

Zoning Ordinance of the Town of Ellendale

Prepared for
THE TOWN OF ELLENDALE ZONING COMMISSION
AND
THE TOWN OF ELLENDALE TOWN COUNCIL
THE TOWN OF ELLENDALE, SUSSEX COUNTY, DELAWARE

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ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 1 TITLE, PURPOSE, AUTHORITY

Section 1.0 -- Short Title.

This Ordinance shall be known and may be cited as the "Zoning Ordinance of The Town of Ellendale, Sussex County, State of Delaware."

Section 1.1 -- Authority.

The zoning regulations and districts in this Ordinance have been made in accordance with a Comprehensive Plan certified by the State of Delaware.

All regulations, codes, provisions, and requirements provided for within this Ordinance shall trump and supersede any regulation, codes, provisions, and requirements within the Sussex County Code pursuant to Sussex County Code, Part II, Article I, §115-2.

The grant of authority and powers conferred upon The Town of Ellendale in the creation and implementation of this Ordinance is set forth in Title 22 of the Delaware Code Section 301 et seq. and in Section 33(C) of the Ellendale Town Charter. Pursuant to the authority and power granted, the Town Council of The Town of Ellendale, Sussex County, State of Delaware, hereby ordains, enacts and publishes as follows:

Section 1.2 -- Long Title.

An Ordinance establishing a comprehensive zoning plan for The Town of Ellendale that divides the territory of the Town into zoning use and overlay districts, prescribes regulations and standards for principal, accessory and special permitted uses, the density of development and the design of buildings, other structures and land.

Section 1.3 -- Purpose.

The purpose of this Zoning Ordinance is to protect the character and preserve the beauty and heritage of Ellendale. It does so by regulating matters of public health, welfare, safety and security, good governance, access, design, mix of uses, scale, architecture and historical authenticity. The Ordinance has been made in accordance with Ellendale of the Forest: The 2004 Greater Ellendale Comprehensive Plan, adopted by ordinance of the Town Council on December 7, 2004 and certified by the state of Delaware on January 3, 2005. The vision for Ellendale stated by the Comprehensive Plan is that:

Ellendale is a small jewel within Delaware, which Thomas Jefferson described as "a jewel among the States". It has the "inherent value" which the Milford poet John Lofland wrote of when he said that "Delaware is like a diamond, diminutive, but having within it inherent value". Within its unique natural and historic Sussex County setting, Ellendale is a Town of the Forest and a Bridge Between Two Bays, and a green and rural gateway community at a major highway crossing. Located in the Ellendale and Redden Forests, the Town is centered on a historic railroad junction and village. It is also a land bridge that lies across the Peninsular Divide that both divides and connects the Nanticoke River and Chesapeake Bay and Delaware Bay Estuary Watersheds. The Greater Ellendale Community includes vital community institutions and places within the Town and along Old State Road, at New Hope and New Market and along surrounding country roads. It encompasses countryside of great beauty and heritage, including the state forests, the famous Ellendale Swamp and Sussex County farmlands.

The Zoning Ordinance promotes a healthy community economy, public health, safety, general welfare, conservation of natural resources, creation of green space, the stability of property values and administration of a sound annexation policy. It prescribes desirable uses for which the land in each zoning district may be adapted, as well as uses to be subject to special regulations. The height, bulk and location of buildings and other structures, the areas of yards, courts, setbacks and other open spaces, the density of population and intensity of use of buildings and land and the use of structures and land for a diversity of residential choices, the revitalization of the town center, commercial/business areas, and institutional and other purposes, are hereby regulated as provided herein.

In accordance with its Comprehensive Plan and Subdivision and Land Development Regulations, the Town of Ellendale will encourage clustering within master-planned subdivision areas, the use of neotraditional and new urbanist design principles and Large Parcel Planned Developments where site and neighborhood conditions are suitable.

The Town of Ellendale Zoning Ordinance has been designed to preserve open space; lessen congestion in the streets; protect water courses, help preserve nearby agricultural lands; secure safety and security from fire, flood and other dangers; provide adequate light, air, and convenience of access; and facilitate the adequate provision of transportation, water, sewage, schools, parks, recreational facilities and other services. It has been made with regard for the character of each district and the suitability of each for particular uses.

Minimum and uniform regulations that shall apply in all districts include the following:

1. Use regulations establishing the principal, accessory and specially permitted uses allowed within each zoning use district.
2. Maximum area, density, and bulk regulations, minimum lot size and yard requirements, minimum lot coverage and maximum structural height, building setback and flood level requirements.
3. Creation of a Town of Ellendale Planning and Zoning Commission with powers conferred by 22 Delaware Code Section 306.
4. Creation of a Town of Ellendale Board of Adjustment with powers conferred by 22 Delaware Code Section 321, et. seq.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 2. INTERPRETATION

Section 2.0 -- Interpretation, Severability, Applicability and Conflict.

2.0.1 The following rules of construction apply to the language of this Ordinance:

1. Words used in the present tense include the future tense.
2. Words used in the singular include the plural, and words used in the plural include the singular.
3. Words used in the masculine and neutral shall also include the feminine.
4. The word "lot" includes the word "parcel", "plot", "tract" or "parcel". The word "person" includes an individual, firm or corporation.
5. The word "shall" is always mandatory; the word "may" is always permissive.
6. The words "used" or "occupied" as applied to any land or building shall be interpreted to include planned, intended, arranged or designed to be used, developed or occupied. A "building" or "structure" includes any part thereof.
7. The phrases, "to erect", "to construct", and "to build" each have the same meaning and include excavation for a building or relocation of a building by moving it from one location to another.
8. The word "adjacent" has the same meaning and includes "abutting", "contiguous" "touching" and "adjoining."

2.0.2 If any section, paragraph, subdivision, or provision of this Ordinance shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision, or provision judged invalid, and the rest of this Ordinance shall remain valid and effective.

2.0.3 Wherever possible this Ordinance shall be interpreted in such a way that the meaning of the words, phrases and sections herein shall make them valid and legal in their effect.

2.0.4 This Ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement. Such private agreements shall not allow what the Ordinance prohibits.

2.0.5 Whenever the requirements of this Ordinance are at variance with the requirements of other fully adopted rules, regulations or Ordinances, the Ordinance with the most restrictive provisions or that imposes the higher standard shall govern.

2.0.6 If any sections, paragraphs, subdivisions, or provisions within this Ordinance conflict the stricter provision or interpretation amongst the conflicting clauses shall apply.

2.0.7 The property owner shall be responsible for ensuring that their property is in compliance with the provisions of this Ordinance at all times. All occupants and those leasing or renting property within the Town of Ellendale are also subject to ensuring the property within their control is compliant with this Ordinance.

2.0.8 Pre-existing Building Permits and Lots

A. Building Permits

1. Construction may be commenced and/or completed in accordance with any validly issued and unexpired building permit issued prior to the effective date of this ordinance.
2. Construction is begun when excavation and the piers or footings of at least 1 or more buildings covered by the permit have been completed.

B. Lots

1. Any lot, which was legally recorded prior to the effective date of this Ordinance, shall be considered a legal lot even if it does not meet the minimum lot size or in this ordinance.
2. This provision applies to all zones.

Section 2.1 -- Definitions.

The following words or phrases as used in this Ordinance are defined as follows:

ABANDONMENT - To cease or discontinue a use or activity for at least one year.

ACCESSIBLE ELECTRIC VEHICLE CHARGING STATION - an electric vehicle charging station where the battery-charging station is located within accessible reach of a barrier-free access aisle and electric vehicle.

ADEQUATE PUBLIC FACILITIES - Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Town Council Used upon specific levels of service.

ADJUSTED TRACT AREA - The total area of a site minus sub-areas occupied by wetlands, floodplains and significant slopes of 15% or more.

ADULT CARE FACILITY - An Adult Care Facility shall mean a family-type home for adults, a shelter for adults, a residence for adults or an adult home that provides temporary or long-term residential care and services to adults.

ADULT USES - Any facility or use that exhibits or offers materials of an explicit sexual nature or content for sale or adult use. No such facility may be located within 1,500 feet of any residence, school, public building, park or another adult use facility. Any such facility shall be screened from public view. An applicant must prove that the proposed use will not be injurious to the community.

AGGREGATE AREA OR WIDTH - The sum of two (2) or more designated areas or widths to be measured, limited, or determined under the provisions of this Ordinance.

ALLEY - A public or private right-of-way primarily designed to serve as a secondary means access to the side or rear of properties whose principal frontage is on some other street.

ALTERATION - A change or rearrangement of the structural parts of existing facilities of a building or structure, or any enlargement thereof, whether by extension on any side, front or rear or by any increase in height, or by moving of such building or structure from one location to another. Alteration also means any appreciable change in the external architectural features of any structure or building that is visible from adjoining property.

AMUSEMENT-CENTER - A continuous commercial use in which two (2) or more mechanical, electrical or electronic machines or devices are used or designed to be operated for entertainment or as a game for a fee.

ANNEXATION - The incorporation of a land area into the municipality with a resulting change in the boundaries of the municipality.

ANTENNA - Any exterior transmitting or receiving device mounted on a tower, building or structure and used for communications that radiate or capture electromagnetic waves, digital or analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other electronic communication.

ANTENNA, MINOR - Any antenna that is not attached to a tower and which does not extend more than forty (40) feet above the ground and which may be approved by the Code Enforcement

Officer as an accessory structure to any single family home or commercial, industrial or multi-family structure.

APARTMENT - See DWELLING UNIT

APPLICANT - A property owner or developer, as hereinafter defined, who has filed application for development, including his or her heirs, successors and assigns.

AREA, BUILDING - The total area, measured on a horizontal plane at the grade level of a principal building and all accessory buildings, exclusive of outdoor terraces and uncovered steps. All dimensions shall be measured between the exterior faces of walls.

AREA, LOT - The total area of a lot within the lot boundary lines, not including any area that is part of a public street right-of-way.

ATTIC - That space within a building that is located between the top surface of the uppermost floor and below the roof framing and that is not finished or used as habitable space (See also STORY, HALF).

AUTOMOTIVE SALES BUILDING - A building used for the sale of, hire of, or remuneration from automotive equipment. This shall be interpreted to include new and used car dealerships and auto accessory sales rooms but not the sale of junked automotive equipment.

BAR - A business establishment licensed by the State of Delaware to serve alcoholic beverages that is designed primarily for the consumption of such beverages on the premises, irrespective of whether or not food and/or entertainment are also provided.

BASE FLOOD ELEVATION AND BASE FLOOD - Base flood elevation is that height, or elevation, in relation to mean sea level, which is expected to be reached by the waters of the base flood at pertinent points in the flood plains of coastal and waterfront areas. The base flood, in accordance with the regulations established by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program (NFIP), is a flood having a 1% chance of being equaled or exceeded in any given year. The term base flood has the same meaning as the 100-year flood under the regulations of the NFIP.

BASEMENT - That space within a building that is partly below finished grade, but has more than one-half of its height, as measured from floor to ceiling, above average finished grade (See also CELLAR).

BATTERY CHARGING STATION - an electrical component assemblies or cluster of component assemblies designed specifically to charge batteries within electric vehicles.

BATTERY ELECTRIC VEHICLE - any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's battery and produces zero emissions or pollution when stationary or operating.

BED AND BREAKFAST - A single-family, owner-occupied dwelling unit that is used for lodging for up to six (6) transient guests at any one time, none of whom remain for more than five (5) consecutive nights, and that provide no food or beverage service for guests other than breakfast provided in areas of the dwelling generally utilized by the resident family for the taking of meals.

BILLBOARD - A large outdoor sign that which communicates a commercial or non-commercial message related to an activity conducted, a service rendered or a commodity sold at a location other than the location of the sign. Billboards are not permitted within the Town of Ellendale.

BIOTECH CAMPUS - An area consisting of at least 10 acres under one ownership and:

- 1) Developed in such a way that there is a common theme of construction in bulk, area, height and the facade of multiple buildings;
- 2) With substantial landscaping throughout the entire site;
- 3) With natural, landscaped buffers using native vegetative species and surrounding the site;
- 4) Within the site, buildings are used predominately by the biotech industry in a multipurposed and interdisciplinary association with college or university level research, or research by an agricultural or related agricultural industry or research carried out jointly by an institution of higher education and an agri-chemical or related industry that is engaged in biotech research.

BIOTECH INDUSTRY - The research, development and manufacture of products by using biotechnology primarily for agricultural application. For the purposes of this document, "biotechnology" is defined as the scientific manipulation of living organisms especially at the molecular genetic level to produce useful products. Examples of this include, but are not limited to, herbicide-tolerant soybeans and insect and herbicide-resistant cotton. Gene splicing and the use of recombinant DNA (rDNA) are major techniques used. Applications also include the production of certain drugs, synthetic hormones and bulk foodstuffs as well as the bioconversion of organic waste and use of genetically altered bacteria in the cleanup of oil spills.

BOARD OF ADJUSTMENT - A Board appointed by the Town Council under the authority of Title 22, Section 321 of the Delaware Code. Its duties and responsibilities include hearing and deciding upon requests for interpretations, exceptions and variances from the Zoning and Subdivision Regulation Ordinances.

BOARDING HOUSE - Same as "Bed and Breakfast."

BREW PUB/DISTILLING PUB - An establishment in which beer or liquor is manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the pub applicant; and where alcohol is manufactured in the establishment, and is sold for on-premises consumption, in conjunction with the service of complete meals.

BUFFER YARDS - An area of land forming a visual and open physical separation between two uses. In the case of a visual barrier the land shall be covered with natural plantings or man-made material to provide a physical screen limiting views and reducing noise.

BUFFER, RIPARIAN - A natural area reserved along a waterway or wetland to preserve banks, reduce sedimentation, filter nutrients, protect wildlife habitat, preserve existing natural corridors, and protect cultural, archeological or natural resources. Riparian Buffers should consist of native, non-invasive natural vegetation.

BUILDABLE AREA - The area of the part of a lot not included within the yards or open spaces herein required and that may be built upon in accordance with this Ordinance.

BUILDABLE WIDTH - The width of that part of a lot not included within the open spaces herein required and that may be built upon in accordance with this Ordinance.

BUILDING - Any structure that is wholly or partially enclosed within exterior walls, is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING GROUP - A group of two or more principal buildings and any buildings accessory thereto, occupying a lot in one ownership and having a yard in common.

BUILDING HEIGHT - The vertical distance measured from the average elevation of proposed or existing finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs or to the mean height between eaves and ridge for gable, hip or gambrel roofs. Chimneys, spires, towers, elevators, penthouses, tanks and other similar projections shall not be included in calculating the "height".

BUILDING LINE - The line established by statute, local law or ordinance beyond which the exterior surface of a building shall not extend. In the instance of a cantilevered section of a building or projected roof or porch, said line shall coincide with the farthest point of projection.

BUILDING, ACCESSORY - See **ACCESSORY STRUCTURE**.

BUILDING, DETACHED - A building not attached to another building and surrounded by open space on the same lot.

