown in/on the New Castle County Soil Survey;
5. All public and private open space, conservation areas and agricultural districts within one thousand (1,000) linear feet of the tract;
6. All existing and proposed transportation access points and rights-of-way;
7. Any scenic viewsheds into and out of the site, ridgelines and historic resources;
8. Graphic scale, not to exceed one (1) inch equals two hundred (200) feet and a north arrow. **

Draft

Attachment 5.

Proposed changes to the UDC concerning landscaping, scenic corridors, bufferyards and opacity standards for the proposed:

Scenic Byway (SB) Overlay District

ARTICLE 04 DISTRICT INTENSITY AND BULK STANDARDS

and

ARTICLE 23 LANDSCAPING, TREES, AND EROSION

CHAPTER 40

ARTICLE 04

DISTRICT INTENSITY AND BULK STANDARDS

DIVISION 40.04.000 PURPOSE

The purpose of Article 4 is to establish the basic intensity, bulk performance, bufferyard, and landscaping standards for each zoning district. Site specific standards shall require each development to conduct a carrying capacity analysis. This analysis regulates the maximum intensity based on actual site conditions (see Article 5).

DIVISION 40.04.100 DISTRICT PERFORMANCE STANDARDS

District performance standards are the minimum requirements for each use and shall apply to all districts. Where other more specific standards in this Chapter are applicable to specific uses, those standards shall be applicable and shall override any general standards.

(Amended September 22, 1998 by Ordinance 98-080)

SECTION 40.04.110 DISTRICT AND BULK STANDARDS

This Section contains the basic district standards applicable to all uses. Table 40.04.110 contains intensity, lot, bulk and exterior storage standards. These standards may be modified by the Department pursuant to Article 26.

- A. **Minimum open space ratio.** For residential subdivisions of five (5) lots or less open space shall not be required. Protected resource land shall be preserved by conservation easements. For major land development plans, all protected resources shall be in open space and none shall be permitted on any residential lots, with the exception of scenic viewshed protection, which may be permitted on residential lots.
- B. **Minimum site area.** Minimum site area is the minimum area required before any new uses recognized by this Chapter may be permitted in the zoning district. No land shall be rezoned unless the proposed zoning district meets minimum site area requirements. In determining minimum site area requirements, contiguous parcels of the same zoning shall be considered in the calculation.
- C. **Maximum building height.** If there are single-family detached or single-family attached dwellings within one hundred (100) feet of a property line of the parcel to be developed with a building over fifty (50) feet, the required front, street, side or rear yards adjacent to those dwellings shall be at a minimum equal to the height of the proposed building.
- D. **Minimum lot area.** The minimum lot area requirement must be met exclusive of protected resources, except scenic viewshed protection, and for lots less than one (1) acre, exclusive of required bufferyards.
- E. **Exceptions.**
 - 1. **Projections into required yards.** The following exceptions are permitted for residential dwellings.
 - a. Bay windows, oriels or balconies may project not more than three (3) feet into any required yard.

- b. Chimneys, cornices and eaves may project not more than two (2) feet into any required yard.
 - c. Sills, leaders, belt courses and similar ornamental or structural features may project not more than six (6) inches into any required yard.
 - d. An open fire balcony, a fire escape or a fire tower may project not more than four (4) feet into a required side yard or rear yard.
 - e. An uncovered patio at ground level or uncovered driveway (except for shared driveways) may project into any yard, provided it is set back from any lot line a minimum of two (2) feet.
 - f. An uncovered porch or deck or any part thereof elevated above ground level may project half the distance of the minimum required yard but no more than fifteen (15) feet. Stairs leading from the deck, with a landing area not greater than twenty-five (25) square feet may project an additional two (2) feet.
 - g. Uncovered stairs and covered enclosures of basement stairs providing entry directly to a dwelling and including a landing of not more than twenty-five (25) square feet may project half the distance of the minimum required yard but not more than twelve (12) feet.
 - h. Uncovered handicapped access structures may project to within three (3) feet of any property line or to within zero (0) feet of any property line if the ground level landing is parallel to the property line. The owner shall be required to provide proof of need and the handicapped access structure shall be removed no later than six (6) months after the need no longer exists.
2. **Exception along a navigable waterway or railroad right-of-way.** Where the rear or side of a lot adjoins a navigable waterway or railroad right-of-way in an OR, BP, I, HI district, no rear or side yard shall be required.
 3. **Height exceptions.** Height limits in this Article shall not apply to the following or similar structures: spires on churches, cupolas, belfries, chimneys, smokestacks, flag poles, water tanks or towers, fire towers, observation towers, lighthouses, transmission towers, windmills, silos, antennae (including amateur radio antennae), manufacturing or mechanical equipment and its necessary supports including but not limited to HVAC equipment, or elevator enclosures.
 4. **Side entry garages and side yard setback.** Where a side entry garage is proposed as part of a residential dwelling, the minimum required side yard setback for only the garage portion of the dwelling shall be thirty (30) feet.
 5. **Former code alternative development options.** Lot size, lot width, front yard setback, side yard setback and rear yard setbacks for all existing lots created by former code subdivision and land development plans recorded under any of the former code alternative development options shall continue to be regulated using the former code alternative development option regulations.
 6. **Developments recorded pursuant to former R-2 zoning standards.** Residential land development plans recorded pursuant to former R-2 zoning bulk and area standards and currently zoned NC40 or NC2a shall comply with the NC21 side, rear and street yard setbacks standards for building construction.

7. **Lot width/street frontage exceptions.** The Department may authorize the reduction or elimination of the minimum lot width/street frontage requirements in order to achieve conservation design objectives when the applicant demonstrates that such requirements could be met but the modified design helps reduce impervious cover and surface water runoff and/or provides additional natural resource protection.
- F. **Street yard build-to line in ON, CN and CR zoning districts.** Where determined to be appropriate by the Department, the minimum street yard setback shall be established as a fifteen (15) foot build-to (or maximum setback) line for the principal structure(s) on the lot. In its evaluation the Department shall consider any of the following criteria:
1. Existing buildings and structures with similarly proximate setbacks are located on the same street.
 2. Existing or proposed pedestrian facilities or transit stops are nearby on adjacent streets.
 3. Institutional, public assembly or similar uses are nearby or may be accessed by pedestrians.
 4. The proposed development is in or near existing neighborhoods or development that exhibit pedestrian scale streetscapes.
 5. On-street parking on adjacent streets is permitted.
- G. **Residential dwelling density.** Unless otherwise specifically permitted, in every single-family residential zoning district, only one (1) single-family dwelling per lot is permitted.
- H. **Visibility at corners.** On any corner lot there shall be no building, structure, shrubbery or planting such as will obstruct street traffic visibility within the triangular area formed by the intersection of any two (2) street lines and a line joining the respective points on each of these lines distant twenty-five (25) feet from their point of intersection.

(Amended September 22, 1998 by Ordinance 98-062; amended December 14, 1999 by Ordinance 99-075; amended March 12, 2002 by Ordinance 01-112; amended July 8, 2003 by Ordinance 03-045; amended July 13, 2004 by Ordinance 04-059; amended September 26, 2006 by Ordinance 06-060; amended November 10, 2009 by Ordinance 09-068; amended January 18, 2011 by Ordinance 10-113)

Table 40.04.110 DISTRICT AND BULK STANDARDS Part A - District Standards							
Zoning District & Development Type	Min. OSR/LSR	Density		Floor Area Ratio (on-site, public)		Utilities	MinimumSite Area
		Max. Gross	Max. Net.	Max. Gross	Max. Net.		
Suburban Reserve (SR)							
Farmstead	0.00	0.02	0.02	na.	na.	OS	50ac.
Single-family	0.05	0.17	0.18	na.	na.	OS	5 ac.**
Open space subdivision	0.60	0.30	0.80	na.	na.	OS	20 ac.
Rural subdivision	na.	na.	na.	na.	na.	OS	35 ac. *
Other permitted uses	0.85	na.	na.	0.06	0.40	OS	10 ac.
Suburban Estate (SE)							
Single-family	0.05	0.41	0.43	na.	na.	OS	2 ac.
Open space subdivision	0.45	0.42	0.79	na.	na.	OS	8 ac.
Open space subdivision	0.60	0.44	1.16	na.	na.	P Water	8 ac.
Other permitted uses	0.75	na.	na.	0.08	0.40	P Water	5 ac.

Suburban (S)							
Farmstead	0.00	0.02	0.02	na.	na.	OS	50 ac.
Single-family	0.15	0.67	0.80	na.	na.	P*	1 ac. to less than 50 ac. **
Single-family, conservation design	0.50*	0.67	1.34	na.	na.	P**	5 ac.
Age restricted single-family, see Division 40.07.700	0.15	0.80	0.95	na.	na.	P*	1 ac. to less than 50 ac. **
Open space subdivision - Option 1	0.30	1.09	1.70	na.	na.	P	10 ac. to less than 50 ac. **
Open space subdivision - Option 1, conservation design	0.50*	1.09	2.38	na.	na.	P	10 ac.
Open space subdivision - Option 2	0.50*	1.25	2.54	na.	na.	P	10 ac.
Age restricted open space subdivision, see Division 40.07.700	0.50*	1.30	2.60	na.	na.	P	10 ac.
Open space planned	0.50* **	1.30	5.20	na.	na.	P	50 ac.
Age restricted open space planned, see Division 40.07.700	0.50	1.56	6.24	na.	na.	P	50 ac.
Hamlet, see Division 40.25.100						P	
Village, see Division 40.25.100						P	
Assembly and worship	0.50	na.	na.	.30	.50	P	1 ac.
Schools	0.50	na.	na.	.30	.50	P	1 ac.
Fire stations	0.50	na.	na.	.30	.50	P	1 ac.
Other permitted uses	0.70	na.	na.	0.12	0.45	P	3 ac.
Suburban Transition (ST)							
Single-family	0.17	3.69	4.46	na.	na.	P	5.500
Age restricted single-family, see Division 40.07.700	0.17	4.43	5.36	na.	na.	P	5 ac.
Single-family attached	0.25	4.90	6.62	na.	na.	P	5 ac.
Age restricted single-family attached, see Division 40.07.700	0.25	5.88	7.94	na.	na.	P	5 ac.
Open space planned	0.35	5.40	8.52	na.	na.	P	5 ac.
Age restricted open space planned, see Division 40.07.700	0.35	6.48	10.24	na.	na.	P	5 ac.
Apartments	0.40	8.00	14.50	na.	na.	P	2 ac.
Other permitted uses	0.40	na.	na.	0.30	0.50	P	1 ac.
Traditional Neighborhood (TN)							
Single-family village house	0.20	4.39	5.52	na.	na.	P	4,800 sf.
Single-family attached	0.25	6.00	9.00	na.	na.	P	5 ac.
Open space planned	0.25	5.20	8.50	na.	na.	P	20 ac.
Mixed use	0.35	na.	na.	0.40	0.61	P	5 ac.
Other permitted uses	0.20	na.	na.	0.46	0.46	P	75 ac.
Neighborhood Conservation (NC).							
NC2a	0.05	0.41	0.44	na.	na.	P	2 ac.
NC40	0.07	0.90	0.90	na.	na.	P	40,000 sf.
NC21	0.09	1.48	1.63	na.	na.	P	21,780 sf.
NC15	0.11	1.89	2.13	na.	na.	P	15,000 sf.
NC10	0.14	2.65	3.09	na.	na.	P	10,000 sf.
NC6.5	0.17	3.73	4.52	na.	na.	P	6,500 sf.
NC5 see note	0.20	4.62	5.96	na.	na.	P	5,000 sf.
NCsd	0.22	5.78	7.44	na.	na.	P	8,000 sf.
NCth	0.25	10.45	14.00	na.	na.	P	1ac.
NCga	0.25	11.19	15.00	na.	na.	P	1 ac.
NCap	0.25	20.80	27.91	na.	na.	P	1 ac.
Other permitted uses - see note	0.50	na.	na.	0.23	0.46	P	1 ac.