BUILDING, PRINCIPAL - A building in which is located the main or principal use of the lot on which it is located.

BUILDING, SEMI-DETACHED - A building that is attached to another building by a common, or party wall, normally of the same type on another lot, but having one side yard.

BULK - A term to describe the size, volume, area, height and shape of buildings and structures, and the physical relationship of their exterior walls to lot lines, other buildings and structures, or other walls of the same building; and all open spaces required in connection with a building, other structure, or tract of land.

CANOPY - A detachable, roof-like cover, supported from the ground, deck, floor, or walls or a building, not including carports, for protection from sun or weather.

CAPITAL IMPROVEMENTS PROGRAM - A timetable or schedule of future capital improvements to be carried out during a specific period, usually 6 years, listed in order of priority, together with cost estimates and anticipated sources of funding. Capital Improvements include acquisition of real property, major construction projects or the acquisition of equipment expected to last for several years.

CAR WASH - A building, premises or portions thereof where automobiles and other vehicles are washed either by the patron or others, either by hand or by using machinery and mechanical devices designed for this purpose.

CELLAR - That space within a building the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building (See also **BASEMENT**).

CERTIFICATE OF OCCUPANCY - A certificate issued by the Code Enforcement Officer upon completion of construction, alteration or change in the occupancy or use of a building that

acknowledges compliance with all the requirements of this Ordinance and any adjustments granted by the Board of Adjustment.

CHARGING LEVELS - the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2 and 3 are the most common charging levels, and include the following specifications:

(1) Level 1 is considered slow charging. Voltage includes the range from zero (0) through one hundred twenty (120) volts AC.

(2) Level 2 is considered medium charging. Voltage is greater than one hundred twenty (120) and includes voltage up to and including two hundred forty (240) volts AC.

(3) Level 3 is considered fast or rapid charging. Voltage is greater than two hundred forty (240) volts DC.

CHILD CARE FACILITY - Any building or structure operated for the purpose of providing daytime care and instruction for two or more children on a regular schedule and also known as a Day Care Center. (See also DAY CARE)

CHURCH OR PLACE OF WORSHIP - A building or premises used for regular public worship by members or representatives of a religious group or organization as defined by State statute.

CLINIC - A building, or portion thereof, designed for and used by two (2) or more licensed medical practitioners and not including overnight lodging.

CLUB, MEMBERSHIP - An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided they are not conducted as vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

CLUSTERING IN NEW SUBDIVISION AND LAND DEVELOPMENT PROJECTS - Clustering gathers together buildings on the portions of a site most appropriate for building. It leaves other portions of the site open and clear of buildings. The open space should occur where there are natural features that should be protected or enhanced. In clustering, the Planning and Zoning Commission is authorized to encourage the modification of the density requirements of the Zoning Ordinance. The gross density, based on the total area of the site, must conform to the standard set by the Zoning Ordinance, based on minimum lot size. However, after clustering, one portion of the site will have a higher density and others a lower density or no density at all. Approval for clustering occurs at the time Subdivision Approval.

CODE ENFORCEMENT OFFICER - The Town official in charge of enforcement of the Zoning Ordinance, Subdivision and Land development regulations and related codes. The Code Enforcement Officer is the person appointed for this purpose by the Town Council or their designee.

COMPREHENSIVE PLAN - A document prepared and adopted by the Town of Ellendale, and certified by the State of Delaware, according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92 of the Delaware Code. A Comprehensive Plan contains a community vision, goals and objectives, policies and action projects for the physical growth, revitalization, conservation, preservation and development of the community. It contains text, data analysis and graphics. It defines a municipal development strategy setting forth the jurisdiction's

position on population and housing growth within the municipality, expansion of its boundaries, development in adjacent areas, redevelopment potential, community character, historic preservation, town center revitalization, conservation of natural resources, transportation, the general uses of land within the community and critical community development and infrastructure issues. The comprehensive planning process shall demonstrate coordination with adjacent municipalities and with Sussex County and the State of Delaware. The Plan is subject to the State review and certification process set forth in §9103 of Title 29, Delaware Code. All annexations by the municipality must be consistent with its most recently adopted Comprehensive Plan meeting the requirements of Title 22, Chapter 7, Delaware Code. An area being considered for annexation must be depicted as an area for potential annexation on the adopted plan. The Comprehensive Plan must be reviewed and updated every five (5) years. Comprehensive Plans are prepared and updated by the Planning and Zoning Commission, adopted by Ordinance of the Town Council and certified by the State of Delaware. The COMPREHENSIVE PLAN guides the ZONING ORDINANCE, SUBDIVISION AND LAND DEVELOPMENT REGULATIONS and CAPITAL IMPROVEMENTS PROGRAM of the municipality.

COMMUNITY CENTER - A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

COMMUNITY SHOPPING CENTER - A shopping center or plaza containing between 70,001 and 300,000 square feet in gross floor area.

CONDOMINIUM - A building or group of buildings in which residential, commercial or industrial units are owned individually while common areas, structures and facilities are owned jointly by all the owners on a proportional basis.

CONTIGUOUS - Next to, bordering on, adjoining, abutting or touching on and having a significant length of common boundary which is shared.

CONTRACTOR'S YARD - Any space, either inside or outside of a building, that is used for the storage of equipment, machinery, vehicles or parts thereof, which are in active use by a contractor.

CONVALESCENT HOME - See NURSING HOME.

CONVENIENCE/MINI-MARKET - A commercial retail use which combines the sale of beverages, dairy and baked goods, snack foods, prepackaged grocery items and daily household items that may include the sale of motor vehicle fuel and accessory items for motor vehicles.

COURT, DEPTH OF - The average dimension from the open side of the court to the opposite wall.

COURT, WIDTH OF - The average dimension between the opposite sides of the court.

COVERAGE - The lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

DAY CARE CENTER - An establishment providing for the care, supervision and protection of children or adults away from their homes. Service is provided on a regular basis for periods of less

than twenty-four (24) hours per day, unattended by parent or guardian and for compensation.

DAY CARE, HOME - A home occupation providing care, protection, supervision and guidance in private homes for one to six children, excluding care provided by relatives. Service is provided on a regular basis for periods of less than twenty-four (24) hours per day, unattended by parent or guardian and for compensation.

DELICATESSEN - An establishment where the primary function is the preparation and serving of food to patrons primarily for consumption off the premises.

DENSITY, GROSS, RESIDENTIAL - The number of dwelling units per acre in a proposed development, computed by dividing the total number of dwelling units by the total acreage.

DENSITY, GROSS, NON-RESIDENTIAL - The amount of non-residential floor area per acre in a proposed development, computed by dividing the total amount of non-residential square footage by the total acreage of the site.

DENSITY, NET, RESIDENTIAL - The number of dwelling units per acre within a defined and measurable sub area of a site, excluding roads, open spaces and non-residential uses.

DEVELOPER - Any landowner or agent who makes or causes to be made an application for approval of a site development plan.

DEVELOPMENT - The improvement of one (1) or more parcels of land; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill or land disturbance; or any use or extension of the use of land for residential, commercial, industrial or other purposes, including the opening, widening or extension of any street or streets and the division or allocation of land as open space or for easements for the extension and maintenance of public sewer, water supply, storm drainage or other public facilities.

DISTILLERY, CRAFT - A single establishment in which spirits are manufactured, and is operated by the licensee in accordance with state law.

DISTRIBUTION - A function involved in the division, dispensation, or relocation of materials, goods, or products.

DISTRICT OR ZONING USE DISTRICT - That portion of the Town within which the uniform regulations established by this Ordinance govern permitted principal, accessory and special uses; the placement, spacing and size of buildings, open spaces and sites, the preservation of historic buildings or the conservation of natural resources. This Ordinance establishes six (6) Districts or Zones - R-1, R-B, R-S, C, HP-OD and LPD-OD. See also the definitions of USE and OVERLAY DISTRICTS AND FLOATING ZONE.

DISTRICT, OVERLAY - An Overlay District applies special additional requirements to supplement those of the underlying Use district. This Ordinance contains two (2) Overlay Districts - a HP-OD - Historic Preservation Overlay District and a LPD-OD - Large Parcel

Development Overlay District. See also the definitions of FLOATING ZONE and USE DISTRICT.

DISTRICT, USE - A Base, or Underlying, Use District is the use district which underlies an

Overlay District. For example, the Use District may be R-1 and the Overlay District may be the Large Parcel Development Overlay District. This Zoning Ordinance contains four (4) Use Districts - R-1, R-B, R-S and C - and two (2) Overlay Districts - HP-OD and LP-OD. See also the definitions of FLOATING ZONE and OVERLAY DISTRICT. USE DISTRICT means the same thing as ZONING USE DISTRICT.

DRIVEWAY - A private road that connects a house, garage, or other building to a street.

DRIVE-IN USE - Any commercial or business activity which incorporates as a principal or accessory feature a service window, booth or other like arrangement on the exterior of the building or structure designed primarily for drive-through or carry-out service.

DUPLEX - The same as DWELLING, TWO-FAMILY.

DWELLING UNIT - A building or unit within a building designed or used principally as the living quarters for one or more families in one or more dwelling units.

DWELLING GROUP - See CLUSTER HOUSING.

DWELLING, ACCESSORY - A dwelling unit permitted in a secondary structure upon the same lot or site occupied by a principal dwelling unit.

DWELLING, DETACHED, SINGLE-FAMILY - A building containing one dwelling unit and having two side yards. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, MULTIPLE-FAMILY - A building containing three or more dwelling units with shared or individual entrances and/or other essential facilities and services. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, SEMI-DETACHED SINGLE-FAMILY - A building containing one dwelling unit and having one party wall and one side yard. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

DWELLING, TWO-FAMILY - A building containing two dwelling units. This term shall not be deemed to include motel, hotel, rooming house or other accommodations used for more or less transient occupancy.

EASEMENT - Authorization by a property owner for another to use the owner's property for a specified purpose.

ELECTRIC VEHICLE - any vehicle that is licensed and registered for operation on public and private highways, roads, and streets, and is powered either partially or exclusively on electrical energy from the grid or from an off-board source that is stored on-board via a battery for motive purpose. "Electric vehicle" includes: (1) a battery electric vehicle; and (2) a plug-in hybrid electric vehicle.

ELECTRIC VEHICLE CHARGING STATION - a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

ELECTRIC VEHICLE CHARGING STATION—PRIVATE RESTRICTED USE - an electric vehicle charging station that is (1) privately owned with restrictive access (e.g., single-family home, executive parking, designated employee parking) or (2) publicly owned and restricted from public access (e.g., fleet parking with no access to the general public).

ELECTRIC VEHICLE CHARGING STATION—PUBLIC USE - an electric vehicle charging station that is (1) publicly owned and publicly available (e.g., Park and Ride parking, public library parking lot, on-street parking) or (2) privately owned and available to visitors for use (e.g., shopping center parking). The public use shall not restrict the property owner from collecting a service fee for the use of an electric vehicle charging station made available to residents, employees, and visitors to the property.

ELECTRIC VEHICLE INFRASTRUCTURE - wiring conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and rapid charging stations.

ELECTRIC VEHICLE PARKING SPACE - any designated parking space with a barrier-free access aisle that identifies the use to be exclusively for the parking of an electric vehicle.

EMPLOYEES - Whenever the word "employees" or the expression "number of employees" is herein referred to, it shall mean the greatest number of persons to be employed regularly in the building in question during any season of the year, and any time of the day or night.

FACADE - the face or front of a structure or any vertical surface adjacent to a public way.

FAMILY - A single person occupying a dwelling unit and maintaining a household, or two (2) or more persons related by blood, marriage, foster care relationship or adoption occupying a dwelling unit, living together and maintaining a common household, or not more than three (3) unrelated persons occupying a dwelling unit and maintaining a common household.

FENCE - An artificially constructed barrier of wood, masonry, stone, metal or any other permitted manufactured material or combination of materials, erected for the enclosure of yard areas.

FINISHED GRADE - The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade - in computing height of buildings and other structures or for other purposes - shall be the average elevation of all finished grade elevations around the periphery of the building.

FITNESS CENTER - A private health, athletic or recreational club facility that provides fitness services including, but not limited to, gymnasiums (except public), weight-training facilities, aerobic floors, tennis/racquetball courts, swimming pools, and similar athletic facilities, with full-service amenities including but not limited to showers, lockers, baths and saunas.

FLOATING ZONE - A Floating Zone is a zoning district that is described in the text of the Ordinance but is not mapped on the Official Zoning Map when the Ordinance is first adopted. The Floating Zone is only mapped when an application for development meeting the Floating Zone requirements is approved by amendment to the Ordinance. This Ordinance contains one (1) Floating Zone - The LPD-OD - Large Parcel Development Overlay District. See also the definitions of OVERLAY DISTRICT and USE DISTRICT.

FLOODPLAIN - The low lands adjoining the channel of a creek, stream or watercourse, pond,

lake or other body of standing water, which have been or may be inundated by floodwater. The channel of a stream or watercourse is a part of the flood plain in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA).

FLOODWAY - The channel of a creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, in accordance with the National Flood Insurance Program (NFIP) as administered by the Federal Emergency Management Agency (FEMA). Also referred to as Regulatory Floodway.

FLOOR AREA - The sum of gross horizontal areas of the several floors of the building or buildings or a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two (2) buildings, excluding cellar and basement areas used only for storage or for the operation and maintenance of the building.

FRATERNAL ORGANIZATION - A group of people associated or formally organized for a common purpose or interest; facilities for such group or organization shall not include dwellings, apartments, or other residential uses on the premises.

FRONTAGE - That side of a lot abutting on a street; the front lot line.

FRONTAGE, LOT - The distance for which the front boundary line of the lot and the street line are coincident.

FUNERAL HOME - A building or part thereof used for human funeral services, including chapels, embalming, autopsies, storage of caskets, funeral urns and other related funeral supplies, and the storage of funeral vehicles, but does not include facilities for cremation.

GARAGE, PRIVATE - A garage used for the storage of not more than four (4) automobiles. Space therein may be used for not more than one (1) commercial vehicle of not more than one (1) ton capacity.

GARAGE, SERVICE/REPAIR - A building or premises used for the repair of motor vehicles, including painting, detailing, cleaning and the sale of related parts and accessories. A junkyard or auto salvage yard is not to be construed to mean or be the same as a garage.

GASOLINE FILLING STATION - Building, land, or premises used for the retail dispensing or sales of vehicular fuels; servicing and repair of motor vehicles; may include, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

GOODS - A finished product.

GRADE - Grade elevation shall be determined by averaging the elevations of the finished ground at all corners and/or other principal points in the perimeter wall of the building; except that grade elevation for any building that is required to be elevated shall be measured from the minimum elevation required for the site by the Flood Zone.

GREENHOUSE - A structure, constructed primarily of glass or similar materials, in which temperature and humidity are controlled for the cultivation or protection of plants.