Manufactured Home (MM) District							
Single wide	0.15	4.7	6.0	na.	na.	p	8 ac.
Double wide	0.25	4.7	6.0	na.	na.	P	8 ac.
Other permitted uses	0.50	na.	na.	.23	.46	P	1 ac.
Office Neighborhood (ON)							
Office	0.35	na.	na.	0.34	0.54	P	1 ac.
Mixed use	0.35	na.	na.	0.50	0.77	P	3 ac.
Other permitted uses	0.35	na.	na.	0.24	0.38	P	1 ac.
Office Regional (OR)							
Offices	0.20	na.	na.	0.50	0.83	P	5 ac.
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.
Restaurants	0.25	na.	na.	0.14	0.20	P	25 ac.
Mixed use	0.30	na.	na.	0.71	1.02	P	25 ac.
Industrial	0.30	na.	na.	0.40	0.57	P	25 ac.
Other permitted uses	0.30	na.	na.	0.32	0.48	P	15 ac.
Commercial Neighborhood (CN)							
Offices	0.50	na.	na.	0.26	0.53	P	1 ac.
Retail	0.45	na.	na.	0.18	0.34	P	1 ac.
Other commercial uses	0.50	na.	na.	0.18	0.37	P	1 ac.
Mixed use	0.45	na.	na.	0.35	0.71	P	3 ac.
Other permitted uses	0.50	na.	na.	0.23	0.46	P	1 ac.
Commercial Regional (CR)							
Offices	0.35	na.	na.	0.50	0.82	P	5 ac.
Commercial lodging	0.35	na.	na.	0.50	0.82	P	10 ac.
Commercial retail	0.20	na.	na.	0.37	0.47	P	5 ac.
Heavy retail and service	0.25	na.	na.	0.28	0.37	P	5 ac.
Vehicular sales, rentals and service	0.25	na.	na.	0.35	0.44	P	5 ac.
Other commercial uses	0.20	na.	na.	0.37	0.47	P	5 ac.
Mixed uses	0.20	na.	na.	1.00	1.40	P	10 ac.
Other permitted uses	0.25	na.	na.	0.39	0.53	P	5 ac.
Business Park (BP)							
Offices	0.20	na.	na.	0.50	0.83	P	25 ac.
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.
Industrial	0.30	na.	na.	0.40	0.57	P	25 ac.
Restaurants	0.25	na.	na.	0.14	0.20	P	25 ac.
Other permitted uses	0.30	na.	na.	0.26	0.38	P	25 ac.
Industrial (I)							
Offices	0.20	na.	na.	0.50	0.83	P	5 ac.
Commercial lodging	0.35	na.	na.	0.60	0.94	P	25 ac.
Restaurants	0.15	na.	na.	0.16	0.20	P	25 ac.
Heavy retail and service	0.15	na.	na.	0.32	0.37	P	1 ac.
Industrial	0.15	na.	na.	0.48	0.57	P	1 ac.
Other permitted uses	0.20	na.	na.	0.30	0.38	P	10 ac.
Heavy Industrial (HI)							
Heavy industry	0.10	na.	na.	0.62	0.69	P	20 ac.
Other industrial	0.10	na.	na.	0.51	0.57	P	20 ac.
Other permitted uses	0.10	na.	na.	0.34	0.38	P	5 ac.
Extraction (EX)							
Extraction	0.30	na.	na.	0.01	0.02	P	200 ac.
Other permitted uses	0.30	na.	na.	0.15	0.30	P	10 ac.

DPUD- See Adopted Ordinance and Resolution for each DPUD

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended May 9, 2000 by Ordinance 99-142; amended June 13, 2000 by Ordinance 00-011; amended September 26, 2000 by Ordinance 00-083; amended October 24, 2000 by Ordinance 00-065; amended April 24, 2001 by Ordinance 01-008; amended March 12, 2002 by Ordinance 01-112; amended October 22, 2002 by Ordinance 02-075; amended July 8, 2003 by Ordinance 03-045; amended September 26, 2006 by Ordinance 06-060; amended November 25, 2008 by Ordinance 08-096; amended October 13, 2009 by Ordinance 09-037)

**Table 40.04.110
DISTRICT AND BULK STANDARDS
Part B - Lot and Building Standards**

Zoning District & Development Type	Minimum							Maximum
	Lot Area	Lot Width (feet)	Street Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Paving street yard/ other yard (feet)	Unit Mix (%)	Building Height (feet)
Suburban Reserve (SR)								
Farmstead	50 ac.	600	50	50	50	na.	na.	50
Single-family	5 ac.	300*	50	40	100	na.	na.	40
Single-family	1 ac.**	100	40	15	40	na.	na.	40
Open space subdivision	1 ac.	150	40	15	40	na.	na.	40
Rural subdivision	2 ac.	na.	40	15	40	na.	na.	40
Other permitted uses	5 ac.	300	100	50	100	75/40	na.	50
Suburban Estate (SE)								
Single-family	2 ac.	200	50	40	40	na.	na.	40
Open space subdivision	1 ac.	150	40	12	40	na.	na.	40
	30,000 sf.	125	40	12	40	na.	na.	40
Other permitted uses	5 ac.	300	100	30	100	50/30	na.	40
Suburban (S)								
Farmstead	50 ac.	600	50	50	50	na.	na.	50
Single-family	1 ac.	150	40	12	40	na.	na.	40
Single-family, conservation design	20,000 sf.	100	40	10	40	na.	na.	40
Age restricted single-family, see Division 40.07.700	1 ac.	150	40	12	40	na.	na.	40
Open space subdivision - Option 1	20,000 sf.	100	40	10	40	na.	na.	40
Open space subdivision - Option 1, conservation design	15,000 sf.	80	25	10	40	na.	na.	40
Open space subdivision - option 2	6,500 to 15,000 sf.	60	25	6	25	na.	30	40
	over 15,000 sf.	80	25	6	25	na.	na.	40
Age restricted open space subdivision, see Division 40.07.700	10,000 sf.	60	25	6	25	na.	na.	40
Open space planned	See Table 40.04.112							
Age restricted open space planned, see Division 40.07.700	See Table 40.04.112							
Hamlet, see Division 40.25.100	See Division 40.25.100							
Village, see Division 40.25.100	See Division 40.25.100							
Assembly and worship	1 ac.	100	40	25	40	20/10	na.	45
Schools	1 ac.	100	40	25	40	20/10	na.	45
Fire stations	1 ac.	100	40	25	40	20/10	na.	45
Other permitted uses	2 ac.	200	50	40	50	50/30	na.	40
Suburban Transition (ST)								
Single-family	5,500 sf.	50	20	6	25	na.	na.	35
Age restricted single-family, see Division 40.07.700	4,800 sf.	48	20	5	25	na.	na.	35
Single-family, attached	Single-family attached, see Table 40.04.112							

Age restricted single-family attached, see Division 40.07.700	Single-family attached, see Table 40.04.112							
Open space planned	See Table 40.04.112							
Age restricted open space planned, see Division 40.07.700	See Table 40.04.112							
Apartments	Apartments see Table 40.04.112							
Other permitted uses	1 ac.	150	40	15	25	10/10	na.	40
Traditional Neighborhood (TN)								
Single-family	4,800 sf.	48	12 bt*	5	25	na.	20	35
	5,400 sf.	54	12 bt*	5	25	na.	40	35
	6,000 sf.	60	12 bt*	5	25	na.	15	35
Single-family attached	Single-family attached see Table 40.04.112							
Open space planned	See Table 40.04.112							
Mixed use	20,000 sf.	100	0	0	10	10/10	na.	45
Other permitted uses	10,000 sf.	100	0	5	10	10/10	na.	40
Neighborhood Conservation (NC)								
NC2a	2 ac.	200	50	40	50	na.	na.	40
NC40	40,000 sf.	125	40	15	40*	na.	na.	40
NC21	21,780 sf.	75	40	10	40*	na.	na.	40
NC15	15,000 sf.	100	40	12	40*	na.	na.	40
NC10	10,000 sf.	80	25	8	30*	na.	na.	35
NC6.5	6,500 sf.	60	25	6	25*	na.	na.	35
NC5 - See note	5,000 sf.	50	25	6	25*	na.	na.	35
NCsd	4,000 sf.	40	25	6	25	na.	na.	35
NCth	2,000 sf.	16	25	6*	40	na.	na.	40
Nga	2,178 sf.	50	40	10	40	25/10	na.	45
NCap	1,089 sf.	50	40	10	40	25/10	na.	60
Other permitted uses	1 ac.	150	40	30	40	20/10	na.	45
Manufactured Home (MM) District								
Single wide	4,200 sf.	45	25	5	10	na.	na.	35
Double wide	6,000 sf.	60	25	5	10	na.	na.	35
Other permitted uses	1 ac.	150	40	30	40	25/10	na.	35
Office Neighborhood (ON)								
Office	1 ac.	100	15	15	35	40/10	na.	35
Mixed use	1 ac.	100	15	15	35	40/10	na.	35
Other permitted uses	1 ac.	100	15	15	35	40/10	na.	35
Office Regional (OR)								
Offices	1 ac.	100	40	15	40	40/10	na.	50/140*
Commercial lodging	3 ac.	100	40	15	40	40/10	na.	50/140*
Restaurants	2 ac.	150	40	15	40	40/10	na.	30
Mixed use	1 ac.	100	40	15	40	40/10	na.	50/180*
Industrial	3 ac.	100	40	15	40	40/10	na.	50/140*
Other permitted uses	1 ac.	100	40	15	40	40/10	na.	50/140*
Commercial Neighborhood (CN)								
Offices	20,000 sf.	50	15	none*	20	40/10	na.	35
Retail	20,000 sf.	50	15	none*	20	40/10	na.	35
Other commercial uses	20,000 sf.	50	15	none*	20	40/10	na.	35
Mixed use	1 ac.	100	15	10	10	40/10	na.	35
Other permitted uses	1 ac.	50	15	none*	20	40/10	na.	35
Commercial Regional (CR)								