GROSS LEASABLE AREA - The total floor area designed for tenant occupancy and exclusive

use, including basement, mezzanines and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

GUEST HOUSE - Living quarters within a detached accessory building located on the same premises with the main building and for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separate dwelling.

HOME OCCUPATION - Any use, occupation, profession, enterprise or activity conducted by one or more members of a family in a dwelling unit, which is incidental and secondary to the use of the premises for dwelling, provided that no commodity is stored or sold, except commodities made on the premises and that there shall be no large group instruction, assembly or activity and no outside storage or display of goods. A home occupation includes but is not limited to the following:

- 1) Art or crafts studios.
- 2) The practice of cosmetology or barbering.
- 3) Dressmaking, custom baking, day care or baby-sitting.
- 4) The professional office of a physician, dentist, lawyer, engineer, architect, accountant or salesman.
- 5) Private instruction limited to one (1) or two (2) pupils at a time.
- 6) A use with no more than two employees who do not reside on premises. A home occupation may not include nursing homes, convalescent homes, rest homes, restaurants, tearooms, tourist homes or similar establishments.

HOSPITAL - An institution providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility.

HOTEL - A building in which lodging or boarding and lodging are provided for more than 15 persons, primarily transient, or with more than 10 guest rooms offered to the public for compensation. Ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boarding, rooming or lodging house or an apartment house, which are herein separately defined. A "hotel" may include restaurants, taverns, club rooms, public banquet halls, ballrooms and meeting rooms.

IMPERVIOUS SURFACES - Surfaces that do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and any areas paved with concrete or asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by competent engineers advising The Town of Ellendale to be impervious will also be classed as "impervious surfaces".

INDUSTRIAL/BUSINESS PARK - A planned, coordinated development on a tract of land with two or more separate parcels or lots for industrial, business or mixed industrial/business development. Such development is planned, designed, constructed and managed on a coordinated basis with special attention given to site planning and layout, attractive appearance, entrance signage, general landscaping, vehicular circulation, service and delivery, parking, utility needs, building design and orientation, essential equipment storage not including mini-storage facilities, refuse disposal and open space. Typically, an industrial/business park is developed or controlled by one proprietary interest and has an enforceable master plan and/or covenants, conditions, and restrictions.

INDUSTRIAL USE, LIGHT - Any activity conducted in connection with the manufacture, assembly, disassembly, fabrication, resource recovery, storage or processing of materials or products that is free of excessive odor, chemical use, glare, fumes or noise.

INN - A building containing a single dwelling unit in which more than four and less than fifteen sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests, with or without meals.

JUNK - The outdoor storage or deposit of any of the following shall constitute junk:

1. One (1) or more junk motor vehicles.
2. One (1) or more abandoned or inoperable appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
3. One (1) or more abandoned or irreparable damaged pieces of indoor furniture including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
4. One or more used parts or waste materials from motor vehicles, which remain outdoors in excess of three months or more.
5. Any combination of the above or parts of the above that total one (1) or more items.

JUNK MOBILE HOME - A structure, transportable in one or more sections, built on a permanent chassis and designed to be used as a dwelling unit, which is currently not inhabited and is no longer habitable under The Town of Ellendale Ordinances. Includes but is not limited to mobile homes, travel trailers and campers.

JUNKYARD - Any lot, parcel of land or structure, or part thereof, where junk, waste, discarded or salvaged materials are bought, sold, exchanged, sorted, baled, packed, disassembled, handled, stored or abandoned, including: automobile or other vehicle or machinery, wrecking or dismantling yards; or where any unregistered motor vehicle is held outside of a completely enclosed building, whether for the purpose of resale or sale of used parts there from, for the purpose of reclaiming for use some or all the materials therein, or for the purpose of storage or disposing of the same for any other purpose. A junkyard includes the outdoor storage or deposit of any of the following: 1. One (1) or more junk motor vehicles. 2. One (1) or more junk mobile homes. 3. One (1) or more junk appliances. 4. One (1) or more pieces of junk furniture. 5. Any combination of the above that totals one (1) or more such items.

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

LARGE PARCEL, PLANNED UNIT OR PLANNED RESIDENTIAL DEVELOPMENTS -

Large Parcel, Planned Unit or Planned Residential Developments are characterized by sites of three acres or more. They occur under the unified development control of a single development entity. They occur in two or more phases over a period of years. They involve master plans to illustrate each phase of development within an overall concept plan. They involve mixed-uses. Large Parcel, Planned Unit or Planned Residential regulations take the form of floating, or overlay districts in which the basic permitted uses are those allowed by the underlying use districts.

LAUNDROMAT - A Business that provides washing, drying, and/or ironing machines to be used by customers on the premises for a fee.

LOADING SPACE - An area designated and reserved for the purpose of loading or unloading merchandise for transportation purposes.

LODGING HOUSE - Same as "Bed and Breakfast."

LOT - A parcel of land considered as a unit, devoted to a specific use or uses and occupied by a building or group of buildings that are united by a common interest, use or ownership, including customary accessory uses and open spaces and accessibility from a public street.

LOT AREA - The total area of a lot within its lot lines.

LOT COVERAGE - See COVERAGE.

LOT FRONTAGE - The lot line coincident with the right-of-way line of the principal public street upon which the lot fronts.

LOT LINES - The lines bounding a lot as defined herein.

LOT WIDTH - The mean horizontal distance between side lot lines. For irregularly shaped lots, lot width is the distance between side lot lines at the front setback line.

LOT, CORNER - A lot abutting on two or more intersecting streets..

LOT DEPTH - The mean distance from the front street line to the rear lot line.

LOT, THROUGH - A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

MANUFACTURED HOME - A transportable structure that is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. A manufactured home must meet or exceed applicable construction standards promulgated by the U.S. Department of Housing and Urban Development.

MANUFACTURED HOME, SINGLE-WIDE - A manufactured home with one section.

MANUFACTURED HOME, DOUBLE-WIDE - A manufactured home with two sections.

MANUFACTURING - Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

- 1) Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or semi-finished as a raw material for further processing.
- 2) The processing of farm products grown on a farm is not manufacturing, but rather an accessory use to farming operations.

MICROBREWERY - A single establishment in which beer, mead, and/or cider are manufactured, and is operated by the licensee in accordance with state law.

MIXED-USE DEVELOPMENT - Mixed-use development is characterized by combining two or more principal uses (such as retail, entertainment, office, residential, lodging and civic/cultural/recreation) that are mutually supporting; pedestrian connections; and a plan that stipulates the type and scale of uses, permitted densities, and improvements.

MODULAR HOME - A stick-built structure, built in a factory, transportable in two or more

sections, and designed to be used as a dwelling only when erected on a permanent foundation. Modular Homes in Ellendale are required to have a minimum 5/12 roof pitch and one-foot wide roof overhangs.

MOTEL - A building or group of buildings containing individual sleeping accommodations, each of which has a separate exterior entrance and a parking space, and is offered for rental and use principally by motor vehicle travelers.

MULTI-FAMILY HOUSING - Housing designed and used for separate dwelling units for three or more households.

NEIGHBORHOOD SHOPPING CENTER - A shopping center or plaza with 70,000 square feet of gross floor area or less on parcels not greater than 5 acres.

NEOTRADITIONAL, OR NEW URBANIST, DESIGN - Emphasizes a mixture of principal uses rather than only one, variation and clustering in densities, traditional street and block patterns, interior streets with smaller widths, continuous and rectilinear street patterns, streetscapes with rows of facades and front porches close to the street, careful design of alleys and courtyards, continuity of sidewalks, walking trails, paths and other pedestrian-friendly ways, street trees planted in rows, use of town squares, plazas, commons and other open spaces, zero-lot line or small setbacks (as in older villages), transit stops and shelters, landscaped buffers, gateway entrances and treatment of development edges. Neotraditional design emulates traditional village and neighborhood development and is hence referred to as "neotraditional".

NONCONFORMING USES, STRUCTURES, LOTS OR SIGNS - Uses, structures, lots or signs that were lawful prior to the adoption, revision or amendment of this Ordinance, but which, as a result of the adoption, revision or amendment of this Ordinance no longer comply with its provisions.

NON-ELECTRIC VEHICLE - any motor vehicle that does not meet the definition of an electric vehicle.

NURSING & SIMILAR CARE FACILITIES - A facility that offers any of the following types of care or services and including, but not limited to, facilities regulated by the State Department of Health and Social Services:

ASSISTED LIVING FACILITY - Residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication and may provide other services such as recreational activities, financial services, and transportation.

EXTENDED CARE FACILITY - A long-term facility or distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

INDEPENDENT CARE FACILITY - A residential development of detached single-family dwelling units or multifamily dwelling units restricted to individuals or families in which all residents are older adults. Such development may contain compatible commercial elements.

INTERMEDIATE CARE FACILITY - A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and

services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facilities

LONG-TERM CARE FACILITY - An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its member by marriage, blood, or adoption.

OTHER TYPES OF CARE FACILITIES - Family care homes, group homes, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes, adult day care centers and rest residential facilities.

OFFICE - A non-retail service-oriented space or building occupied by entities like insurance brokers, travel agents, agencies, consulting organizations, professional or similar uses.

OPEN-AIR SEATING AREA - An accessory use, with impact, to a brew pub, distilling pub, or restaurant which is an open air, roofed or unroofed area, where food and/or beverages are served or consumed.

OPEN SPACE - Any parcel or area of land or water that provides light and air and is designed, dedicated or used for active or passive recreational, environmental, scenic, farming, forestry and/or conservation purposes. Open space is not developed with principal or major buildings. It may include, but is not limited to, decorative planting, preservation of natural areas, forests, vegetation and landscaping, watercourses and water bodies, walkways or trails for hiking and biking, recreation areas, squares, meadows, parks and playgrounds.

OWNER - Any person or legal entity possessing a fee simple interest in property.

PARKING LOT, COMMERCIAL - Any tract of privately owned land which is used for the storage of motor vehicles and is not accessory to any other use on the same or any other lot, and that contains parking spaces rented to the general public or reserved for a group of individuals by the hour, day, week, month or year.

PARKING LOT, PRIVATE - Any tract of privately-owned land which is used for storage of motor vehicles and is accessory to a use on the same parcel or lot or on another parcel or lot, and contains parking spaces reserved or leased in some manner for the principal use and not available to the general public.

PARKING LOT, PUBLIC - An off-street parking area where motor vehicles may be stored by the general public, with or without a fee, for temporary, daily or overnight parking.

PARKING SPACE - An off-street space available for the parking of one motor vehicle and having an area of not less than two hundred (200) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

PARTY WALL - A wall built along the line separating 2 properties and located partly on each parcel. Either owner has the right to use the wall and has an easement over that part of the adjoining owner's land covered by the wall.

PERSONAL SERVICE ESTABLISHMENT - A commercial operation, office, store or other

place of business catering to the personal needs of a customer, such as normally conducted by a beautician, tailor or dressmaker, but not including tattoo parlors or adult uses.

PHARMACY - A building or structure that is intended to provide prescribed or nonprescribed medication along with medical equipment and other items that can be used for improving health and quality of life.

PLANNING AND ZONING COMMISSION - A Commission appointed by the Town Council under the authority of Title 22, Chapter 7, Section 701 of the Delaware Code. Its duties and responsibilities include preparing, updating, revising and interpreting the Comprehensive Plan of the Town of Ellendale; advising the Town Council on planning, zoning and development matters; reviewing applications for zoning approvals; conducting Site Plan Review; approving Special Uses and reviewing and approving Subdivision Plans.

PREMISES - A lot together with all the buildings and uses thereon.

PROFESSIONAL OFFICE - An office principally occupied by a licensed professional such as a physician, dentist, lawyer, engineer, architect, accountant, insurance or real estate agent, or similar occupation.

PUBLIC - Open to common use whether or not public ownership is involved.

PUBLIC SAFETY FACILITY - A building or structure used for the provision of public safety services, such as police protection, fire protection, emergency medical service, and rescue operations.

PUBLIC UTILITIES or ESSENTIAL SERVICES - The erection, construction, alteration, maintenance or operation by utility companies of underground, surface or overhead gas, electrical, steam, wastewater, storm water or water transmission systems, including, but not limited to, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, light stations, telephone lines, hydrants, pumping stations and other similar equipment, structures and accessories thereto, reasonably necessary for the furnishing of adequate service by such companies or agencies or for the public health, safety or general welfare.

RECREATION USES, COMMERCIAL - Uses operated by private businesses for profit, including amusement parks or rides, games, miniature golf courses and similar uses.

RECREATIONAL FACILITY, INDOOR - Indoor entertainment services like arcades, aquariums, baseball and softball batting cages, billiard parlor, bowling alley, skating rink, tennis or racquetball center, automatic amusement device center, swimming pool, convention hall, and other similar uses.

RECREATIONAL FACILITY, OUTDOOR - Entertainment services like miniature golf, amusement park, zoo, kiddieland ride, driving range, sports stadium, arena and other similar outdoor recreational uses.

REGIONAL SHOPPING CENTER - A shopping center or plaza containing more than 300,000 square feet in gross floor area.

REGULATIONS - The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols, contained or referred to in this Ordinance.

REHABILITATION - the act or process of returning a building, object, site, or structure to a state of utility through repair, remodeling or alteration that enables an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values.

RENTAL UNIT - A dwelling unit intended for rental to tenants and intended as a permanent dwelling

REPAIR SHOP, PERSONAL SERVICE - A store or other place of business at which is conducted the repair of personal customer items, such as shoes, clothing, jewelry, etc.

RESTAURANT, FAST FOOD - A restaurant in which the principal trade is the sale of food and/or beverages in a form for consumption either on or off premises, typically owned or franchised by a national or regional chain.

RESTAURANT, STANDARD - Any establishment whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises.

RESTORATION - The act or process of accurately recovering the form and details of a building, object, site or structure and its setting as it appeared at an earlier period of time.

RETAIL SHOP - A place of business involving the sale of merchandise, stock-in-trade or services for the repair of customer items such as shoes, clothing, jewelry, and furniture directly to and for the public. A retail shop must have the following attributes: a place of business open to the public during normal business hours, a merchandise area open to public visitation, display of merchandise on the exterior and interior of the building, an exterior sign indicating the name of the business, a doorway offering ingress and egress to the public and reasonable access to public parking.

RETAIL USE - A business or commercial use or activity involving the sale of merchandise or stock-in-trade or services for the repair of customer items such as shoes, clothing, jewelry, and furniture directly to and for the public

RIGHT-OF-WAY - The property under public and or private ownership or easement normally used for movement of vehicles, utilities and or persons, including, but not restricted to any pavement area.

ROAD - See STREET.

ROADSIDE STAND - A light, temporary structure with a roof at which local produce, arts and crafts or horticultural products are offered for sale to the general public.

SATELLITE TELEVISION ANTENNA - An antenna the purpose of which is to receive television and/or radio signals from orbiting satellites and which is located external to or attached to the exterior of any structure.