Offices	1 ac.	100	15	20	20	25/5	na.	50/140*
Commercial lodging	3 ac.	100	40	20	20	25/5	na.	50/140*
Commercial retail	1 ac.	100	15	20	20	25/5	na.	50
Heavy retail and service	2 ac.	100	40	20	20	25/5	na.	50
Vehicular sales, rentals and service	1 ac.	100	40	20	20	25/5	na.	50
Other commercial uses	1 ac.	100	15	20	20	25/5	na.	50
Mixed uses	1 ac.	100	40	20	20	25/5	na.	50/180*
Other permitted uses	1 ac.	100	40	20	20	25/5	na.	50
Business Park (BP)								
Offices	5ac.	150	40	20	20	40/10	na.	50/140*
Commercial lodging	3 ac.	100	40	15	40	40/10	na.	50/140*
Industrial	5 ac.	150	40	20	20	40/10	na.	55/140*
Restaurants	2ac.	150	40	20	20	40/10	na.	30
Other permitted uses	2 ac.	150	40	20	20	40/10	na.	50/140*
Industrial (I)								
Offices	1 ac.	100	40	0*	0**	40/10	na.	65/140***
Commercial lodging	3 ac.	100	40	0*	0**	40/10	na.	50/140***
Restaurants	1 ac.	100	40	0*	0**	40/10	na.	30
Heavy retail and service	1 ac.	100	40	0*	0**	40/10	na.	60
Industrial	1 ac.	100	40	0*	0**	40/10	na.	60/140***
Other permitted uses	1 ac.	100	40	20	20	40/10	na.	60/140***
Heavy Industrial (HI)								
Heavy industry	5 ac.	300	40	0*	0**	40/10	na.	90
Other industrial	5 ac.	300	40	0*	0**	40/10	na.	70
Other permitted uses	2 ac.	150	40	20	20	40/10	na.	70
Extraction (EX)								
Extraction	200 ac.	500	see Section 40.03.324					
Other permitted uses	10 ac.	200	100	100	100	100/100	na.	60

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended May 9, 2000 by Ordinance 99-142; amended June 13, 2000 by Ordinance 00-011; amended September 26, 2000 by Ordinance 00-083; amended October 24, 2000 by Ordinance 00-065; amended April 24, 2001 by Ordinance 01-008; amended March 12, 2002 by Ordinance 01-112; amended October 22, 2002 by Ordinance 02-075; amended July 8, 2003 by Ordinance 03-045; amended July 13, 2004 by Ordinance 04-059; amended September 26, 2006 by Ordinance 06-060; amended November 25, 2008 by Ordinance 08-096; amended October 13, 2009 by Ordinance 09-037)

AT02c		
Table 40.04.110		
DISTRICT AND BULK STANDARDS		
Part C - Storage and Comments		
Zoning District & Development Type	Exterior Storage Percent of Lot Area	Notes
Suburban Reserve (SR)		
Farmstead	na.	
Single-family	na.	* A lot legally existing as of December 31, 1997, with less than the minimum required lot width/frontage requirement, may be subdivided into two (2) lots, one of which may have zero (0) foot lot width/frontage so long as a permanent access easement is granted.
Single-family	na.	** On any lot greater than ten (10) acres and with an agricultural tax exemption, the owner may create one (1), one (1) acre minimum lot.
Open space subdivision	na.	
Rural subdivision	na.	* See Division 40.24.100

Other permitted uses	5*	* Ag. Support - No limit
Suburban Estate (SE)		
Single-family		
Open space subdivision		
Open space subdivision		
Other permitted uses	5*	* Ag. Support Services - no limit
Suburban (S)		
Farmstead	na.	
Single-family	na.	* Division 40.22.300 ** Maximum site area allowed for sites utilizing this option. Project site shall have been a legally existing tax parcel prior to August 1, 2003.
Single-family, conservation design	na.	* Division 40.10.702 ** Division 40.22.300
Age restricted single-family, see Division 40.07.700	na.	* Division 40.22.300 ** Maximum site area allowed for sites utilizing this option. Project site shall have been a legally existing tax parcel prior to August 1, 2003.
Open space subdivision - Option 1	na.	* Maximum site area allowed for sites utilizing this option. Project site shall have been a legally existing tax parcel prior to August 1, 2003.
Open space subdivision - Option 1, conservation design	na.	* Division 40.10.702
Open space subdivision - Option 2	na.	* Division 40.10.702
Age restricted open space subdivision, see Division 40.07.700	na.	* Division 40.10.702
Open space planned	na.	* A minimum of twenty-five (25) percent of the base site area must be unrestrained by floodplain or wetland. As a result, the actual required open space may exceed the site protected land or minimum required open space calculations in Table 40.05.421. ** Division 40.10.702
Age restricted open space planned, see Division 40.07.700	na.	
Hamlet, see Division 40.25.100		See Division 40.25.100
Village, see Division 40.25.100		See Division 40.25.100
Assembly and worship	5	
Schools	5	
Fire stations	5	
Other permitted uses	5*	* Ag Support Services - no limit
Suburban Transition (ST)		
Single-family	na.	
Age restricted single-family, see Division 40.07.700	na.	
Single-family attached	na.	
Age restricted single-family attached, see Division 40.07.700	na.	
Open space planned	na.	
Age restricted open space planned, see Division 40.07.700	na.	
Apartments	na.	
Other permitted uses	5	
Traditional Neighborhood (TN)		
Single-family village house	na.	* bt - build to line
Single-family attached	na.	
Open space planned	na.	
Mixed use	5	
Other permitted uses	5	
Neighborhood Conservation (NC)		
NC2a	na.	
NC40	na.	*30 feet for corner lot

NC21	na.	*30 feet for corner lot
NC15	na.	*30 feet for corner lot
NC10	na.	*20 feet for corner lot
NC6.5	na.	*15 feet for corner lot
NC5	na.	*15 feet for corner lot with single-family detached dwelling. Bulk and area stds. for: sf semi-detached - same as NCsd sf townhouse - same as NCth garden apts - same as NCga multifamily - same as NCap
NCsd	na.	
NCth	na.	*End units only have side yard
NCga	na.	
NCap	na.	
Other permitted uses	5	Any permitted nonresidential use in all NC districts
Manufactured Home (MM) District		
Single wide	na.	
Double wide	na.	
Other permitted uses	5	
Office Neighborhood (ON)		
Offices	5	
Mixed use	10	
Other permitted uses	5	
Office Regional (OR)		
Offices	5	*For buildings over 50 feet, see 04.110 C
Commercial lodging	5	
Restaurants	5	
Mixed use	10	
Industrial	15	
Other permitted uses	10	
Commercial Neighborhood (CN)		
Offices	5	* Minimum 20 foot side yard adjacent to residential uses or districts.
Retail	10	
Other commercial uses	10	
Mixed use	10	
Other permitted uses	10	
Commercial Regional (CR)		
Offices	5	* For buildings over 50 feet, see 04.110C
Commercial lodging	5	
Commercial retail	15	
Heavy retail and service	20	
Vehicular sales, rentals and service	15**	** unlimited for vehicle inventory
Other commercial uses	15	
Mixed uses	15	* For buildings over 50 feet, see 04.110C
Other permitted uses	15	
Business Park (BP)		
Offices	5	
Commercial lodging	5	
Industrial	5	* For buildings over 50 feet, see Section 40.04.110 C
Restaurants	5	
Other permitted uses	5	
Industrial (I)		

Offices	5	* Minimum 20 foot side yard adjacent to residential uses or districts ** Minimum 50 foot rear yard adjacent to residential uses or districts *** For buildings over 65 feet, see Section 40.04.110 C
Commercial lodging	5	
Restaurants	5	
Heavy retail and service	50	
Industrial	50	
Other permitted uses	50	
Heavy Industrial (HI)		
Heavy industry	no limit	* Minimum 20 foot side yard adjacent to residential uses or districts ** Minimum 50 foot rear yard adjacent to residential uses or districts
Other industrial	no limit	
Other permitted uses	100	
Extraction (EX)		
Extraction	no limit	Section 40.03.324
Other permitted uses	no limit	Section 40.03.324

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended May 9, 2000 by Ordinance 99-142; amended June 13, 2000 by Ordinance 00-011; amended September 26, 2000 by Ordinance 00-083; amended October 24, 2000 by Ordinance 00-065; amended April 24, 2001 by Ordinance 01-008; amended March 12, 2002 by Ordinance 01-112; amended October 22, 2002 by Ordinance 02-075; amended July 8, 2003 by Ordinance 03-045; amended September 26, 2006 by Ordinance 06-060; amended November 25, 2008 by Ordinance 08-096; amended January 13, 2015 by Ordinance 14-126)

SECTION 40.04.111 LANDSCAPE AND ILLUMINATION STANDARDS

Bufferyard, landscaping standards and lighting standards are provided in Table 40.04.111.