SELF-SERVICE STORAGE FACILITY - Any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to such for the purpose of storing and removing personal property. No occupant shall use a self-service storage facility for residential purposes.

SENIOR CITIZEN HOUSING - A building or group of buildings where occupancy is restricted

to persons 55 years or older. In the case of double occupancy of a unit, only one resident is required to be at least 55 years of age.

SERVICES, BUSINESS - Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

SERVICES, COMMERCIAL - Establishments primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

SERVICES, ENTERTAINMENT - Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including amusement parks, arcades, bowling alleys, dance halls, miniature golf, billiard or pool parlors, indoor amusements, motion pictures, amusement and recreation services, museums, and galleries.

SERVICES, PERSONAL - Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

SETBACK - The required minimum open space distance between an exterior building line and the closest point on the nearest lot line. Setbacks determine the sizes of Yards. See also the definition of YARD and LOT.

SHOPPING CENTER OR PLAZA - A building or group of buildings containing a combination of three (3) or more separate shops, stores or offices on a single lot or adjacent parcels providing primarily retail services with supporting service and office establishments.

SIGN - Any object, device, display or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. A "sign" does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, or of any campaign, drive, movement, or event which is temporary in nature.

SITE PLAN REVIEW - Review by the Planning and Zoning Commission in accordance with Article 6 of this Ordinance.

STORY - That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

STREET - Street shall mean any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing State, County or Municipal road or a street or way shown upon a plat.

STREET LEVEL - The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

STRUCTURE - A static construction of building materials, framed of component structural parts for occupancy or use, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, fences, reviewing stands, gasoline pumps and mobile dwellings.

SUBDIVISION - Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of land for residential, non-residential and mixed-use purposes in accordance with this Zoning Ordinance, whether by deed, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes resubdivision and condominium creation or conversion. Subdivision is regulated by the SUBDIVISION AND LAND DEVELOPMENT REGULATIONS of the Town of Ellendale.

SUBDIVISION AND LAND DEVELOPMENT REGULATIONS - An Ordinance prepared and adopted by the Town to regulate the subdivision of land into lots for sale or lease to individuals or businesses, and the development of large land parcels where all land will be owned by a single owner. SUBDIVISION AND LAND DEVELOPMENT REGULATIONS must be prepared in accordance with the COMPREHENSIVE PLAN and in coordination with the ZONING ORDINANCE.

SURGICAL CENTER - A facility where outpatients come for simple surgical procedures and are not lodged overnight.

SWIMMING POOL - Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depth area, intended and used for recreational purposes.

TECHNOLOGY CENTER - A repository that primarily houses computing facilities such as servers, routers, switches and firewalls, as well as supporting components like backup equipment, fire suppression facilities and air conditioning. Also referred to as a Data Center.

TOPSOIL - A surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation. The "A" horizon of the soil solum.

TOWER - A structure designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers and monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

TOWNHOUSE - A building consisting of three or more attached single-family dwelling units each having separate entrances and party walls. (See also BUILDING, SEMI-DETACHED).

TRAILER, UTILITY - A vehicle that is used or designed to be used for the storage of tools and equipment.

TRAVEL TRAILER - A vehicle that is used or designed to be used, for seasonal and/or temporary living or sleeping purposes. A recreational vehicle (RV) is also considered a travel trailer.

TRUCKING TERMINALS - A building or site for the storage and/or transfer of goods and

merchandise by truck transport.

USE-

1. The purpose for which any building, structure or site is arranged, designed, intended, maintained or occupied; or,
2. Any occupation, business activity or operation conducted in a building or other structure, or on land.

USE, BUILDING OR STRUCTURE, ACCESSORY - A use or structure that is subordinate and customarily incidental to a principal use or structure on the same lot. Accessory uses or structures include, but are not limited to, open air decks, sheds, portable, driveways and sidewalks, demountable or permanent enclosures, shade structures, carports, above- and below-ground swimming pools, gas and oil tanks, play houses, garages and storage areas.

USE, BUILDING OR STRUCTURE, PRINCIPAL - The main use of the building, structure and/or lot where it is located.

USE, SPECIAL - A principal use that is permitted for a building, structure and/or lot where it is located but only upon the condition that it satisfy special requirements established by the Planning and Zoning Commission after Site Plan Review. In this Ordinance, Special Use means the same thing as Special Exception Use or Conditional Use.

UTILITY EQUIPMENT - Any structures or facilities owned by a government entity, nonprofit organization, corporation, cooperative or any other entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, heating and cooling service or electrical power.

VARIANCE - Permission from the Board of Adjustment to vary from the dimensional requirements of this Ordinance.

VEHICLE SALES AREA - A premises, including open areas, other than a street or way, and enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, boats, and/or recreational vehicles.

VEHICLE, COMMERCIAL - A vehicle required to be registered under Title 21 of the Delaware State Code and designed, used and maintained for the transportation of persons or property for hire, compensation or profit, except taxicabs.

VETERINARY HOSPITAL - A structure designed or converted for veterinary practitioners in the care and treatment of sick or wounded domestic animals.

WAREHOUSE - A building for storing goods, wares and merchandise.

WATERWAY - Any creek, pond, stream, ditch or other watercourse, natural or artificial.

WINERY - A facility where wine is manufactured and packaged. Such facilities may include a tasting room or retail space to sell the products to patrons for on-site or off-site consumption.

WHOLESALE (STORE, BUSINESS, ESTABLISHMENT) - A business establishment engaged in selling to retailers or jobbers rather than directly to consumers.

YARD - An open space between the principal building or buildings and the nearest lot line. See also the definition of **SETBACK**.

YARD, FRONT - An open space extending the distance between the principal building and the front lot line. It is measured perpendicularly between the building and the closest point on the front lot line.

YARD, REAR - An open space extending the distance between the principal building and the rear lot line. It is measured perpendicularly between the building and the closest point on the rear lot line.

YARD, SIDE - An open space extending the distance from the front yard to the rear yard between the principal building and the side lot line. It is measured perpendicularly between the building and the closest point on the side lot line.

ZONING - The regulation of permitted land uses, densities and the design of buildings and open space on the basis of uniform regulation by districts or zones. Zoning is regulated by the **ZONING ORDINANCE**, which must be prepared in accordance with the **COMPREHENSIVE PLAN** and in coordination with the **SUBDIVISION AND LAND DEVELOPMENT REGULATIONS**.

ZONING USE DISTRICT - A sub area of the municipality for the purpose of zoning regulation. Zoning Use District means the same thing as **DISTRICT**.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 3. -- ESTABLISHMENT OF DISTRICTS

Section 3.0 -- Application of Regulations.

No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved, altered or demolished unless in conformity with the regulations herein for the district in which it is located, except as hereinafter provided.

The regulations contained in this Ordinance are supplemented by and subject to regulations contained in other Chapters of The Town Code of the Town of Ellendale.

Section 3.1 -- General Regulations.

3.1.1 No building or structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of dwelling units, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards or side yards, than is specified herein for the district in which such building or structure is located.

3.1.2 No part of a required yard or other open space required by this Ordinance shall be included as part of a yard or other open space required for another building.

3.1.3 No lot shall be so reduced in size that its area or any of its dimensions or open spaces shall be smaller than those required by this Ordinance.

3.1.4 The provisions of this Zoning Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

3.1.5 Any uses not specifically permitted shall be deemed prohibited.

3.1.6 Regardless of any other provisions of this Ordinance, or Chapter, any use that is noxious or offensive by reason of emission of odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health safety, is prohibited, in accordance with the standards of Article 7 of this Ordinance.

Section 3.2 -- Zoning Use and Overlay Districts.

In order to fulfill the purpose of this Zoning Ordinance, The Town of Ellendale establishes the following Zoning Use and Overlay Districts:

- | | | |
|----|--------|---|
| 1) | R-1 | Single-Family Residential Use District |
| 2) | R-B | Residential-Business Use District |
| 3) | R-S | Railroad Square Use District |
| 4) | C | Commercial Use District |
| 5) | LPD-OD | Large Parcel Development Overlay District |
| 6) | HP-OD | Historic Preservation Overlay District |

Section 3.3 -- Official Zoning Map of The Town of Ellendale.

The Town is hereby divided into use and overlay districts or zones as shown on the Official Zoning Map of The Town of Ellendale which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the President, attested by the Secretary of the Town Council and shall bear the Seal of the Town under the following words: "This is to certify that this is the Official Zoning Map of The Town of Ellendale referred to in Article 3 of The Town of Ellendale Zoning Ordinance".

The location and boundaries of said use and overlay districts are hereby established on the Official Zoning Map of The Town of Ellendale that is kept on file and will be available for public viewing in the Town office and shall be final authority as to the zoning status of land within the Town.

In accordance with the provisions of this Ordinance and Chapter 3, Title 22, of the Delaware Code, if changes are made in district boundaries for other matters portrayed on the Official Zoning Map of The Town of Ellendale, such changes shall be made to the Map promptly after the amendment has been approved by the Town Council, together with an entry on the Official Zoning Map as follows: "On _____ by official action of the Town Council, the following change(s) was (were) made to the Official Zoning Map, (brief description of change) which entry has been signed by the President and attested to by the President and Secretary of the Town Council". The amending ordinance shall provide that such changes or amendments shall not become effective until the Town Secretary has duly entered them upon the Official Zoning Map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this Chapter and punishable as provided in Article 13 of this Chapter.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret, the President and Town Council may by ordinance adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map.

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the President, attested to by the other members of the Town Council, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ as part of Ordinance Number _____ of The Town of Ellendale".

Section 3.4 -- Interpretation of District Boundaries.

It is the policy of the Town of Ellendale not to have Zoning Use or Overlay District boundaries pass through lots. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

3.4.1 Centerlines and Right-of-Way Lines. Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, public utility easements, or watercourses, said boundaries shall be constructed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a centerline or right-of-way of such street, highway, public utility or watercourse is moved not more than twenty (20) feet.

3.4.2 Lot or Boundary Lines. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines, or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.

3.4.3 Parallel to Lot or Boundary Lines. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines, or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances there from as indicated by notation on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.

3.4.4 Lands under fresh waters are included within zoning districts adjoining those water bodies, and where two (2) or more different zoning districts adjoin the same water body, the boundary between them shall be construed as lying midway between the opposite banks.

3.4.5 Where natural or man-made features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances are not covered by the above subsections, the Board of Adjustment shall interpret the district boundaries.

3.4.6 District boundaries shall be determined by use of an accurate scale, which shall be shown on the Zoning Map. In no instances shall a District boundary be set at less than the minimum lot depth required in Section 5.1, entitled Density Control Table, of this Ordinance.

3.4.7 In the event of a questionable District boundary, the questionable boundary shall be referred to the Board of Adjustment, and they shall, to the best of their ability, establish the exact boundary.

3.4.8 A copy of the Official Zoning Map showing any such determinations under this section shall be on file at the Town office.

3.4.9 Any Zoning District boundary determinations made by the Board of Adjustment in accordance with the rules shall of this Ordinance be considered final and conclusive and may only be altered by amendment of the Official Zoning Map by the Town Council of The Town of Ellendale.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 4. ZONING USE AND OVERLAY DISTRICTS

Section 4.0 - Delineation of Districts

For the purpose of this Ordinance, all lands within the municipal boundaries of The Town of Ellendale are hereby divided into zoning use and overlay districts to be regulated as set forth herein.

The zoning use and overlay districts are shown on the Official Zoning Map which accompanies this Chapter and which is hereby declared to be part of this Chapter.

Section 4.1 -- Single-Family Residential Use District (R-1)

4.1.1 Intent.

The intent of the R-1 Single-Family Residential Use District is to delineate areas where predominantly single-family detached, low-density residential development has occurred or is desired and likely to occur in the future. The R-1 District protects the integrity of these residential neighborhoods by protecting their character and scale and by encouraging diversity in dwelling styles and construction. The R-1 district prohibits the intrusion of any use that is not compatible with neighborhood character, scale and diversity. It recognizes the value of such other permitted uses as churches, schools, parks, playgrounds, and libraries or other civic or educational buildings.

4.1.2 Permitted Uses.

Within the R-1 District, permitted principal, accessory and special uses are as follows:

4.1.2.a Permitted Principal Uses.

1. Churches or Places of Worship.
2. Detached single-family dwellings.
3. Government buildings and uses.
4. Libraries or other civic or educational buildings.
5. Public parks and playgrounds.
6. Public utilities or essential uses.

4.1.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident and subordinate to any of the uses permitted within this district and located on the same lot.
2. Agriculture.
3. Antennas, minor.
4. Swimming pools.

4.1.2.c Special Permitted Uses.

The following special uses are permitted in the R-1 District after site plan review and approval by the Planning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Adult care facilities.
2. Bed and Breakfasts.
3. Day care centers
4. Cemeteries.
5. Funeral homes. Golf courses.
6. Home occupations.
7. Museums.
8. Non-profit membership clubs.
9. Public or private schools

4.1.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance - Density Control Table that is part of this Ordinance.

4.1.4 Off-Street Parking Requirements and Loading Requirements

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.1.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.1.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.2 – Single-Family Residential Use District (R-2)

4.2.1 Intent.

The intent of the R-2 Single-Family Residential Use District is to delineate areas for the development of detached or attached single-family residential uses at densities similar to that of the R-1 Use District, but with the ability to utilize design and planning concepts to create a planned and desirable residential living environment while protecting existing and future uses. The R-2 District protects the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with these types and intensities of use.

4.2.2 Permitted Uses.

Within the R-2 District, permitted principal, accessory and special permitted uses are as follows:

4.2.2.a Permitted Principal Uses.

1. Detached single-family dwellings.
2. Semidetached single-family dwellings.
3. Two-family dwellings or duplexes.
4. Government buildings and uses.
5. Public parks and noncommercial recreational uses.

4.2.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.

2. Active recreation areas publicly accessible to all residents, including but not limited to, pathways, bicycle trails, baseball or softball fields, pickleball or tennis courts, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, and jogging courses.
3. Antennas, minor.
4. Community gardens.
5. Passive recreation areas publicly accessible to all residents, including but not limited to, pathways, picnic and barbecue areas, playgrounds, walking trails, and fishing areas.

4.2.2.c Special permitted uses.

The following uses may be permitted in the R-2 Single-Family Residential Use District after site plan review and approval by the Planning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Bed-and-breakfasts.
2. Cemeteries.
3. Churches or places of worship.
4. Cluster housing. – See **CLUSTERING IN NEW SUBDIVISION AND LAND DEVELOPMENT PROJECTS** for definition
5. Funeral homes.
6. Golf courses.
7. Home occupations as defined in the town zoning ordinance.
 - a) Customary home occupation or a studio for artists, designers, photographers, musicians, sculptors and other similar persons that conform to the following requirements.
 - i) The granting of a Special Use Permit by the Code Enforcement Officer.
 - ii) The area used for the practice of the home occupation or studio shall occupy no more than thirty (30) percent of the total floor area of the dwelling in which it is located.
 - iii) No storage of materials or products outside of the dwelling shall be permitted unless completely housed.
 - iv) The home occupation or studio shall be clearly incidental to the residential use of the dwelling and shall not change the essential character of the dwelling.
 - v) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
 - vi) No display of products shall be visible from outside the building.
 - vii) A maximum of two (2) employees shall be permitted in the operation of the home occupation or studio.
 - b) Professional occupation restricted to the owner/occupant subject to the following requirements.
 - i) The granting of a Special Use Permit by the Code Enforcement Officer.
 - ii) Three (3) off-street parking spaces in addition to those otherwise required.
 - iii) No more than two (2) persons shall be employed by the practitioner of the professional occupation to provide secretarial, clerical, technical, or similar assistance.
 - iv) No storage of materials or products outside the dwelling shall be permitted unless completely housed.
 - v) The area used for the practice of a professional occupation shall occupy no more than thirty (30) percent of the total floor area, including garages or other accessory buildings.
 - vi) The professional use shall be incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
 - vii) No external alterations inconsistent with the primary residential use of the dwelling shall be allowed.
 - viii) No display of products shall be visible from outside of the building.
8. Libraries.
9. Museums.

10. Public or private schools.
11. Public utilities or essential uses.

4.2.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance – Dimensional Requirements and Density Control Table that is part of this Ordinance.

4.2.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking requirements and loading requirements are specified in Article 7 of this Ordinance.

4.2.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.2.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.3 – General and Multifamily Residential Use District (R-3)

4.3.1 Intent.

The intent of the R-3 General and Multifamily Residential Use District is to delineate areas where predominantly multifamily, medium-density residential development has occurred or is desired and likely to occur in the future. The R-3 District promotes a range of affordable home ownership and rental options that the town has indicated through the *Greater Ellendale Comprehensive Plan* a desire to utilize to address gaps in income and affordable housing in the Ellendale area. It is not the intent of this District to allow single-family development in an R3 district without the development of multifamily housing.

4.3.2 Permitted Uses.

Within the R-3 District, permitted principal, accessory and special permitted uses are as follows:

4.3.2.a Permitted Principal Uses.

1. Apartments.
2. Condominiums.
3. Detached single-family dwellings, to be developed in compliance with the requirements of either:
 - a) R-1 Single-Family Residential Use District:
 - i. Section 4.1.2.a Permitted Principal Uses;
 - ii. Section 4.1.3 Dimensional Requirements.
 - b) R-2 Single-Family Residential Use District:
 - i. Section 4.2.2.1 Permitted Principal Uses;
 - ii. Section 4.2.3 Dimensional Requirements.
4. Multi-family housing, triplex, and quadraplex.

5. Public parks and noncommercial recreational uses.
6. Semi-detached single-family dwellings, to be developed in compliance with the requirements of:

- a) R-2 Single-Family Residential Use District:
 - i. Section 4.2.2.1 Permitted Principal Uses;
 - ii. Section 4.2.3 Dimensional Requirements.

7. Townhouses.
8. Two-family dwellings or duplexes, to be developed in compliance with the requirements of:

- a) R-2 Single-Family Residential Use District:
 - i. Section 4.2.2.1 Permitted Principal Uses;
 - ii. Section 4.2.3 Dimensional Requirements.

4.3.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident to any of the uses mentioned for this use district, and on the same lot.
2. Active recreation areas publicly accessible to all residents, including but not limited to, bicycle trails, baseball or softball fields, pickleball or tennis courts, football or soccer fields, basketball courts, swimming pools, clubhouses, equestrian facilities, and jogging tracks.
3. Antennas, minor.
4. Community gardens.
5. Passive recreation areas publicly accessible to all residents, including but not limited to, pathways, picnic and barbecue areas, playgrounds, walking trails, and fishing areas.

4.3.2.c Special permitted uses.

The following uses may be permitted in the R-3 General and Multifamily Residential Use District after site plan review and approval by the Planning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Cemeteries.
2. Churches or places of worship.
3. Golf courses.
4. Libraries.
5. Museums.
6. Public utilities or essential uses.

4.3.3 Dimensional Requirements.

a) Dimensional regulations:

- i) Any area to be developed for R-3 purposes (the "site") shall observe the following regulations for apartments and condominiums:

1) Site area	One (1) acre minimum
2) Dwelling unit per acres	18 maximum
3) Dwelling units per building	24 maximum
4) Street frontage of site	Fifty (50) foot minimum along public street
5) Depth of site	100 foot minimum
6) Building setback line	25 feet minimum from all perimeter and interior streets and exterior property lines of the site
7) Site coverage	Building area shall not exceed 60% of site area

8) Side lines	Minimum distance from the side of any apartment building or condominium to an exterior property line of the site shall be 20 feet
9) Rear yards	25 feet minimum
10) Height	58 feet or 5 stories
11) Habitable Floor Area	Four hundred fifty (450) square feet minimum per dwelling unit, excluding stairs, corridors, and basement recreation areas for any dwelling unit having less than two (2) bedrooms; Six hundred (600) square feet minimum per dwelling unit excluding stairs, corridors, and basement recreation rooms for any dwelling unit have two (2) or more bedrooms.
12) Subgrade units	A basement shall not contain habitable rooms except for custodian's living quarters or basement recreation rooms.
13) Building placement	No part of any apartment building or condominium shall be nearer than 25 feet to any other building or group of buildings.

ii) Any area to be developed for R-3 purposes (the "site") shall observe the following regulations for multi-family dwellings, triplexes, quadruplexes, and townhouses:

1) Site area	One (1) acre minimum
2) Dwelling unit per acres	14 maximum
3) Dwelling units per group of attached townhouses	10 maximum
4) Street frontage of site	Fifty (50) foot minimum along public street
5) Depth of site	100 foot minimum
6) Building setback line	25 feet minimum from all perimeter and interior streets and exterior property lines of the site
7) Site coverage	Building area shall not exceed 60% of site area
8) Side lines	Minimum distance from the side of any multi-family dwelling, triplex, quadruplex, or townhouse to an exterior property line of the site shall be 20 feet
9) Rear yards	25 feet minimum
10) Height	42 feet or 3 stories
11) Building placement	No part of any multi-family dwelling, triplex, quadruplex, or townhouse shall be nearer than 25 feet to any other building or group of buildings. The developer may elect, upon approval from the Town of Ellendale, to reduce the minimum distance between each building or group of buildings to eighteen (18) feet provided the following: a) Minimum building width of twenty-four (24) feet for all end units. b) Building elevations shall include enhanced architectural features such as brick, stone, addition of garages, varying setbacks, etc. subject to review and approval by the Town of Ellendale.

	The intent of the reduced distance is to avoid monotony and add character to the design and construction of the units.
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4.3.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking requirements and loading requirements are specified in Article 7 of this Ordinance.

4.3.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.3.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.4 -- Residential-Business Use District (R-B).

4.4.1 Intent.

The intent of the R-B Residential-Business Use District is to delineate areas for predominantly single-family detached, low-density residential development at densities similar to that of the R-1 District, but to use good design and planning to also allow the development of small business uses. The R-B district recognizes the value of allowing compatible small business uses and somewhat higher density residential uses as special uses after site plan review and approval by the Planning and Zoning Commission. The R-B District prohibits the intrusion of any use that is not compatible with the character, scale and diversity of the area delineated. It recognizes the value of such other permitted uses as churches, schools, parks, playgrounds and libraries or other civic or educational buildings.

4.4.2 Permitted Uses.

Within the R-B District, permitted principal, accessory and special uses are as follows:

4.4.2.a Permitted Principal Uses.

1. Churches or places of worship.
2. Detached single-family dwellings.
3. Government buildings and uses.
4. Libraries or other civic or educational buildings.
5. Public parks and playgrounds.
6. Public utilities or essential uses.

4.4.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident and subordinate to any of the uses permitted within this district, and located on the same lot.
2. Antennas, minor.
3. Swimming pools.

4.4.2.c Special Permitted Uses.

The following special uses are permitted in the R-B District after site plan review and approval by the Planning and Zoning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Apartments
2. Bed and breakfasts.
3. Condominiums.
4. Duplexes.
5. Funeral homes.
6. Home occupations.
7. Museums
8. Offices.
9. Public and private schools.
10. Retail shops.
11. Semi-detached single-family dwellings.
12. Small businesses.
13. Townhouses.

4.4.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance Density Control Table, which is part of this Ordinance.

4.4.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.4.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.4.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.5 - Railroad Square Use District (R-S)

4.5.1 Intent.

The intent of the R-S Railroad Square Use District is to delineate the historic Town Center of Ellendale, the place where, in response to the coming of the railroad, the Town of Ellendale was first created. The R-S District protects the character of this area. It recognizes that it is today a predominantly residential neighborhood with small-scale retail, civic and visitor use and potential. The District is located at the west terminus of the surviving Queen Anne's Railway line that leads to Milton. The Railroad Square area will become a trailhead when a Broadkill- Nanticoke Greenway Trail is created on the Queen Anne's Railway alignment.

4.5.2 Permitted Uses.

Within the R-S District, permitted principal, accessory and special uses are as follows:

4.5.2.a Permitted Principal Uses.

1. Detached single-family dwellings.
2. Government buildings and uses.
3. Churches or places of worship.
4. Libraries and other civic uses.
5. Public parks and non-commercial recreational uses.
6. Public utilities or essential uses.

4.5.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident and subordinate to any of the uses permitted within this district, and located on the same lot.
2. Antennas, minor.
3. Swimming pools.

4.5.2.c Special Permitted Uses.

The following special uses are permitted in the R-S District after site plan review and approval by the Planning and Zoning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Bed and breakfasts.
2. Day care centers.
3. Home occupations.
4. Public or private schools.

4.5.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance Density Control Table, which is part of this Ordinance.

4.5.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.5.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.5.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.6 -- Commercial Use District (C).

4.6.1 Intent.

The intent of the C - Commercial Use District is to delineate areas where predominantly commercial and light industrial development has occurred or is desirable and likely to occur in the future. These types of uses include offices, shops, shopping plazas or centers, restaurants, lodging facilities, light manufacturing, distribution, wholesaling, research and testing, warehousing, and processing or other uses that contribute jobs and tax revenue to the economy of the Town and region. They must be compatible with non-industrial neighboring uses and consistent with the standards described in Article 7.

4.6.2 Permitted uses.

Within the C Use District, permitted principal, accessory and special uses are as follows:.

4.6.2.a. Permitted Principal Uses.

1. Agricultural processing, distribution and service facilities.
2. Fabrication, assembly, packaging and other handling of material
3. Government buildings and uses
4. Light industrial facilities for manufacturing, fabrication, assembly, packaging and distribution.
5. Offices.
5. Public utilities and essential uses.
6. Repair shops.
7. Retail shops, shopping plazas and shopping centers.

4.6.2.b Permitted Accessory Uses, Buildings and Structures.

1. Accessory uses and structures customarily incident and subordinate to any of the uses permitted within this district, and located on the same lot.
2. Antennas, minor.

4.4.2.c. Special Permitted Uses.

The following special uses are permitted in the C District after site plan review and approval and by the Planning and Zoning Commission and issuance of a Special Use Permit by the Code Enforcement Officer.

1. Antennas and towers.
2. Contractor yards and equipment.
3. Drive-in restaurants.
4. Drive-in uses.
6. Garage, service and repair uses.
7. Public and Private Schools.
8. Trucking terminals.
9. Self-service storage facilities.
10. Vehicle sales and rental.

4.6.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance Density Control Table, that is part of this Ordinance.

4.6.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.6.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.6.6 Site Plan Review.

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.7 – Medium Commercial District (C-2)

4.7.1 Intent.

The intent of the C2 – Medium Commercial District is to delineate areas where predominantly commercial development has occurred or is desirable and likely to occur in the future. It permits a variety of retail, professional, and service businesses. The C-2 District allows for more variety in services provided to community residents than the R-B District, as well as contribute jobs and tax revenue to the economy of the town and region, while protecting neighboring residential districts with the standards described in Article 7.

4.7.2 Permitted Uses.

Within the C-2 District, permitted principal, accessory and special permitted uses are as follows:

4.7.2.a Permitted Principal Uses.

1. Agricultural, livestock, and domestic animal related uses.
 - (a) Animal grooming. Animal grooming facilities shall be entirely enclosed and air-conditioned. Boarding of animals, outside runs or cages, offensive odors and excessive noise shall be prohibited.
 - (b) Animal hospital, veterinary hospital, and veterinary clinics, provided that no open pens, runs, kennels or cages are located within 200 feet of land that is used or zoned residential and at least 50 feet from any property line.
 - (c) Commercial kennels, provided that no open pens, runs, kennels or cages are located within 200 feet of land that is used or zoned residential and at least 50 feet from any property line.
 - (d) Commercial greenhouses, wholesale or retail, and nurseries for growing of plants, trees, and shrubs, including a building for sale of products produced on the premises
 - (e) Farm implement sales, service, rental and repair, but not salvage or junk, provided that major repair or storage of materials or damaged or unusable implements or vehicles shall be inside a completely enclosed building.
 - (f) Flower shops and greenhouses incidental thereto.
 - (g) Lawnmower, yard and garden equipment, rental, sales, and service.
2. Sales and rental of goods, merchandise and equipment.
 - (a) Automobile parking lots and garages, automobile sales, service, and repair, but not auto salvage or junk, and any major repair or storage of equipment or materials or damaged vehicles shall be inside a completely enclosed building. All displays shall be a minimum of 25 feet from the front property line.
 - (b) Bakeries, retail but not wholesale, with products sold primarily on the premises.
 - (c) Bars, pubs, taverns.
 - (c) Bicycle sales and repair shops.
 - (d) Boat and boat trailer sales and storage. All displays shall be a minimum of 25 feet from the front property line.
 - (e) Brew pub, distilling pub.
 - (f) Convenience store, mini-market, no fuel station, 6,000 square feet or less.
 - (g) Convenience store, mini-market, fuel station (one to eight fuel dispensers; no restrictions on number of nozzles), including electric vehicle charging stations, 6,000 square feet or less. If the primary use of the parcel is the retail electric charging of vehicles, then the use shall be

- considered a fuel station for zoning purposes.
- (h) Heating, ventilating, cooling and refrigeration supplies and appliances.
 - (i) Manufactured home sales and storage, but not manufactured home parks. All displays shall be a minimum of 40 feet from the property line.
 - (j) Monument sales establishments with incidental processing to order, but not including the shaping of headstones.
 - (k) New or used car sales and storage lots.
 - (l) Neighborhood shopping center or plaza.
 - (m) Retail sales establishments 75,000 square feet or less on parcels not greater than 5 acres.
 - (n) Pharmacy or related uses 35,000 square feet or less.
 - (o) Printing, publishing, and engraving establishments, photographic processing or blueprinting.
 - (p) Restaurants, drive-in or otherwise.
 - (q) Shops for the sale, service, or repair of home appliances, office machines, electrical, and television and radio equipment.
 - (r) Stores or shops for the conduct of retail business, including sale of accessories, antiques, apparel, appliances, beverages, books, carpets, drugs, fabrics, food, furniture, general merchandise, hardware and lumber and building materials, garden supplies, hobby supplies, jewelry, office supplies, paint, sporting goods, stationery, and similar stores and shops.
 - (s) Tire sales and service, retreading, recapping and vulcanizing.
 - (t) Wholesale establishments and distributors.
3. Office, clerical, research, personal service and similar enterprises not primarily related to goods.
- (a) Bank, savings and loan, or credit union.
 - (b) Barbershops or beauty shop.
 - (c) Business or professional complex.
 - (d) Business service establishments.
 - (e) Car washes or automobile laundries, automatic or otherwise.
 - (f) Catering or delicatessen businesses.
 - (g) Commercial radio and television stations and studios or recording studios (without towers).
 - (h) Dry-cleaning laundries or pressing pickup stations or shops.
 - (i) Entertainment service establishments.
 - (j) Exterminating or pest control business, provided that all equipment and chemicals are properly stored inside a completely enclosed building.
 - (k) Fitness/wellness center, gym, swim club, health club.
 - (l) Hotel, motel, or inn.
 - (m) Laundromats or self-service dry-cleaning establishments.
 - (n) Offices for general business or professional offices for the use of physicians, dentists, optometrists, attorneys, architects, surveyors, engineers, insurance agents, accountants, stockbrokers, commodity brokers, real estate brokers, licensed employment services, or any combination thereof.
 - (o) Personal service establishments.
 - (p) Shoe repair shop.
 - (q) Social service establishments.
 - (r) Undertaking businesses or establishments or funeral homes.
4. Manufacturing, assembling, processing.
- (a) Bottling works.
 - (b) Brewery, winery, microbrewery, or craft distillery 7,500 square feet or less.
 - (c) Dyeing and cleaning works.
 - (d) Painting shops.