Table 40.04.111 A. USE AND LOT STANDARDS						
Zoning District & Development Type	Landscaping Plant Units per (See Division 40.23.100)			Bufferyard Opacity Standards		
				Adjoining Streets		
	Lot	Acre Open Space	Parking Spaces	Arterial	Collector	Minor
Suburban Reserve (SR)						
Farmstead	-	na.	na.	-	-	-
Single-family	3/du	4	none			
Openspace subdivision	2/du	4	none			
Other permitted uses	5/ac	4	1/16	0.1	0.1	0.1
Suburban Estate (SE)						
Single-family	2/du	4	none	0.4	0.3	0
Openspace subdivision	2/du	4	none			0.2
Other permitted uses	5/ac	4	1/16			
Suburban (S)						
Farmstead	*	na.	-	0.4	0.3	0
Single-family	2/du *	4	none			
Openspacesubdivision, option 1 and 2	1/du *	4	none			
Openspaceplanned	1/du *	5	1/16			
Hamlet	1/du *	6	1/12			
Village	1/du *	6	1/12			
Institutional residential	5/ac.	4	1/16			
Other permitted uses	5/ac.	4	1/16			0.2

Suburban Transition (ST)						
Single-family	2/du	5	none 1/20	0.3	0.3	0
Single-family attached	1/du					
Open space planned	1/du					
Apartments	1/du					
Other permitted uses	6/ac.					0.3
Traditional Neighborhood (TN)						
Single-family village House	1/du	5	1/20	0.3	0.3	0
Single-family attached	1/du					
Open space planned	1/du					
Mixed use	6/ac.					
Other permitted uses	5/ac.					0.3
Neighborhood Conservation (NC)						
NC2a	2/du	4	none	0.3	0.3	0
NC40						
NC21						
NC15						
NC10						
NC6.5	1/du					
NC5						
NCsd						
NCth						
NCga						
NCap	6	1/20	0.4	0.4	0.2	
Other permitted uses**						6/ac
Manufactured Home (MM) District						
Single wide	1/du	6	1/16	0.5	0.5	0.4
Double wide						
Other permitted uses	6/ac					
Office Neighborhood (ON)						
Offices	10/ac.	6	1/16	0.3	0.3	0.2
Mixed use						
Other permitted uses						
Office Regional (OR)						
Offices	10/ac.	7	1/20	0.3	0.3	0.2
Commercial lodging						
Mixed use						
Other permitted uses						
Commercial Neighborhood (CN)						
Offices	8/ac.	8	1/16	0.3	0.3	0.3

Commercial retail						
Other commercial uses						
Mixed uses						
Other permitted uses						
Commercial Regional (CR)						
Offices	8/ac.	6	1/20	0.4	0.4	0.3
Commercial lodging						
Commercial retail						
Other commercial uses						
Vehicular sales, rentals and service						
Mixed uses						
Other permitted uses						
Heavy retail and service						0.4
Business Park (BP)						
Offices, commercial lodging	10/ac	6	1/20	0.3	0.3	0.3
Industrial						
Restaurants						
Other permitted uses						
Industrial (I)						
Offices	6/ac.	5	1/30	0.5	0.5	0.5
Industrial						
Restaurants						
Heavy retail and service						
Other permitted uses						
Heavy Industrial (HI)						
Heavy industry	6/ac.	10	1/40	0.6	0.6	0.6
Extractive (EX)						
Extractive use and recreation high intensity	See Section 40.03.324					
Other permitted uses	6/ac	10	1/40	0.6	0.6	0.6

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended April 11, 2000 by Ordinance 99-084; amended October 24, 2000 by Ordinance 00-065; amended March 12, 2002 by Ordinance 01-112; amended July 8, 2003 by Ordinance 03-045)

Table 40.04.111 B. USE AND LOT STANDARDS																
Zoning District & Development Type	Bufferyard Opacity Standards (See Section 40.23.140)															
	Adjoining District or Use (No bufferyard shall be required where like zoning district and like developments are adjacent)															
	SR	SE NC2a	S	NC 40-10	ST	TN	MM	NC 6.5 or less*	ON	OR	CN	CR	BP	I	HI	EX
Suburban Reserve (SR)																
Farmstead	-	-	-	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	-
Single-family																
Open space subdivision																
Other permitted uses	0.1	0.1	0.1	0.1												

Suburban Estate (SE)																		
Single-family	0.2	-	-	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	-
Open space subdivision																		
Other permitted uses		0.2	0.2	0.2														
Suburban (S)																		
Farmstead	-	-	-	- 0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
Single-family	0.3	0.2	- 0.2															
Open space subdivision, option 1 and 2																		
Open space planned		0.3	0.3															
Hamlet		-	-	0.2														
Village																		
Institutional residential		0.2	0.2															
Other permitted uses		0.3	0.3	0.3														
Suburban Transition (ST)																		
Single-family	0.4	0.4	0.3	0.3	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
Single-family attached																		
Open space planned																		
Apartments					0.3			0.3										
Other permitted uses																		
Traditional Neighborhood (TN)																		
Single-family village house	0.4	0.4	0.3	0.1	0.1	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
Single-family attached																		
Open space planned																		
Mixed use				0.3	0.3	0.2	0.2	0.3										
Other permitted uses																		
Neighborhood Conservation (NC)																		
NC2a	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
NC40																		
NC21																		
NC15																		
NC10																		
NC6.5	0.4	0.4	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
NC5																		
NCsd																		
NCth																		
NCga																		
NCap																		
Other permitted uses**																		
Manufactured Home (MM) District																		
Single wide	0.4	0.4	0.3	0.3	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.2	0.2	-
Double wide																		
Other permitted uses																		
Office Neighborhood (ON)																		
Offices	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.2	-	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	-
Mixed use									0.1									
Other permitted uses																		
Office Regional (OR)																		
Offices	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.2	-	0.2	0.1	0.1	0.1	0.1	0.2	0.2	-
Commercial lodging										0.1								
Mixed use																		

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended April 11, 2000 by Ordinance 99-084; amended October 24, 2000 by Ordinance 00-065; amended March 12, 2002 by Ordinance 01-112; amended July 8, 2003 by Ordinance 03-045)

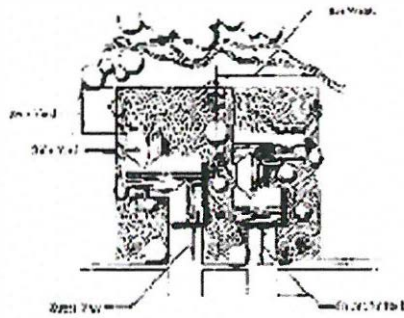
DRAFT October 2016

Other permitted uses				
Suburban Estate (SE)				
Farmstead	40	C=0.5 fc S=0.4 fc	C=15 ft.S= 15 ft.	
Single-family				
Open space subdivision				
Suburban (S)				
Farmstead	40	C=4 fc S=2fc	C=20 ft.S=20 ft.	* Lot landscape credit may be applied within subdivisions with at least 50% open space for plantings found in Section 40.23.121 and for alternative stormwater managment techniques as approved by the County
Single-family				
Open space subdivision, option 1 and 2				
Open space planned				
Hamlet				
Village				
Institutional residential				
Other permitted uses				
Suburban Transition (ST)				
Single-family	40	C=5fc S=3 fc	C=20 ft.S=20 ft.	
Single-family attached				
Open space planned				
Apartments				
Mixed use				
Other permitted uses				
Traditional Neighborhood (TN)				
Single-family village house	40	C=5 fc S=3 fc	C=20 ft. S=20 ft.	
Single-family attached				
Open space planned				
Mixed use				
Other permitted uses				
Neighborhood Conservation (NC)				
NC2a	40	C=4 fc S=2 fc	C=20 ft. S=20 ft.	** Any permitted nonresidential use in all NC district
NC40				
NC21				
NC15				
NC10				
NC6.5		C=5 fc S=3fc	C=20 ft. S=20 ft.	
NC5				
NCsd				
NCth				
NCga				
NCap				
Other permitted uses**				
Manufactured Home (MM) District				
Single wide	40	C=3 fc S=3 fc	C=20 ft. S=20ft.	
Double wide				
Other permitted uses				
Office Neighborhood (ON)				
Offices	50	C=6 fc S=5 fc	C=25ft. S=20ft.	
Mixed use				
Other permitted uses				
Office Regional (OR)				
Offices	50			

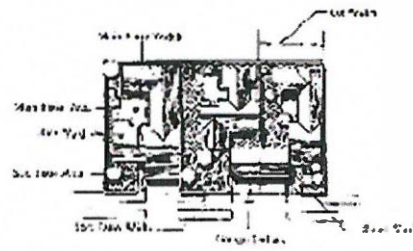
Commercial lodging		C=8fc S=6 fc	C=30ft. S=25 ft.	
Mixed use				
Other permitted uses				
Commercial Neighborhood (CN)				
Offices	40	C=6 fc S=6 fc	C=20ft. S=15 ft.	
Commercial retail				
Other commercial uses				
Mixed uses				
Other permitted uses				
Commercial Regional (CR)				
Offices	50	C=8fc S=6 fc	C=30ft. S=25ft.	
Commercial lodging				
Commercial retail				
Other commercial uses				
Vehicular sales, rentals and service				
Mixed uses				
All other permitted uses				
Heavy retail and services				
Business Park (BP)				
Offices, commercial lodging	50	C=12 fc S=10 fc	C=30ft. S=25ft.	
Industrial				
Restaurants				
Other permitted uses				
Industrial (I)				
Offices	50	C=12 fc S=10 fc	C=30ft. S=25ft.	
Industrial				
Restaurants				
Heavy retail and service				
All other permitted uses				
Heavy Industrial (HI)				
Heavy industry	50	C=20fc S=20 fc	C=50ft. S=45ft.	
Other industrial				
Other permitted uses				
Extractive (EX)				
Extractive use and recreation high intensity	50	C=20 fc S=20 fc	C=50ft. S=45ft.	
Other permitted uses				

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended April 11, 2000 by Ordinance 99-084; amended October 24, 2000 by Ordinance 00-065; amended March 12, 2002 by Ordinance 01-112; amended July 8, 2003 by Ordinance 03-045)