- (e) Upholstering shops not involving furniture manufacture.
- 5. Cultural, recreational, sports, religious, philanthropic, social, fraternal.
 - (a) Athletic field.
 - (b) Club indoor, private, such as clubs, lodges, and other annual membership clubs.
 - (c) Community center.
 - (d) Golf course.
 - (e) Indoor archery range, pistol range, or rifle range.
 - (f) Museums, non-profit art gallery.
 - (g) Places of worship.
 - (h) Recreational facility, indoor, 25,000 square feet or less.
 - (i) Recreational facility, outdoor, 25,000 square feet or less.
 - (j) Studios for artists, photographers, teachers, sculptors, and musicians.
- 6. Institutional, residence, care, confinement and medical facilities.
 - (a) Family day-care center (one to six children).
 - (b) Large family child-care homes (seven to twelve children).
 - (c) Early care and education and school-age centers (13+ children).
 - (d) Residential child-care facilities and day treatment programs.
 - (e) Child placing agencies.
 - (f) Medical clinic or hospital.
 - (g) Surgical center.
 - (h) Counseling service.
 - (i) Independent care facility.
 - (j) Assisted living facility.
 - (k) Skilled nursing facility.
 - (l) Extended care facility.
 - (m) Intermediate care facility.
 - (n) Long-term care facility.
- 7. Storage and parking.
 - (a) Garages, parking or storage, public or commercial.
 - (b) Self-storage facility.
 - (c) Transportation facilities, bus stops, train stops, heliports.
 - (d) Warehouse.
- 8. Public, semi-public, emergency.
 - (a) Government buildings and uses.
 - (b) Parks.
 - (c) Public safety facilities including ambulance, fire, police, rescue and national security.
 - (d) Public and private schools.
- 9. Public utilities and essential uses.
 - (a) Communication tower.
 - (b) Electric vehicle infrastructure.
 - (c) Solar energy field or farm.
 - (d) Utility service facilities.
 - (e) Other uses operated by a utility company and meeting the definition of *Public Utilities or Essential Services* in the Zoning Ordinance of the Town of Ellendale.

4.7.2.b Permitted Accessory Uses, Buildings and Structures.

- 1. Antennas, minor.
- 2. Any accessory use or structures customarily incident and subordinate to any of the uses

permitted within this district, located on the same lot, and for the storage of office supplies or merchandise normally carried in stock in connection with a permitted office or business use.

3. Electric vehicle charging stations, when subordinate to the primary permitted use, shall be considered accessory structures. The owner is not restricted from collecting a service fee for the use of an electric vehicle charging station made available to residents, employees, and visitors to the property. Collection of charging station fees shall not affect the zoning land use classification of properties where electric vehicle charging stations are installed as accessory uses.
4. Open-air seating areas in connection to restaurants and brew/distilling pubs.
 - a) The open-air seating area shall not exceed the interior floor space of the associated business.
 - b) Food and beverages shall be served only to seated patrons.
 - c) No bar or similar structure used for sale or dispensing of liquor shall be permitted.
 - c) No overflow of patrons on sidewalks and/or street right-of-way shall be permitted.
 - e) A minimum five-foot wide clear pedestrian path between any obstruction and the open-air seating area shall be maintained at all times, but in no case shall the open-air seating area encroach into the public right-of-way.
 - f) Tables, chairs, umbrellas, and any other objects provided in connection with a facility located directly on sidewalks shall be secured in an orderly fashion or removed from the sidewalk area when dining facility is closed to the public.
 - g) No tables and chairs nor any other parts of open-air seating areas shall be attached, chained, or in any manner affixed to any tree, post, sign, or other public fixtures.
 - h) Tables, chairs, umbrellas, and any other objects provided with an open-air seating area shall be maintained in a clean and attractive appearance and shall be in good repair at all times.
 - i) No vending machines of any kind shall be permitted.
 - j) For facilities directly on sidewalks, such facilities shall be swept and washed daily by the operator of the associated business, including the adjoining sidewalks to the street curb. Raised decks, porches, and similar structures shall also be swept daily. Debris shall be disposed of properly in owner/manager's containers.

4.7.2.c Special Permitted Uses.

1. Antennas and towers.
2. Building or land used for light industrial and storage purposes, including the following uses and any similar uses which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences than the minimum amount normally resulting from other uses listed, such listed uses being generally wholesale establishments, service industries, and light industries that manufacture, process, store, and distribute goods and materials and are, in general, dependent on raw materials refined elsewhere and manufacture, compounding, processing, packaging or treatment, as specified, of the following products or similar products:
 - Bakery products, wholesale (manufacturing permitted)
 - Beverage blending, bottling (all types)
 - Boat manufacture and repair (vessels less than five tons)
 - Button manufacture
 - Contractors' shops and storage yards or equipment rental
 - Dairy operations and dairy products, ice cream and cheese
 - Electrical appliances or electronic apparatus, medical, optical or drafting equipment, toys, games, musical instruments, manufacture and/or assembly
 - Fertilizer storage in bags or bulk storage of liquids or dry fertilizer in tanks or in a completely enclosed building, but not manufacture or processing

- Fruit and vegetable processing, including canning, preserving, drying and freezing
 - Ice manufacture, including dry ice
 - Knitting, weaving, printing and finishing of textiles and fiber into fabric goods or clothing, hats or hosiery
 - Laboratories, research or experimental, but not including combustion-engine testing
 - Machinery manufacture and machine shops
 - Manufacturing of modular and manufactured-type structures
 - Meat products, packing and processing (not slaughtering)
 - Metal products manufacture, such products as bolts, nails, staples, needles, pins, metal containers, ornamental iron fabrication, silverware and plated wire
 - Pharmaceutical products and drugs
 - Plumbing supplies, manufacture, sale or storage
 - Sheet metal products, ductwork and containers
 - Sign fabrication and painting shops
 - Trailers and truck bodies, assembly
 - Truck and transfer terminals, freight
 - Welding or soldering shops
 - Winery, brewery, or distillery 7,501 square feet or greater
 - Wood products manufacture, including baskets, boxes, crates, barrels, furniture, trusses, and veneer
3. Cemetery.
 4. Retail sales establishments 75,001 square feet or greater.
 5. Pharmacy or related uses 35,001 square feet or greater.

4.7.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance Dimensional Requirements and Density Control Table, that is part of this ordinance. In a C2 Medium Commercial District, buildings to be used wholly for business purposes may occupy such lot area as is necessary, provided that off-street parking and loading requirements receive 100% compliance. On the lands where the boundary line dividing a commercial and a residential district is a rear or side property line, there shall be a rear or side yard, as the case may be, of at least 20 feet.

4.7.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.7.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

4.7.6 Site Plan Review

Site plan review and approval shall be secured as required in Article 6 of this Ordinance.

Section 4.8 – Highway Commercial District (C-3)

4.8.1 Intent.

The intent of the C3 – Highway Commercial District is to delineate areas where predominantly commercial development has occurred or is desirable and likely to occur in the future. It permits a variety of retail, professional, and service businesses at greater densities in order to reduce urban sprawl. In order to be eligible for Highway Commercial District zoning, a parcel must be adjacent to US 113 (DuPont

Boulevard), or DE 16 (Main Street/Beach Highway/Milton-Ellendale Highway), or a parcel already zoned C3 – Highway Commercial District.

4.8.2 Permitted Uses.

Within the C-3 District, permitted principal, accessory and special permitted uses are as follows:

4.8.2.a Permitted Principal Uses.

1. Any permitted principal use in the C-2 Medium Commercial District.
2. Biotech campus.
3. Biotech industry.
4. Commercial radio and television stations and studios or recording studios, towers limited to 150 feet in height or less.
4. Community shopping center.
4. Convenience store, mini-market, no fuel station, 6,001 square feet or greater.
5. Convenience store, mini-market, fuel station (no limit on fuel dispensers or nozzles), including electric vehicle charging stations, 6,001 square feet or greater. If the primary use of the parcel is the retail electric charging of vehicles, then the use shall be considered a fuel station for zoning purposes.
6. Distribution center.
7. Laboratory, research, experimental, or testing.
8. Manufacturing, no outdoor sales or storage.
9. Open-air drive-in theater.
10. Pharmacy or related uses 35,001 square feet or greater.
11. Recreational facility, indoor, 25,000 square feet or greater.
12. Recreational facility, outdoor, 25,000 square feet or greater.
13. Retail sales establishments 75,001 square feet or greater.
14. Technology center.
15. Winery, brewery, or distillery 7,501 square feet or greater.

4.8.2.b Permitted Accessory Uses, Buildings and Structures.

1. Antennas, minor.
2. Any accessory use or structures customarily incident and subordinate to any of the uses permitted within this district, located on the same lot, and for the storage of office supplies or merchandise normally carried in stock in connection with a permitted office or business use.
3. Electric vehicle charging stations, when subordinate to the primary permitted use, shall be considered accessory structures. The owner is not restricted from collecting a service fee for the use of an electric vehicle charging station made available to residents, employees, and visitors to the property. Collection of charging station fees shall not affect the zoning land use classification of properties where electric vehicle charging stations are installed as accessory uses.
4. Open-air seating areas in connection to restaurants and brew/distilling pubs.
 - a) The open-air seating area shall not exceed the interior floor space of the associated business.
 - b) Food and beverages shall be served only to seated patrons.
 - c) No bar or similar structure used for sale or dispensing of liquor shall be permitted.
 - c) No overflow of patrons on sidewalks and/or street right-of-way shall be permitted.
 - e) A minimum five-foot wide clear pedestrian path between any obstruction and the open-air seating area shall be maintained at all times, but in no case shall the open-air seating area encroach into the public right-of-way.
 - f) Tables, chairs, umbrellas, and any other objects provided in connection with a facility located directly on sidewalks shall be secured in an orderly fashion or removed from the sidewalk area when dining facility is closed to the public.

- g) No tables and chairs nor any other parts of open-air seating areas shall be attached, chained, or in any manner affixed to any tree, post, sign, or other public fixtures.
- h) Tables, chairs, umbrellas, and any other objects provided with an open-air seating area shall be maintained in a clean and attractive appearance and shall be in good repair at all times.
- i) No vending machines of any kind shall be permitted.
- j) For facilities directly on sidewalks, such facilities shall be swept and washed daily by the operator of the associated business, including the adjoining sidewalks to the street curb. Raised decks, porches, and similar structures shall also be swept daily. Debris shall be disposed of properly in owner/manager's containers.

4.8.2.c Special Permitted Uses.

1. Antennas and towers.
2. Multilevel parking facilities.
3. Racetrack.
4. Regional shopping center.

4.8.3 Dimensional Requirements.

The dimensional requirements for this district are specified in Section 5.1, entitled Town of Ellendale Zoning Ordinance Dimensional Requirements and Density Control Table, that is part of this ordinance. In a C2 Medium Commercial District, buildings to be used wholly for business purposes may occupy such lot area as is necessary, provided that off-street parking and loading requirements receive 100% compliance. On the lands where the boundary line dividing a commercial and a residential district is a rear or side property line, there shall be a rear or side yard, as the case may be, of at least 20 feet.

4.8.4 Off-Street Parking Requirements and Loading Requirements.

The off-street parking and loading regulations are specified in Article 7 of this Ordinance.

4.8.5 Signage.

Signs are permitted as listed in Article 8 of this Ordinance.

Section 4.9-- Large Parcel Development Overlay District (LPD-OD)

4.9.1 Intent

The intent of the LPD-OD Large Parcel Development Overlay District is to designate large sites of three (3) acres or more for planned new development in a way that reflects the best character, scale and design tradition of the Town of Ellendale. The LPD-OD District encourages design ingenuity while protecting existing and future neighboring uses. An important part of the intent of the LPD-OD district is to coordinate with the implementation of the Town of Ellendale Subdivision Regulations and Annexation Policy. The LPD-OD is an Overlay District that works together with the underlying Use District regulations. It is also a Floating Zone in that it is not mapped until a property owner makes application and the Town approves the application. Whenever parcels of three acres or more are located within the Potential Growth and Annexation Area identified in the Comprehensive Plan and are annexed into the Town, application for the use of Large Parcel Development zoning is mandatory.

In order to encourage the creation of a superior living environment, the LPD-OD district encourages the following principles:

1. Creating a special and historic relationship with the existing Town. Through awareness of and appreciation for the connection between man-made and natural features and the protection of public open spaces, wetlands, ponds, watercourses, trees and vegetation in the district.
2. Maintaining a community of diversity through a variety of housing and building types and uses, architectural styles, densities and ranges of affordability.
3. Achieving human scale and neighborhood interaction through pedestrian connections. Connections to existing streets and neighborhoods are desired as Town policy. Well- designed and continuous streets, small or zero setbacks, front porches, open yards, sidewalks, bicycle paths, street trees, sidewalk furniture and places for people to gather are highly desirable.
4. Working with the theme "Busy days and quiet nights" by encouraging but limiting business, commercial and institutional uses to ensure a predominantly residential neighborhood.

4.9.2 Within the LPD-OD Overlay District, permitted principal, accessory and special uses are those permitted within the underlying Use District or Districts, except that the following additional uses will be permitted subject to review and approval of the overall design plan:

1. Multi-family dwellings as part of the overall design.
2. Mixed residential and business uses in the same building.
3. Commercial recreation facilities and community centers.
4. Inns.
5. Continuing care, assisted living and retirement uses that provide a combination of living accommodations for older adults, generally 55 years of age and older

Master Plan Submission.

An applicant for the LPD-OD District shall submit a master plan to the Planning & Zoning Commission and the Town Council for approval that shall include the following:

1. The total number of dwelling units.
2. The square footage of non-residential uses.

3. Parking requirements for each use.
4. Accessory building requirements.
5. Height, area and bulk requirements related to each use.
6. Proposed landscaping.
7. Proposed sidewalks.
8. Proposed street lighting.
9. Signage.
10. Open space.
11. Recreation facilities.
12. Trash containment.
13. A circulation plan showing pedestrian, biking and vehicular ways.

The Planning and Zoning Commission and Town Council shall review the Master Plan with the standards of the Ellendale Comprehensive Plan and recognized principles of planning, design and landscape architecture.

The minimum lot and yard requirements and maximum height requirements of the zoning district in that the LPD-OD is located may be modified as part of the Master Plan as long as public health and safety requirements are not affected.

The Planning and Zoning Commission and the Town Council may impose conditions regarding the layout and design of the proposed development to assure compliance with the Master Plan presented by the applicant.

4.9.3 Master Plan Approval.

The Planning and Zoning Commission and Town Council shall hold a public hearing on the proposed Master Plan. When a proposed Master Plan is approved by the Planning and Zoning Commission and Town Council, it shall be returned to the Applicant for preparation of the final Master Plan and construction plans. A Final Master Plan incorporating all the requirements, amendments and conditions of The Town of Ellendale Council shall be reviewed by the Ellendale Planning and Zoning Commission and shall be placed on record after such approval.

4.9.3 Schedule of Construction.

Before the approval of the LPD-OD-Large Parcel Development, the Applicant shall submit a sequence and schedule of construction.

4.9.3 Additional Land Area.

If the Applicant proposes to add additional land area to the LPD-OD after approval and recording of the Master Plan, the procedural requirements shall be the same as those for the original LPD-OD.

4.9.3 Minimum Lot Area and Width.

The minimum lot area and width for detached single family dwellings shall be no less than five thousand (5,000) square feet in area nor less than fifty (50) feet in width. The minimum lot area and width for semi-detached single-family dwellings shall be no less than three thousand (3,000) square feet in area nor less than thirty (30) feet in width. The minimum lot area and width of lots for townhouses shall be no less than two thousand five hundred (2,500) square feet in area nor less

than twenty (20) feet in width.

4.9.3 Number of Dwelling Units Permitted.

The maximum number of dwelling units permitted shall be determined by dividing the Adjusted Tract Acreage of the total site by the minimum lot area per dwelling unit required by the Use District or Districts in which the site is located.

4.9.3 Requirements regarding Parking, Streets, Alleys and Driveways.

Design of parking areas, streets, alleys, and driveways intended to be dedicated to The Town of Ellendale shall meet the minimum construction requirements of The Town of Ellendale with respect to pavement section, material and tabulation of structural numbers.

4.9.3 Modification of Development Standards.

In a LPD-OD, the Planning & Zoning Commission and Town Council may allow the following development standards to be modified provided the public health and safety is protected:

1. Building setbacks (Section 5.1 - Density Control Table);
2. Required number of off-street parking spaces (Section 7.2 - Off-Street Parking Requirements);
3. Landscaping requirements (Section 7.13 - Buffer and Landscaping Requirements);
4. Sign requirements (Article 8 - Signage); and
5. Street width, design and layout; however, construction requirements with respect to pavement sections, material and tabulation of structural numbers may not be modified (Section 7.1 - Streets, Roads, and Sidewalks).

In evaluating a LPD-OD that proposes to modify the development standards of this Ordinance, the Planning and Zoning Commission and Town Council shall consider the following criteria:

1. Compatibility with surrounding properties, including consideration of:
 - (a) Landscaping and buffering of buildings, parking, loading and storage areas,
 - (b) Public safety and emergency vehicle access,
 - (c) Site access, on-site circulation, and off-street parking,
 - (d) Number, size, and location of signs,
 - (e) Avoidance of Noise, smoke, dust, odor, glare, vibration, and other undesirable impacts,
 - (f) Harmonious architectural design and use of materials;
2. The unique characteristics of the property;
3. The unique characteristics of the proposed use(s);
4. The arrangement of buildings and open spaces as they relate to other uses within or adjacent to the planned development;
5. Visual impact of the planned development upon the surrounding area;
6. Public improvements proposed in connection with the planned development;
7. Preservation of unique natural features of the property;

Section 4.10 - Historic Preservation Overlay District (HP-OD)

4.10.1 Intent.

The intent of the HP-OD Historic Preservation Overlay District is to provide for special review by the Planning and Zoning Commission of historic preservation design and development factors within the oldest and most historic portions of the Town of Ellendale as defined by the Comprehensive Plan. This review will be based on the Secretary of the United States Department of the Interior's Guidelines for Rehabilitating Historic Buildings.

4.10.1a Permitted Principal Uses.

Any use permitted in the Zoning Use District in which the property is located.

4.10.1b Permitted Accessory Uses, Buildings and Structures.

Any permitted accessory uses, buildings and structures permitted in the Zoning Use District in which the property is located.

4.10.1c Special Permitted Uses.

Special permitted uses may be permitted in the HP-OD District which can normally be permitted in the underlying Zoning Use district.

Section 4.11 -- Activities Prohibited in all Districts.

4.11.1 No effluent or matter of any kind shall be discharged into any stream or body of water which violates established stream standards of the Delaware Department of Natural Resources and Environmental Control or otherwise causes objectionable odors or fumes, or which is poisonous or injurious to human, plant, or animal life.

4.11.2 No person, firm or corporation shall strip, excavate, or otherwise remove topsoil for sale, or for use other than on the premises from which the same shall be taken except in connection with the construction or alteration of a building in such premises and excavation or grading incidental thereto.

4.11.3 No use shall be permitted which will produce corrosive, toxic or noxious fumes, glare, fire, explosion, electromagnetic disturbance, radiation, smoke, cinders, odors, obnoxious dust or waste, undue noise or vibration or other objectionable features so as to be detrimental to the public health, safety, or general welfare unless conducted under proper and adequate standards.

4.11.4 Dumping or storage of material in a manner that facilitates the breeding of vermin or endangers health in any way shall not be permitted.

4.11.5 No Adult Use will be allowed within 1,500 feet of any residential, use, school, library, or park.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 5. DIMENSIONAL REQUIREMENTS - DENSITY CONTROL

Section 5.0 -- Purpose.

In order to fulfill the purposes of this Ordinance, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this Article.

Section 5.1 -- Town of Ellendale Density Control Table (Height, Area and Bulk Schedule).

The Section 5.1 Town of Ellendale Density Control Table is declared to be part of this Ordinance. It shows minimum lot size, yard, height, area, and bulk requirements within each District.

Section 5.2 -- Corner Lots.

There shall be a yard of at least fifteen (15) feet of depth on the side street of any corner lot.

Section 5.3 -- Projections Into Required Yards.

5.3.1 The following projections from the primary structure into yards are permitted:

1. Awnings, canopies and overhangs - six feet.
2. Cornices, eaves, retaining walls and roofs - three feet.

5.3.2 Utility equipment may project five feet (5') into side or rear yard setbacks.

5.3.3 An open porch or deck shall be considered a part of the building. It may encroach upon up to one half (1/2) of the distance of the yard it is located in.

5.3.4 Accessory uses and buildings may be located in accordance with Article 7 of this Ordinance.

Section 5.4 -- Maximum Residential Density.

In districts where residences are permitted, a lot held in single ownership may be improved for residential use according to the requirements set forth in the Density Control Table. There shall be no more than one principal building and use on each lot except as provided herein. If more than one residential structure is proposed on the same lot, the average density requirements must be complied with and the lot subdivided so as to provide adequate width and yards.

Section 5.5 -- Side Yard for Multi-Family Dwelling Units.

Side yards for semi-detached, townhouse or multi-family dwelling units, where permitted, shall be required at the ends of the total structure only.

Section 5.6 -- Front Yard Requirements.

On a street where existing buildings have front yard setbacks less than those required for the District in Table 5.1, any new or relocated building may have a front yard setback equal to the

average setback of those existing buildings located on the same side of the street located within 300 feet of the new or relocated building. Any vacant lot shall be calculated as having the required setback for the district.

Section 5.7 -- Height Regulations.

Height regulations are established for each district by Table 5.1. Vertical projections such as chimneys, silos, church spires, domes, elevator shaft housings, water tanks, antennae, aerials, flagpoles, solar energy collectors and similar objects shall not be counted as part of the maximum height measurement but shall be subject to site plan review and approval prior to the issuance of a building permit.

Section 5.8 -- Through Lots.

In the case of a lot running through from one street to another street or alley, the frontage on which the majority of the buildings in the block face shall be considered the primary frontage. In cases where there is no clearly defined frontage, the owner, when applying for a building permit, shall specify which lot line is considered the primary frontage. The rear portion of such a lot shall, however, be treated as a front yard for the purposes of determining required setbacks.

Section 5.9 -- Buffer Yards.

Where a residential district and a non-residential district are adjacent, there shall be provided in the non-residential district a landscaped setback or buffer yard area a minimum of fifteen feet (15') in depth.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 6 - PLANNING AND ZONING COMMISSION SITE PLAN REVIEW AND SPECIAL USE PERMITS

Section 6.0 -- Special Uses.

6.0.1 Purpose and Intent.

The purpose of special use approval is to allow the special review and approval of uses that may be suitable only under certain conditions. Because of their characteristics, or those of the area in which they are to be located, special uses require special review so that they may be properly located with respect to the objectives of this Ordinance and their effect on nearby properties.

The Planning and Zoning Commission shall be formed and function in compliance with Delaware Code, Title 22 -- "Municipalities", Chapter 7.

6.0.2 Establishment; membership.

A planning commission established hereunder shall consist of not less than 5 nor more than 9 members. Such members shall be appointed by the mayor, subject to confirmation by the town council. When a planning commission is first established the members thereof shall be appointed or elected for terms of such length and shall be so arranged that the term of at least 1 member shall expire each year and their successor shall be appointed or elected for terms of 2 to 5 years each. Any member of the planning commission may be removed for cause after a public hearing by the mayor with the approval of town council; members of the planning commission elected by town commissioners shall be removed by them for cause after a public hearing by a majority vote.

A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment. Such a planning commission shall elect annually a chairperson and a secretary from among its own number and may employ experts, clerical and other assistants. It may appoint a custodian of its plan and records who may be the city engineer or town clerk.

6.0.3 Authorization to Grant, Condition or Deny Special Uses.

The Planning and Zoning Commission is authorized to review and approve special uses. The special uses listed in this Zoning Ordinance may be permitted, permitted with conditions or not permitted in accordance with the standards and procedures set forth in this section. In permitting a special use or the modification of an existing special use, the Commission may impose standards and requirements in accordance with this Ordinance and any additional conditions which it considers necessary and reasonable to protect the best interests of the Town. These conditions may include, but are not limited to, the size and design of development and open space, the location and number of vehicle access points, street width, the number, size and location of signs, hours of operation, fencing, screening, landscaping and other measures to protect adjacent or nearby property. In the case of a use existing prior to the effective date of this Ordinance and classified in this Ordinance as a special use, any change in use, lot area or structure shall conform to the requirements for special uses.

On application and review and after public notice and hearing, the Planning and Zoning Commission may authorize the issuance, by the Code Enforcement Officer, of a permit for any of the special uses for which this Ordinance authorizes such permits.

6.04 Procedures for special uses.

- a. A property owner or his or her agent may initiate a request for a special use or modification of a special use by filing an application which includes a legal description of the property, a proposed site plan showing the size and location of the lot, the location of existing and proposed buildings and facilities, access drives, parking areas and streets within two hundred and fifty (250) feet of the lot, plans and elevations necessary to show the proposed development, other drawings and data necessary for an understanding of the proposed use and its relationship to surrounding properties and a filing fee.
- b. In the case where a special use has been approved a building permit shall be issued by the Code Enforcement Officer after the granting of the special use by the Planning and Zoning Commission, and then only in accordance with the terms and conditions of the special use permit.
- c. Before a special use is permitted the proposed special use shall be subject to public notice and a public hearing.
- d. The Planning and Zoning Commission, on its own motion, may revoke any special use permit for noncompliance with conditions set forth in the granting of said permit after first holding a public hearing and giving notice of such hearing. The forgoing shall not be the exclusive remedy and it shall be unlawful and punishable for any person to violate any condition imposed by a special use permit. In such cases a period of sixty (60) days shall be granted the applicant for full compliance prior to revocation of the said permit. In cases where there is imminent danger to the public health, safety or welfare, the revocation of the special use permit shall be immediate.
- e. The Planning and Zoning Commission may require that special use permits be periodically renewed after notice and a public hearing to determine if the original conditions have been complied with or whether conditions have changed since the original special use permit was granted.
- f. The Planning and Zoning Commission may, at its discretion, waive any submission requirements that it deems to be not relevant to the proposed use and site.

6.05 Standards Governing Special Uses.

A special use shall comply with the standards of the district in which it is located. In approving such uses, the Planning and Zoning Commission shall take into consideration the public health, safety and welfare and comfort and convenience of the public in general and of the residents of the immediate neighborhood and Town in general and shall, to the maximum extent possible, further the expressed intent of this Ordinance and the accomplishment of the following objectives:

- a. In order to grant any special use, the Planning and Zoning Commission shall find that the request is in compliance with the general purpose and intent of this Zoning Ordinance, taking into account the location and size of use, the nature and intensity of the operations involved in or conducted in connection with the use and size of the site with respect to streets and access thereto.
- b. In order to grant any special use, the Planning and Zoning Commission shall find that the

establishment, maintenance, or operation of the use applied for, under the circumstances of the particular case, will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the use or will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the neighborhood and Town.

c. The proposal will not result in the destruction, loss, or damage of any natural, scenic or significant historical resource.

d. The proposal will not create excessive additional requirements of public cost for public facilities and services; and will not be detrimental to the economic welfare of the community.

e. The proposal will be served adequately by essential public facilities such as highways, streets, police and fire protection, storm water drainage, water and sewer, schools or that the applicant for the proposed special use shall otherwise provide that these services be adequately obtained.

f. The proposal is in accordance with the Comprehensive Plan.

g. All proposed structures, equipment or material shall be readily accessible for fire and police protection and other emergency services.

h. The proposed use shall be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the district in which it is proposed and shall not be detrimental to the orderly development of adjacent properties in accordance with their zoning classification.

i. The proposal conforms to all applicable requirements of Article 7, Development Guidelines.