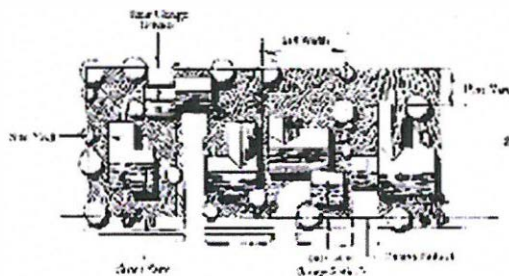
SECTION 40.04.111 FIGURE 04.111 HOUSING TYPES AND LOT CONFIGURATIONS



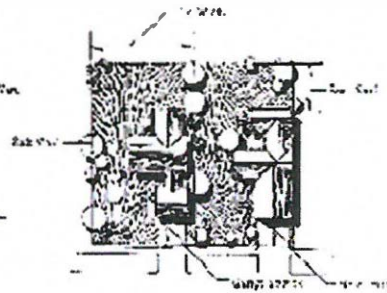
CONVENTIONAL SINGLE-FAMILY



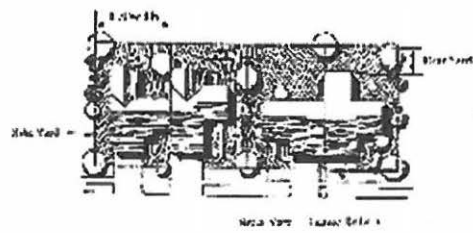
PATIO HOUSE



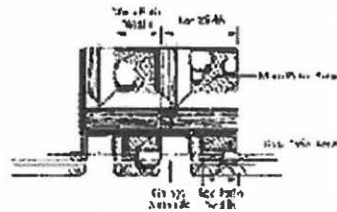
VILLAGE HOUSE



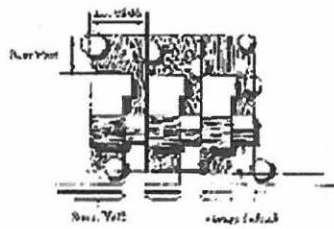
LO-FLOORING HOUSE



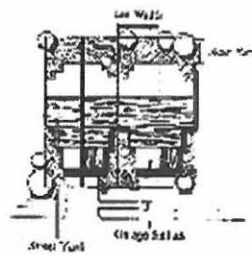
TWIN HOUSE



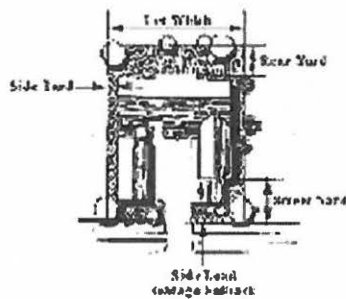
ATRIUM HOUSE



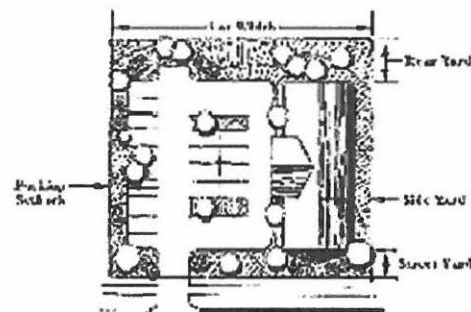
WEAK LINK TOWNHOUSE



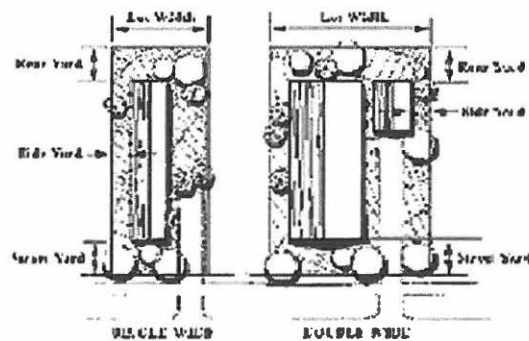
TOWN HOUSE



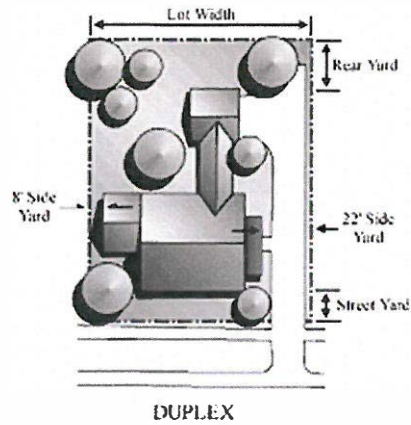
MULTIPLEX



APARTMENTS



MANUFACTURED HOME



SECTION 40.04.112 LOT STANDARDS FOR OTHER HOUSING TYPES

Housing types used in open space planned developments and for attached or multi-family housing is contained in Table 40.04.112. Housing types and lot configurations are illustrated in Figure 40.04.111.

Table 40.04.112 LOT STANDARDS FOR ATTACHED AND OPEN SPACE PLANNED HOUSING TYPES												
Dwelling Unit Type	Minimum							Maximum	Patio Minimums		Side Load Garage Setback (ft)	Minimum Percent in width type
	Site Area (sq ft)	Lot Area (sq ft)	Lot Width (ft)	Street Yard (ft)	Side Yard (ft)	Bldg. Spacing (ft)	Rear Yard (ft)	Height (ft)	Area (sq ft)	Width (ft)		
Single-Family Detached												
Single-family detached		12,000	85	25	6		30	36				
Single-family detached		10,000	80	25	6		30	36				
Lot line		7,300	60	20 ¹	1@20	20	30	36			8	20
		8,000	65								8	40
		8,600	70								8	remainder
Village		4,800	48	12/20 ³	6	na.	25 ²	36				
		5,400	54									
		6,000	60									
Patio		5,000	55	8/20 ³	patio	8	patio	36	1,000/48	20/6		
Single-Family Attached												Max Units in a row
Twin	9,000	4,500	48	20/20 ³	1@8	12	25	36				2
Atrium	9,000	3,000	45	0/20 ³	0, 6 end unit	8	0	15	800/48	24/6		8
Weak-link townhouse	10,800	3,600	36	15/20 ³	0, 6 end unit	10	25	40				8
Townhouse	7,200	2,200 ⁴	22 ⁴	15/20 ³	0, 6 end unit	10	20	40				8
Duplex	7,000	3,500	70	20	8	na.	30	36				na.
Quadrplex	8,000	2,000	80	20	6	12	15	36			5	na.
Multi-Family												
Apartment	10,000	1,800	100	25/15 ³	12	30	20	50				na.
¹ Setback to garage from sidewalk. ² Rear garage may have 5' rear yard setback provided access to alley. ³ Setback to parking. ⁴ Variable - See Section 40.04.121.												

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075; amended March 12, 2002 by Ordinance 01-112; amended October 22, 2002 by Ordinance 02-075; amended October 13, 2009 by Ordinance 09-037; amended November 10, 2009 by Ordinance 09-068)

SECTION 40.04.120 RESERVED.

(Amended July 13, 2004 by Ordinance 04-059; amended September 26, 2006 by Ordinance 06-060)

SECTION 40.04.121 TOWNHOUSES

The townhouse lot area and width standards in Table 40.04.112 are averages. The minimum width shall be eighteen (18) feet with a corresponding area one hundred (100) times the width (i.e., one thousand eight hundred (1,800) square feet for the eighteen (18) foot wide lot). Nothing shall prohibit the developer from selecting the lot area and then calculating the width with a different proportion between lot and depth. (The standards are based on one hundred (100) foot deep lots, thus a two thousand (2,000) square foot lot with a twenty-two (22) foot width would be ninety and nine-tenths (90.9) feet in depth).

SECTION 40.04.130 DWELLING UNIT MIX REQUIREMENTS

All open space planned developments shall meet the mix requirements (Table 40.04.130) regarding the number of different dwelling unit types that must be provided. The mix provides a variety of housing types to meet all residents' needs. If the development is to be phased, each phase shall contain a share of the largest unit types generally proportional to the percentage of the total dwelling units. Where more unit types are provided than required, the developer may determine the percentage of those types to be provided.

Table 40.04.130 DWELLING UNIT MIX REQUIREMENTS				
Total Units in Project S Districts	Total Units in Project ST or TN Districts	Min. Number of Types	Max. % Any Type	Min. % Any Type
1-25	1-40	1	100	20
26-50	41-100	2	70	20
51-150	101-200	3	60	15
151-300	201-400	4	45	10
301-600	401-700	5	40	5
601 or more	701 or more	6	40	5

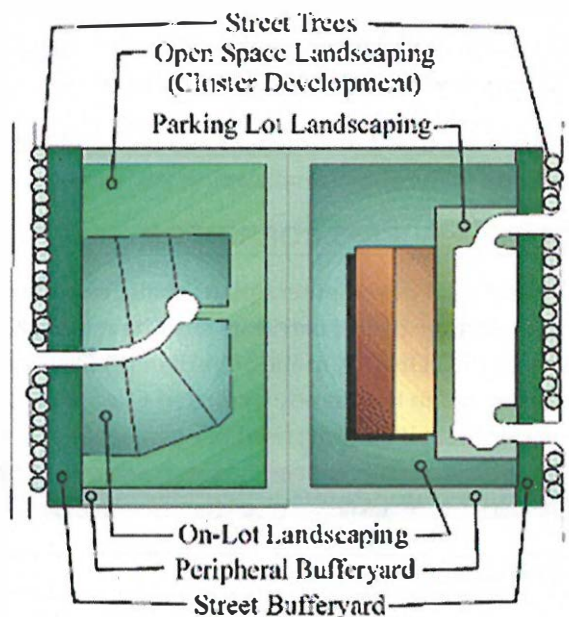
(Amended October 13, 2009 by Ordinance 09-037)

DIVISION 40.04.200 LANDSCAPING

SECTION 40.04.210 REQUIRED LANDSCAPING

- A. Landscaping is required on lots, in parking areas, in open spaces, along roads and streets, in **scenic corridors**, as a buffer between certain specified uses, and as a buffer between zoning districts.
- B. Figure 40.04.210 shows how a property is divided into areas for peripheral bufferyards, street bufferyards, on-lot landscaping, open space landscaping, street trees and parking lot landscaping. Each area must be measured to determine the amount of landscaping required. A scenic corridor would replace the street bufferyards. The landscaping areas do not overlap.
- C. Most landscaping standards are in plant units which include a combination of canopy, understory, evergreen trees, and shrubs that provide full coverage from ground to canopy. Alternative plant units, including size and type of plants, are contained in Table 40.23.110.
- D. All landscape material shall be installed and maintained in accordance with Division 40.23.200.

Figure 40.04.210



LANDSCAPING AREAS

SECTION. 40.04.220 LANDSCAPING STANDARDS FOR LOTS AND PARKING LOTS

Table 40.04.111 A establishes the required landscaping for the landscaped area of each lot, open space, and in parking lots. The landscaped area standards apply only to those areas of the lot or property not covered by buildings, road rights-of-way, parking, active recreation facilities or bufferyards. The parking lot standard applies to the parking area.

- A. Table 40.04.111 A lists nonresidential landscaping requirements in plant units per acre. The lot landscaping shall be based on the net area exclusive of required bufferyards and parking lot landscaping. See Figure 40.04.210. Bufferyards excluded from lot landscaping requirements shall not exceed the minimum width needed to achieve zero (0) plant units within the bufferyard.

Residential landscaping is provided in plant units per lot or dwelling unit. For further detail, refer to Section 40.23.120 for on-lot landscaping.

- B. Parking lot landscaping shall be one (1) plant unit per number of parking spaces specified in Table 40.04.111. Any lot or site having a parking total that is less than half the number listed in Table 40.04.111 is exempt from the requirement to provide parking lot landscaping. Refer to Section 40.23.130 for parking lot landscaping.

(Amended September 22, 1998 by Ordinance 98-080; amended March 12, 2002 by Ordinance 01-112)

SECTION 40.04.230 RESERVED

(Amended March 12, 2002 by Ordinance 01-112; amended July 8, 2003 by Ordinance 03-045)

SECTION 40.04.231 LANDSCAPING STANDARDS FOR REQUIRED OPEN SPACE

All areas of open space shall be landscaped using one of the following landscape treatments:

- A. Areas presently covered with natural vegetation shall be maintained in that natural state.
- B. Open space areas intended to be groomed or serve as a mowed lawn shall be planted with a minimum of four (4) plant units per acre. This provision shall not apply to open space areas that are designed as sports fields or recreational uses that require a paved or specially prepared surface. Golf courses shall provide three (3) plant units per acre.
- C. Areas disturbed, but scheduled to be returned to natural conditions, shall be planted as forest (reforestation) or with such other plant material that will return the area to its natural condition.

The design provisions discussed in Article 23 and the condition provisions enumerated in Article 27 shall be satisfied in addition to the above landscaping standards.

SECTION 40.04.240 SCENIC CORRIDORS

Major subdivision and land development plans shall be required to provide a scenic corridor in accordance with this section. Scenic corridors shall be established along all arterial and collector roads in the Suburban Reserve (SR) District, in the Suburban (S) District land south of the C&D canal, and along roads designated as scenic in the Brandywine, Red Clay, and White Clay Scenic Rivers and Highway Studies. Scenic corridors shall be comprised of open space and shall meet the following criteria.

SCENIC CORRIDOR STANDARDS		
Buffer Width	Landscape/Requirements	Within Scenic Byway Overlay Districts
Up to 50'	Existing forest to be preserved	Existing forest to be preserved plus....
>50' to 100'		
≥100' to 150'	6 plant units per 100 linear feet of street frontage	
≥151' to 200'	5 plant units per 100 linear feet of street frontage	
≥201' to 400'	3 plant units per 100 linear feet of street frontage	
400' or greater	1 plant unit per 100 linear feet of street frontage	
600' or greater	minimum 30 acres preserved for agricultural use (no landscaping required)	

DIVISION 40.04.300 BUFFERYARD PERFORMANCE STANDARDS

This Division provides standards for bufferyards between uses and districts and for special purposes.

SECTION 40.04.301 PURPOSE

Bufferyard requirements are designed to ameliorate nuisances between certain adjacent zoning districts or land uses. Bufferyards function to eliminate or minimize large changes in scale and potential nuisances such as dirt, litter, noise, glare of lights, unsightly buildings, parking areas, or signs. Bufferyards serve a similar function between streets and various land uses.

SECTION 40.04.302 BUFFERYARDS REQUIRED

Where required, bufferyards shall be located along the outer perimeter of a lot or parcel and shall extend to the lot or parcel boundary line. Bufferyards shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way. Bufferyards shall not be part of the required lot area for lots less than one (1) acre. They may be part of a lot, but the minimum standards (Table 40.04.110) shall be exclusive of the bufferyard area. Bufferyard requirements are not applicable to minor residential subdivisions. Bufferyards are required under the following conditions (see Table 40.04.111):

- A. Along all arterial or collector streets and some minor streets as specified in Table 40.04.111.
- B. Along a property line where adjoining properties are in different zoning districts (zoning district boundary).
- C. Along a property boundary within the same zoning district for limited and special uses and parking buffers.

(Amended March 12, 2002 by Ordinance 01-112)

SECTION 40.04.310 OPACITY VALUES OF REQUIRED BUFFERYARDS

- A. Table 40.04.111 lists the opacity levels of the peripheral bufferyards required under specified conditions. Opacity levels present the buffering level to be provided by the use. Table 40.23.140 specifies the number of plant units required to achieve a level of opacity. A bufferyard that meets the opacity rating specified in Table 40.04.111 shall be approved as part of the plan or land development approval.
- B. If a bufferyard standard for an adjoining parcel required by this Chapter is not satisfied because the parcel was developed or approved under the provisions of the former Code, the required bufferyard of a new proposed use shall be equal to that of the more restrictive bufferyard of the two (2) uses and the bufferyard shall be provided by the proposed use.
- C. Surety shall be required for the cost of completing the bufferyard. The Department shall require such surety be posted prior to the issuance of any certificates of occupancy. If buildings are completed at a time of the year where planting cannot be accomplished, the Department may issue a temporary permit and hold the surety until the landscaping is completed. Such surety shall become part of the development agreement required by this Chapter.

(Amended September 22, 1998 by Ordinance 98-080; amended December 14, 1999 by Ordinance 99-075)

SECTION 40.04.320 PARKING BUFFERYARDS REQUIRED

- A. Where parking spaces serving a nonresidential or multifamily use are adjacent to an existing residential use or residentially zoned land, the required bufferyard opacity between the parking lot and

adjacent parcel shall be increased by one-tenth (0.10) opacity beyond that which is otherwise required by Table 40.04.111. However, in the event a five-tenths (0.50) or greater opacity is already required, the additional one-tenth (0.10) need not be added.

B. Where a parking structure is adjacent to an existing residential use, residentially zoned land, or street right-of-way, the required bufferyard opacity between the parking structure, the adjacent parcel, or the street right-of-way shall be increased by 0.20 opacity above that required by Table 40.04.111.

(Amended September 22, 1998 by Ordinance 98-062; amended March 12, 2002 by Ordinance 01-112; amended July 28, 2015 by Ordinance 15-053)

SECTION 40.04.330 BUFFERYARD USE

A bufferyard may be used for passive recreation. It may contain pedestrian, bike, or equestrian trails, provided the plant material amount is not reduced because of the trail, the total width of the bufferyard is maintained or increased by the width of the trail, and all other regulations in this Code are met. However, in no event shall swimming pools, tennis courts, sports fields, or other active recreational facilities be permitted in bufferyards. Where a golf course is installed in the bufferyard location, it shall be considered an adequate bufferyard provision.

(Amended January 18, 2011 by Ordinance 10-113)

CHAPTER 40

ARTICLE 23

LANDSCAPING, TREES, AND EROSION

DIVISION 40.23.000 PURPOSE

This Article provides the detailed landscaping standards for installing and maintaining landscaping materials and protecting specimen trees. This Article also provides the requirements for erosion and sediment control.

SECTION 40.23.010 APPLICABILITY

All developments shall comply with Divisions 40.23.200, 40.23.300 and 40.23.400. Minor residential subdivisions shall be required only to comply with street tree requirements, except for residential developments in the NC2a zoning district, which is exempted. Major subdivisions and land developments, minor nonresidential subdivisions, and minor land developments shall comply with all Divisions.


(Amended July 13, 2004 by Ordinance 04-059; amended January 18, 2011 by Ordinance 10-113)

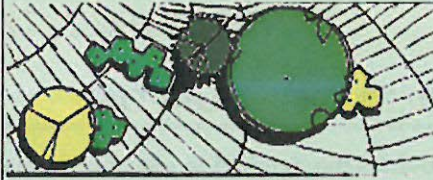


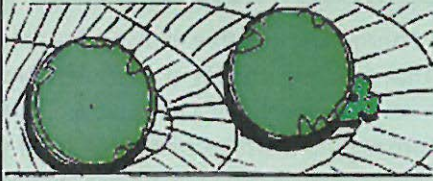
DIVISION 40.23.100 PLANT UNITS AND MATERIALS

This Division establishes a standard landscaping element called a "plant unit." The plant unit serves as a basic measure of plant material required for all landscaping, except natural areas, or mitigation. The plant unit provides a balance of vegetation.

SECTION 40.23.110 STANDARD PLANT UNITS

Each plant unit alternative in Table 40.23.110 is generally interchangeable with the standard plant unit. The developer may use any one (1) or a combination of alternatives. However, some alternatives are preferred given certain objectives. For example, Alternative Unit D is best suited for the interior of parking lots or other places where clear, low-level views are desired or fences exist. Where yearround screening is required, Alternative Unit B or C is preferred. In some cases, this Chapter may specify a specific plant unit, or an alternative plant unit may be required during land development or site plan review.

Table 40.23.110 PLANT UNIT ALTERNATIVES		
Plant Unit/Alternative	Quantity, Size & Type of Plants Required	Illustration
STANDARD PLANT UNIT	1 canopy tree***	
	2 1-1/2" to 2" caliper understory	
	13 1-1/2' to 3' high shrubs****	

ALTERNATIVE UNIT A*	1	canopy tree***	
	1	1-1/2" to 2" caliper understory	
	1	5' to 6' high evergreen tree	
	11	1-1/2' to 3' high shrubs****	
ALTERNATIVE UNIT B*	2	1-1/2" to 2" caliper understory	
	3	5' to 6' high evergreen tree	
	7	1-1/2' to 3' high shrubs****	
ALTERNATIVE UNIT C*	4	5' to 6' high evergreen tree	
	15	1-1/2' to 3' high shrubs****	
ALTERNATIVE UNIT D**	2	canopy tree***	
	3	1-1/2' to 3' high shrubs****	

* Preferred for year-round screen. ** May be required where visibility is required for safe automobile operation.
***Whenever Canopy Trees are required in any one of the plan alternatives, the following minimum percentages for each size group shall be required: 60% - 2" to 2-1/2" caliper 20% - over 2-1/2" caliper
**** The Department may permit approved herbaceous vegetation in lieu of required shrubs in those areas subject to approved conservation design practices.

(Amended December 14, 1999 by Ordinance 99-075; amended July 8, 2003 by Ordinance 03-045)

SECTION 40.23.120 ON-LOT LANDSCAPING

In general, the on-lot landscaping shall be distributed around the lot, planted close to the buildings, or be in some combination of these planting schemes. However, front yards are particularly important to preserving community character. Certain unit types require additional planting material to be planted between front-load garages and the right-of-way as indicated in Section 40.23.121. The Department may grant a partial on-lot or open space landscape credit where planting for green technology stormwater best management practices is in excess of the planting requirements contained in Article's 4 and 23.

(Amended July 8, 2003 by Ordinance 03-045)

SECTION 40.23.121 SPECIAL RESIDENTIAL LANDSCAPING

All residential lots of twelve thousand (12,000) square feet or less or any unit using side-load garages shall install special landscaping in addition to the landscaping required by Table 40.04.111.

- A. **Village house.** Village house street yards shall be landscaped with two (2) additional items. Select two from the following categories. These additions shall be included in one (1) of two (2) ways. The plan shall identify the techniques on each lot, or options may be included in the house price and selected by the home purchaser.
1. **Street property-line border.**
 - a. Stone wall, wood or wrought-iron fence at least three (3) feet in height; or
 - b. Hedge with shrubs planted at a maximum of three (3) feet on center; or
 - c. A grade change of at least two (2) feet, raising the street yard above the sidewalk grade. This option is available only where the natural topography slopes up from the sidewalk on that side of the street. This option must run across at least three (3) consecutive lots and be identified on grading plans to ensure adequate drainage.
 2. **Additional landscaping.**
 - a. Two (2) flowering understory trees at one and one-half (1.5) inch caliper.
 - b. Two (2) evergreen trees at least five (5) feet high.
 - c. Thirteen (13) decorative evergreen trees in at least five (5) gallon pots.
 - d. A perennial flower bed having a minimum of five (5) species over eighty (80) square feet and one (1) understory or evergreen of the size indicated in Subsections A.2.a and A.2.b.
 3. **Structure.** One (1) of the following and ten (10) flowering or evergreen shrubs at least twenty-four (24) inches high. These options are not available where a front-load garage is used on a lot with less than ninety (90) feet of frontage.
 - a. A roofed porch which is not enclosed or screened, running three-quarters (0.75) the width of the house front and having a minimum width of seven (7) feet.
 - b. A masonry or stone patio raised a minimum of eighteen (18) inches above the front yard, minimum eight (8) foot width, and at least five hundred (500) square feet.
- B. **Lot line houses.** Lot line houses shall install an additional one and a half (1.5) plant units in the front yard whose purpose, location, and design is to screen the view into the side yard and enhance the privacy of this space. The developer may use hedges or substitute a fence for eighty (80) percent of the shrubs.
- C. **Other single-family lots less than twelve thousand (12,000) square feet.** These lots shall require an additional plant unit.
- D. **Side-loading garages.** Where a side-loading garage is permitted in front of the house proper, an extra plant unit shall be required between the street and the side of the garage facing the street, or the developer may propose planting options that, in the Department's opinion, are approximately equal in cost and effectiveness.
- E. **Attached and multi-family.** All attached units shall have on-lot landscaping of one (1) plant unit. The landscaping material shall be distributed in the front, rear, or side yards. In multi-family

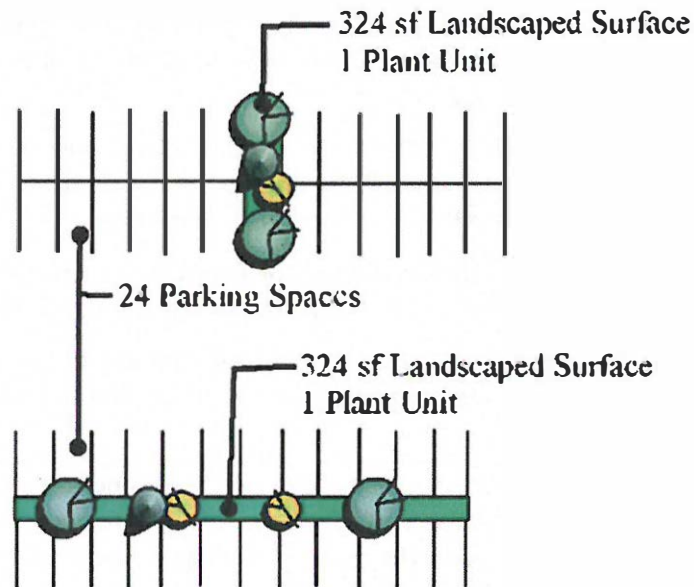
developments, the yard areas associated with each unit shall be landscaped with five (5) plant units per acre.

(Amended January 18, 2011 by Ordinance 10-113)

SECTION 40.23.130 PARKING LOT LANDSCAPING

Parking lot landscaping shall be one (1) plant unit per number of parking spaces specified in Table 40.04.111. Each plant unit shall be planted in a planting island(s) or space with a minimum total area of three hundred twenty-four (324) square feet. The plant unit may be distributed between two (2) landscaping islands or in larger continuous islands. If two (2) smaller islands are selected, each shall contain a minimum of one hundred sixty-two (162) square feet in area. In small parking lots, the island(s) may be the lot's corners. The landscaping required by Table 40.04.111 shall be located within the parking lot or adjoining entrance drives and circulation drives. Existing trees that can be preserved by not disturbing the area under their canopy shall count towards the landscaping requirements. Figure 40.23.130 illustrates appropriate planting areas, preservation of existing trees, and several configurations of one (1) plant unit per twenty-four (24) parking spaces.

**Figure 40.23.130
EXAMPLES OF PARKING LOT
LANDSCAPING CONFIGURATIONS**



Illustrating: 1.0 Plant Unit per 24 parking spaces

SECTION 40.23.140 STANDARDS FOR BUFFERYARD PLANTINGS

Table 40.23.140 depicts the narrowest permitted bufferyard at the top of each opacity category. This is the minimum width of buffer permitted and, if a wall is shown, that is the maximum height permitted. The second standard is wider and may also be used to satisfy the opacity requirement. Both provide the widths of bufferyards, the plant materials in plant units, and structures necessary to reach given levels of opacity or buffertype required by Table 40.04.111. While this table presents only two (2) combinations of bufferyard (width and number of plant units), a wide range of other combinations would also meet the respective opacity rating. Flexibility is encouraged. By using the interactive bufferyard system in Section

40.23.141 , the designer may create and test a buffer. These standards require a one hundred (100) linear feet of buffer measured at the bufferyard's centerline. Figure 40.23.140 shows the two (2) bufferyard options set forth to achieve a five-tenths (0.50) opacity using Section 40.23.141 . Some limited or conditional uses have requirements (Table 40.03.110) that increase bufferyards; these requirements shall be met by adding the opacities of the district bufferyard and the limited or conditional use. For example, if the district requires a three-tenths (0.3) bufferyard and the specific use requires a two-tenths (0.2) bufferyard, then a five-tenths (0.5) bufferyard shall be selected.

Figure 40.23.140
BUFFERYARD OPTIONS FOR A 0.50 OPACITY

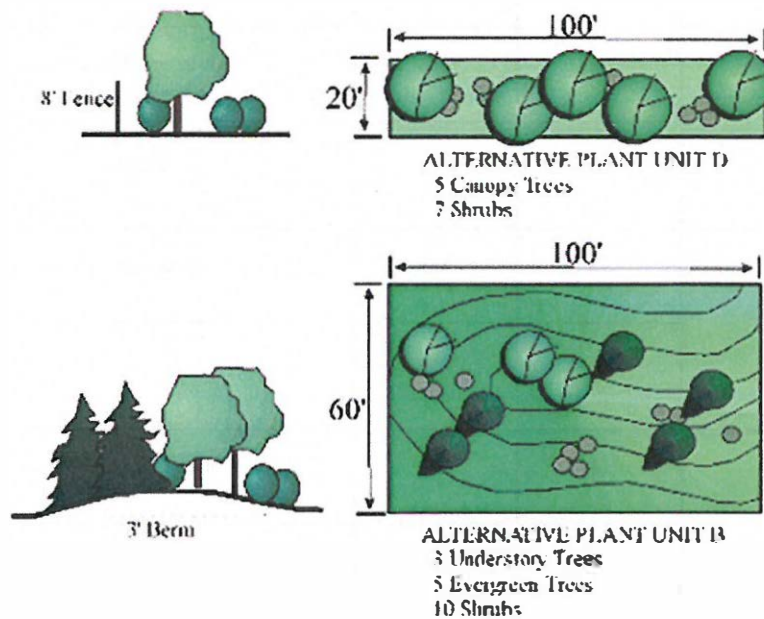


Table 40.23.140 BUFFERYARD REQUIREMENTS PER 100 LINEAR FEET			
Opacity	Bufferyard Width (ft.)	Number of Plant Units	Type of Structure Required
.10	10	0.85	
	20	0.65	
.20	15	1.55	
	25	1.30	

.30	15	1.80	2 ft. berm
	25	2.10	
.40	20	2.45	4 ft. masonry wall
	30	2.70	
.50	20	2.05	8 ft. fence - 100% opaque
	60	1.40	3 ft. berm
.60	25	2.90	8 ft. fence - 100% opaque
	60	2.65	
.70	30	3.75	8 ft. fence - 100% opaque
	50	4.00	
.80	40	4.10	8 ft. fence - 100% opaque
	80	2.90	
.90	50	4.30	8 ft. masonry wall
	100	2.60	
1.00	50	3.90	8 ft. berm
	100	2.55	3 ft. berm
See Section 40.23.141 for developing intermediate buffers.			

SECTION 40.23.141 BUFFERYARDS

- A. The standards in Table 40.23.140 have been tested to ensure they meet the opacity standard. Numerous other mixes can meet the standard. The bufferyards were created using the Bufferyard Model. This model is available within the Computerized Land Development Code. Any bufferyard that meets the required opacity rating within the width limits in Table 40.23.140 is permitted. The Bufferyard Model can also be used. Table 40.23.141 lists the settings that shall be used in running the model. This model determines whether or not the tested bufferyard is adequate. The plant type settings are shown, but are not to be altered. The number of plant units may be revised. The width of the buffer may be increased above the minimum for each opacity given in Table 40.23.140. The height of the structure may be varied only if modifying the parking buffer. Users shall supply the Department with a printout of the model run for a buffer that is proposed which shall be verified by the Department.
- B. Buffers over fifty (50) feet wide must meet the height screening requirement of the model without a berm. Narrower buffers shall be permitted without meeting the model's height screening.

Table 40.23.141 BUFFERYARD MODEL SETTINGS				
Factor		Setting		
Building height		30 ft.		
Viewpoint		140 ft.		
Opacity of row		0.65		
Minimum buffer width		10 ft.		
Plant unit area		1,600 sq. ft.		
Plant unit compaction		0.50		
Plant Type Settings:				
Factor	Canopy	Understory	Conifer	Shrub

Shape	2	3	4	6
Height	26.0	16.0	18.0	3.5
% Opacity	0.85	0.85	1.00	0.80
Standard Plant Unit = a minimum of 507.6 sf. Total Area				
Number	1	2	0	13
Building height shall be reduced to 5 feet to test parking buffers.				

(Amended March 12, 2002 by Ordinance 01-112)

SECTION 40.23.150 STREET RIGHT-OF-WAY

All unpaved areas within street rights-of-way shall be seeded or sodded. Before the release of the twelve (12) month maintenance bond, all unpaved areas between the edge of the road pavement and the right-of-way line shall have:

- A. A minimum depth of four (4) inches of topsoil; and,
- B. A growth of an acceptable healthy grass turf; and,
- C. Trees growing in vigorous, healthy condition and as required in Section 40.23.151.

(Amended January 18, 2011 by Ordinance 10-113)

SECTION 40.23.151 STREET TREES

- A. In new subdivisions, or when the development of property occurs, the Department shall review for approval proposed landscaping plans, and shall require street trees to be planted in any of the parkways and other public places abutting lands henceforth developed and/or subdivided as required in Article 31.
- B. When proposed by an applicant, street trees shall be planted on each side of the right-of-way at the minimum rate of one (1) tree per forty (40) feet of right-of-way. Where lot frontages are less than forty (40) feet wide along the right-of-way, trees shall be planted at the minimum rate of one (1) tree per lot, and on corner lots, a minimum of two (2) trees per lot. Except that on interior streets in nonresidential subdivisions not designated as arterials or collectors, trees shall be planted on each side of the right-of-way at the minimum rate of one (1) tree per fifty (50) feet of right-of-way.
- C. When street trees are proposed by an applicant, center boulevards shall have a minimum width of sixteen (16) feet and shall have one (1) additional tree planted every forty (40) feet in the landscaped island. Boulevards having a width greater than twenty (20) feet shall plant one and a half (1.5) trees every forty (40) feet.
- D. No one (1) right-of-way tree species may make up more than twenty (20) percent of the planting stock of the entire development.

- E. **Tree quality and size.** All trees planted within rights-of-way shall be balled and burlapped, single-stemmed trunks, branched no lower than six (6) feet above ground, and no less than two and one-half (2 D ...) inches in diameter as measured six (6) inches above the established ground level. All plants and planting methods shall be in accordance with the Standard for Nursery Stock (ANSI Z60.1-1996).
- F. **Minimum spacing.** No trees may be planted closer together than thirty (30) feet except that special plantings may be clustered as determined appropriate by the Department.

(Amended September 22, 1998 by Ordinance 98-080; amended October 22, 2002 by Ordinance 02-075)

DIVISION 40.23.200 LANDSCAPING INSTALLATION REQUIREMENTS

To ensure plant materials are installed and properly maintained, a landscape plan will be required of all developments. This plan shall show the location of all required plant materials. A plant list shall accompany the plan, indicating species, size, and number provided. Appendix 3 to this Chapter provides a list of unacceptable and suggested plant species. The source of all plant material for the site shall be from the same hardiness zone as defined by the United States Department of Agriculture.

(Amended September 22, 1998 by Ordinance 98-080; amended January 18, 2011 by Ordinance 10-113)

SECTION 40.23.210 RESERVED

(Amended May 8, 2007 by Ord. 07-012)

SECTION 40.23.220 RESERVED

(Amended July 8, 2003 by Ordinance 03-045; amended May 8, 2007 by Ord. 07-012)

SECTION 40.23.230 PLANTING LOCATIONS

The exact placement of required plants and structures shall be the decision of each user, except for the following requirements that shall be met:

- A. Trees and shrubs shall be planted clear of the road-salt spray area, or the planting area shall consist of more highly salt tolerant plants.
- B. Evergreens and evergreen shrubs shall be planted with a fifteen (15) foot spacing to maximize their chance for survival.
- C. **Location.** No street or canopy trees shall be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line, or other utility. The distance from the curb and sidewalk shall be determined by the Department based upon specific planting conditions and species of trees.

(Amended July 13, 2004 by Ordinance 04-059)

SECTION 40.23.240 REFORESTATION REQUIREMENTS

All forest mitigation areas or open spaces to be reforested shall be planted according to the plant species listed in Table 40.23.240. The area around each tree shall be mulched. The entire area may be mulched or seeded in a perennial grass mix with a minimum thirty (30) percent indigenous herbaceous forest, or grassland species. Canopy trees shall be selected to provide a diversity of native plants. Plantings shall include a minimum of four (4) species. Where more than one hundred (100) canopy trees are required, a minimum of six (6) species shall be provided; no one species shall have less than five (5) or more than thirty (30) percent of the total trees. Appendix 3 to this Chapter provides a list of unacceptable and suggested plant species.

**Table 40.23.240
REFORESTATION REQUIREMENTS PER ACRE**

No. of Plants	Types of Plants
1	4" caliper canopy
4	3" caliper canopy
10	1-1/2" caliper canopy
6	1-1/2" caliper or 5-6 ft. understory trees
50	6' whip canopy
30	bare root shrubs or 1 gallon pots

(Amended January 18, 2011 by Ordinance 10-113)

SECTION 40.23.250 EXISTING VEGETATION

Where natural vegetation will be preserved on-lot or within open space, scenic easements, bufferyards, or parking lots, that plant material shall be credited towards that specific landscaping requirement in accordance with Table 40.23.250. Note: Preserved vegetation shall count for only one (1) landscaping requirement. For example, a sixteen (16) inch tree to be preserved along a property line may count for three (3) open space trees or three (3) bufferyard trees. Also, preserved tree types (canopy, understory, or evergreen) shall only be credited for same tree type requirement, except in forests where preservation of forest areas of at least fifty (50) feet in width shall count where all trees in the preserved forest are protected as required in Subsection B.

**Table 40.23.250
PRESERVED TREES CREDITED
TOWARDS REQUIREMENTS**

Preserved Tree Size (DBH)	Number of Trees For	
	Open Space or Bufferyards	Parking Lots or Lots
24 inches +	4	2.5

16-24 inches	3	2
8-15.9 inches	2	1.75
3-7.9 inches	1	1

Also, the following requirements must be met:

- A. A tree survey is conducted locating the individual trees to be preserved or, in the case of a forest, trees within fifty (50) feet of the edge of construction areas.
- B. Individual trees described in the tree survey as healthy and intended to count toward the landscaping requirements shall count only if sufficient protection is provided as follows:
 1. Trees greater than twenty-four (24) inches DBH: No area within five (5) feet of the drip line shall be disturbed. No topographic change greater than eighteen (18) inches shall occur at the edge of the protected area. A tree expert shall indicate the probability that the tree will survive and may require trimming prior to the construction. Only those trees with a high probability of survival will be credited.
 2. Trees between sixteen (16) inches and less than twenty-four (24) inches DBH: No area under the drip line is to be disturbed.
 3. Trees between eight (8) and less than sixteen (16) inches DBH: No area within the drip line is to be disturbed.
 4. Trees between three (3) and less than eight (8) inches DBH: No more than thirty (30) percent of the area within the drip line shall be disturbed.
- C. Trees sixteen (16) inches or greater DBH whose natural drainage is cut off by recontouring or exposed to heavier drainage shall not be credited toward a landscaping requirement unless a management plan approved by a qualified forester is established to protect the tree.
- D. Areas classified as mature or young forest shall count as meeting the following landscaping requirement provided:
 1. **Open space.** The forested area is at least one-half (0.5) acre, seventy-five (75) feet wide, and will be left undisturbed. Where the area is less than one-half (0.5) acre or less than seventy-five (75) feet wide and is to remain undisturbed, a tree survey is required and the trees to be credited will be calculated individually as in Table 40.23.250.
 2. **Bufferyards.**
 - a. Where the forested area is two (2) times the width of the bufferyard or seventy-five (75) feet wide, whichever is greater, and to remain undisturbed, the bufferyard requirement shall be considered met. No tree survey is required.
 - b. Where the forested area width equals or exceeds the minimum bufferyard width of the required opacity that does not include a fence, hedge, or berm (Table 40.23.140), all trees with less than ten (10) percent of their canopy undisturbed shall be credited in accordance with Table 40.23.250.

3. **Lots.** The developer shall place a conservation easement on the lot in accordance with Section 40.20.242.

- E. Existing trees used to fill any landscape requirements shall meet the requirements of Section 40.23.280 .

(Amended January 18, 2011 by Ordinance 10-113)

SECTION 40.23.260 DIVERSITY REQUIREMENTS

Diversity among required plant material shall be required not only for visual interest, but also to reduce the risk of losing large populations of plants due to disease. No one (1) species shall make up more than twenty (20) percent of the planting stock of the entire development.

SECTION 40.23.270 TREE QUALITY

All trees planted within rights-of-way shall be balled and burlapped, single-stemmed trunks, branched no lower than six (6) feet above ground and grown in nurseries from the same hardiness zone as the site as defined by the United States Department of Agriculture. All plants, plant sizes and planting methods shall be in accordance with the Standard for Nursery Stock (ANSI Z60.1-1996). All plants used to fulfill the landscape requirements shall come from the permitted plant list in Section 40.23.280 .

(Amended September 22, 1998 by Ordinance 98-080; amended October 22, 2002 by Ordinance 02-075)

SECTION 40.23.280 PLANT MATERIAL SPECIES

Appendix 3 to this chapter contains four (4) plant lists as a guide for plant selection. Part 1: Invasive Exotics are not to be planted under any circumstances. Part 2: Street Trees and Part 3: Riparian Buffer Areas are recommended for use in these circumstances. Part 4 is a list of Native Species of Special Interests. These lists are not intended to be comprehensive, nor does the use of these plants guarantee Department approval or availability.

(Amended January 18, 2011 by Ordinance 10-113)

DIVISION 40.23.300 TREE PROTECTION

Specimen trees shall be located on the site plan or land development plan. The development design shall preserve specimen trees wherever practical. The County may require plan revision where additional preservation is possible without affecting density. Where preservation is not feasible, tree replacement shall be required as mitigation. Any mitigation shall be in addition to the other landscaping requirements of this Code.

SECTION 40.23.310 PRESERVING SPECIMEN TREES

A specimen tree is preserved by protecting one hundred (100) percent of the area under the tree's drip line. The following techniques shall be used to preserve the maximum number of specimen trees:

- A. The tree's drip line shall be fenced with three (3) foot orange snow fencing, and no earth moving shall be permitted inside the fenced area.
- B. Development design shall attempt to protect specimen trees by locating them in side yard or other setbacks.
- C. Horizontal road alignments may be reduced. Pavement center lines may meander in rights-of-way.
- D. Building pads altering the building envelope may be required.

- E. Multi-story buildings may be required to reduce building footprints. Where the site contains steep slopes, the Department may require parking under the building.

SECTION 40.23.320 TREE REPLACEMENT

Where specimen trees are removed, they shall be replaced in accordance with Table 40.23.320. The replacement trees shall be planted on the same parcel as the tree being removed. However, the Department may allow some or all of the replacement trees to be planted on an adjacent or nearby parcel with the establishment of a conservation easement and provisions to ensure the maintenance of the trees.

Table 40.23.320 SPECIMEN TREE REPLACEMENT		
Size of Specimen Tree (DBH in inches)	Number of Replacement Trees	Size and Type
24.01 to 31.99	7	2 1/2" canopy trees
32.00 to 42.00	9	3" canopy trees
42.00 or greater	12	6 - 4" and 6 - 3" canopy trees

(Amended March 12, 2002 by Ordinance 01-112; amended September 26, 2006 by Ordinance 06-060)

DIVISION 40.23.400 SEDIMENT AND EROSION CONTROL

All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook.

DIVISION 40.23.500 RESERVED

(Amended March 12, 2002 by Ordinance 01-112)

SECTION 40.23.510 (Empty)