Section 6.1 -- Site Plan Review and Approval

6.1.1 Applicability and Exceptions.

All new development or renovations which result in significant changes to external character, appearance or land use within the Town shall require site plan review, except the following:

1. Ordinary landscaping or grading.
2. Ordinary repair or maintenance or interior alterations to existing structures.
3. Agricultural or gardening uses not involving substantial timber cutting.
4. Garage, yard and porch sales. Home Businesses.

6.1.2 Preliminary Plan Submission.

Applicants are encouraged to have an informal concept plan meeting with the Planning and Zoning Commission prior to submission of a preliminary plan.

6.13 Preliminary Plan Requirements.

Application for preliminary plan approval shall be made in writing to the Code Enforcement Officer. Ten (10) copies of the preliminary plan are required. Applications shall be submitted a minimum of twenty-one (21) calendar days prior to the next regular scheduled Planning and Zoning Commission meeting. The Code Enforcement Officer shall notify the Secretary of the Town Council of receipt of the application and shall refer the application to the Planning and Zoning Commission for review and approval.

Developers of land adjoining state or county highways are advised to consult with the Town Engineer and the Delaware State Department of Transportation (DelDOT) to resolve problems of street openings or storm water drainage at the earliest possible stage in the design process.

The preliminary plan shall include the following information:

1. An area map showing:
 - a. Applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.
 - b. All adjoining properties, subdivisions, streets, and adjacent buildings.
2. A site development plan, including but not limited to:
 - a. Existing natural features such as water bodies, watercourses, wetlands, wooded areas, flood hazard areas.
 - b. All existing built features.
 - c. All proposed buildings, structures and public improvements.
3. Name and address of Owner (s) or record
4. Name of Developer
5. Name of Surveyor or Engineer preparing the plan
6. Scale
7. Date of preparation
8. North Arrow
9. Boundaries of the project in shown in heavy outline
10. Dimensions of the property
11. Sussex County Property Identification Number
12. Location of proposed lots
13. Open space
14. A Data Column with the following information:
 - a. Total acreage within the project
 - b. Total acreage within open space
 - c. Total acreage within lots
 - d. Number of lots
 - e. Dwelling units (Type & No.)
 - f. Average lot area
 - g. Minimum lot area
 - h. Maximum lot area
 - i. Density
 - j. Zoning classification of property
 - k. Number of permanent monuments (also locate & describe on plan)
 - l. Sussex County Property Identification Number
 - m. Percentage of impervious surface coverage of parcel.
 - n. Paving
 - o. Buildings
 - p. Name of adjacent property owners
 - q. Location of proposed lots

- r. Setback Lines
 - s. Open space (parks, parkways, playgrounds)
 - t. Easements
 - u. Major excavations
 - v. General location, size, height & material orientation of proposed & existing signs
 - w. In case of proposed streets being dedicated to public use add the following note: "Subdivision streets constructed within the limits of the right-of-way dedicated to the public use shown on this plan are to be maintained by The Town of Ellendale following the completion of the streets by the Developer to the Satisfaction of the Town. The Town assumes no maintenance responsibilities within the dedicated street right-of-way until the Town has accepted the streets."
15. Owner's Certification as follows:
 I, _____, hereby certify that I am the owner of the property described and shown on this plan, that the plan was made at my direction, and that I acknowledge the same to be my act and desire the plan to be recorded according to Ordinance.
16. Engineers, Land Surveyors or Architect Certification as follows:
 I, _____, hereby certify that I am a registered engineer, land surveyor, or architect in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represents good engineering, surveying, and/or architectural practices as required by the applicable laws of the State of Delaware.
 Date _____ Seal _____ Signature _____

In its review of a preliminary site plan, the Planning and Zoning Commission shall consult with the Code Enforcement Officer, the Town Engineer, the Police Department, the Ellendale Volunteer Fire Company, other local and Sussex County officials, and any designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the Sussex Conservation District, the Delaware Department of Transportation (DelDOT) and the Delaware Department of Natural Resources and Environmental Control (DNREC).

6.14 Notice and Public Hearing.

Upon the Planning and Zoning Commission's certification that the preliminary site plan application is complete and satisfactory, the Planning and Zoning Commission shall schedule a public hearing. The applicant shall mail notices of such public hearings to the owners of all lands within a radius of two hundred (200) feet from all boundary lines of the property for which site plan review is requested.

6.15 Notification of Decision on Preliminary Site Plan.

Within thirty (30) days of the public hearing at which a preliminary site plan is considered, the Planning and Zoning Commission shall act upon it. The Planning and Zoning Commission's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, conditionally approved, or disapproved. A copy of the minutes of the Planning and Zoning Commission shall be a sufficient report. The Planning and Zoning Commission's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning and Zoning Commission's statement will contain the reasons for such findings. In such a case the Planning and Zoning Commission may recommend further study of the proposal and resubmission of the preliminary site plan. The approval for a Preliminary Site Plan shall expire one (1) year after the date of the approval by the Planning and Zoning Commission. The Planning and Zoning Commission may grant an extension for a period of up to one (1) year if the applicant shows just cause for the extension.

Applicant shall prepare and submit a Final Site Plan that shall conform to the approved preliminary site plan and shall incorporate any conditions, revisions or other features that may have been recommended by the Planning and Zoning Commission. All revisions shall be clearly indicated by the applicant. A Final Site Plan Approval shall expire one (1) year after the date of its approval by the Planning and Zoning Commission unless substantial construction has commenced.

Upon disapproval, the Planning and Zoning Commission shall so inform the Code Enforcement Officer who shall deny a building permit. The Planning and Zoning Commission shall also notify the applicant in writing of its decision and its reason for disapproval. A copy of the appropriate minutes may suffice for this notice and shall be filed in Town Hall.

Section 6.2 -- Appeal.

The applicant or any interested person may appeal a decision of the Planning and Zoning Commission. The appeal is made to the Town Council and shall be filed within sixty (60) days after the Planning and Zoning Commission's decision.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 7. DEVELOPMENT GUIDELINES AND GENERAL PROVISIONS

Section 7.0 -- General.

The Planning and Zoning Commission, in reviewing a site plan, shall take into consideration the prospective character of the development and require that improvements be designed to be consistent with reasonable protection of the public health, safety, or welfare. The Code Enforcement Officer shall ensure compliance with this Article and other applicable Ordinances, Articles or Sections.

Section 7.1 -- Streets, Roads, and Sidewalks.

Street systems shall be designed with due regard to the needs for: convenient traffic access and circulation; traffic control and safety; access for police, fire and rescue, snow removal and street maintenance equipment and storm water drainage and sewage disposal. Streets shall be designed to accommodate prospective traffic, and so arranged as to separate through traffic from neighborhood traffic as far as practicable.

Section 7.2 -- Off-Street Parking.

7.2.1 General Requirements.

1. Parking shall not be permitted in front yard setback areas except on approved driveways.
2. It shall be the responsibility of the owner of a property to provide the off-street parking spaces required by this Ordinance for any uses that are enlarged, erected or structurally altered.
3. A parking space shall be a minimum of 10 feet by 20 feet for perpendicular parking and 10 feet by 22 feet for parallel parking. A parking space for a semi-truck, trailer, or combination of both shall be a minimum of 12 feet by 55 feet.
4. An area containing one or more parking spaces shall have direct access to a public street or alley.
5. No exit or entrance drive connecting a parking area and a street shall be permitted within thirty (30) feet of the intersection of two public rights-of-way.
6. Where appropriate, the Planning and Zoning Commission may vary the number and design of required parking spaces.
7. Outdoor lighting of off-street parking areas shall be designed to shield adjacent properties from glare.
8. If the uses, structures or parcels for which parking is provided are under separate ownership, the right to joint use of parking spaces shall be evidenced by a deed, lease, contract or other appropriate written document. The Planning and Zoning Commission may authorize the joint use of parking facilities upon a finding that up to fifty (50) percent of the parking spaces required for a specified use that is primarily a daytime activity may be used to satisfy the parking requirements for a specified use that is primarily an evening activity. Applicants seeking such authorization shall submit written documentation justifying their requests.
9. The use of off-street parking areas in residential areas for the parking or storage of commercial vehicles of 10,000 lbs. or more shall be prohibited.
10. Parking shall be prohibited in the lawn area in front of a residence in any district, except on the driveway of such residence.

7.2.2 Required Off-Street Parking Spaces.

The minimum number of parking spaces required shall be determined by the number or amount of dwelling units, bedrooms, floor area, members, equipment, employees, and/or seats contained in such new buildings, uses or structures, or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structure, as follows:

Table of Required Off-Street Parking Spaces, By Permitted Use

Single-Family Dwelling Unit	2 spaces per unit
Two-Family Dwelling or Duplex	2 spaces per unit
Townhouses or Multi-Family Dwelling Units	2.5 spaces per unit
Apartment or Condominium	1.5 per 1-bedroom dwelling unit, 2 spaces per 2- or 3-bedroom dwelling unit, 2.25 per 4-bedroom dwelling unit, 2.5 per 5+ bedroom dwelling unit; 1 additional guest parking space for every 5 dwelling units in the structure
Agricultural, livestock, and domestic animal related uses not otherwise specified	1 space per employee during peak period of employment, plus 1 space per 500 square feet of floor area used for sales or display of merchandise, including outdoor sales and display lots.
Amusement park, miniature golf, kiddie park	3 spaces per 1,000 square feet of land area
Animal clinic	1 space per 300 square feet of gross floor area.
Athletic field, parks, playgrounds, tennis courts	1 space per 5,000 square feet of land area
Auditorium, assembly hall, gymnasium, stadium, and community or recreation center	1 off-street parking space per 4 fixed seats in largest assembly room area or for each 50 square feet of floor area available for the accommodation of movable seats in the largest assembly room, or 1 space per 150 square feet of gross floor area, whichever is applicable to the facility.
Automobile service and repair garage	2 space per service bay, plus 1 space per employee during peak period of employment.
Assisted living facility	1 space for every four beds based on maximum capacity.
Banks and other financial institutions	1 space per 300 square feet of gross floor area. Drive-in establishments shall provide a stacking lane or lanes capable of accommodating 6 spaces per teller or customer service area. One car length within the stacking lane shall be equal to the length of a standard parking space.
Barbershops and beauty shops	1 space per 300 square feet of gross floor area.
Bed and Breakfasts, Inns	1 space for each bedroom within the facility, plus 2 for the property owners
Billiard hall, pool hall, skating rink	8 spaces per 1,000 square feet of floor area.
Boarding school, elementary school, middle school, junior high school	1 space per employee
Bowling establishments	4 spaces for each alley, plus 1 for each employee on the shift of greatest employment.
Business and professional offices	1 space per 400 square feet of gross floor area.
Business school, commercial school, trade	1 space per employee plus 1 space per each 2 students

school, vocational school	based on rated design capacity.
Business services, not otherwise specified	1 space per 400 square feet of gross floor area.
Car wash establishments	2 off-street parking spaces per service bay plus 1 space for every two employees. In addition, a stacking lane or lanes capable of accommodating a minimum of 10 percent of the projected maximum hourly throughput of vehicles for the vehicle wash shall be provided near the entrance to the wash bay(s). One car length within the stacking lane shall be equal to the length of a standard parking space.
Cemetery	Off-street parking spaces are required for only office, chapel and indoor assembly areas. For office space: 1 off-street parking space for every 400 square feet of gross floor area. For chapel and indoor assembly areas: 1 off-street parking space for every four fixed seats. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the gross floor area to be occupied by such chairs shall be considered as a seat.
Church or other places of worship	1 space for every 4 fixed seats in the facility's largest assembly area. For a fixed seat configuration consisting of pews or benches, the seating capacity shall be computed upon not less than 18 linear inches of pew or bench length per seat. For a flexible configuration consisting of moveable chairs, each seven square feet of the gross floor area to be occupied by such chairs shall be considered as a seat.
Club indoor, private including social clubs, fraternal, lodge, union and civic organizations	1 space per adult attendant, plus 1 per 500 square feet of gross floor area.
College, junior college, university	1 space per each 2 employees plus 1 space per each 4 students based on rated design capacity.
Commercial nurseries, sales of outdoor equipment or furniture, sales of new and used cars, trucks, boats, manufactured or mobile homes, trailers and campers	2 spaces per employee during peak period of employment.
Community residential facility, emergency housing facility, freestanding foster care home, overnight shelter, shelter for battered persons, transitional housing facility	1.5 spaces per every 4 adult facility residents.
Convenience store	1 space per 200 square feet of floor area used for sales or display of merchandise purposes, plus 1 space for each 2 employees on the largest shift.
Convenience store, fuel station	2 spaces for employees, plus 1 space for each fuel nozzle/charging port.
Dance school, music school, vocal school	1 space per employee plus 1 space per each 3 students based on rated design capacity.
Day nursery, day-care center, private preschool or kindergarten	1 space per 1,000 square feet of gross floor area, plus 1 space per employee.
Distribution facility	1 space for each employee on the largest shift, these spaces may not be used by semitrailers, wheeled

	containers, tractor-trailer combinations or similar vehicles. The maximum number of accessory parking spaces intended for use by semitrailers, wheeled containers or truck-trailer combinations (not including trailer positions immediately adjacent to a loading berth) at distribution facility for loading or off-loading of goods, shall not exceed the greater of either: 1) 1 parking space for every 2,500 square feet of ground floor area under roof for the principal use, or 2) 2½ parking spaces for each loading dock serving the principal use. For purposes herein, "accessory parking spaces intended for use by semitrailers, wheeled containers or truck-trailer combinations" shall mean the temporary outdoor stationing of an operable vehicle, semitrailer or wheeled container (or similar item capable of lawful intrastate or interstate travel without modification) that has been loaded or off-loaded within the previous 7 days or that will be loaded or off-loaded within the next 7 days. Outdoor stationing for longer periods of time shall constitute outdoor storage. The term "parking" does not include outdoor storage.
Entertainment services, not otherwise specified	1 space per 150 square feet of gross floor area or 1 space per 4 seats for patron use, whichever is applicable to the particular use.
Fitness center, health club	1 space per 200 square feet of gross floor area
Funeral home, undertaker	1 space per 50 square feet of floor area used for seating accommodations, plus 1 space per employee.
Furniture and appliance stores	1 space per 400 square feet of floor area devoted to sales and display purposes.
Golf courses	5 spaces per hole.
Government administrative office	1 space per 400 square feet of gross floor area.
Government maintenance and storage facilities	1 space per 1,000 square feet of gross floor area.
Hospitals, Nursing Homes	1 for each 3 patient beds, except bassinets, plus 1 per medical staff member, plus 1 per 2 employees on the largest shift
Independent living facility	1 space for every four beds based on maximum capacity.
Industrial, manufacturing, wholesaling establishment, microbrewery, distillery, winery, similar sales	1 space for each 2 employees on the shift of the greatest employment, plus 1 per 300 square feet of floor area devoted to on or off premises sales
Laundromat	1 space for each two machines used in the operation of the business.
Kennel	1 space per 400 square feet of gross floor area.
Medical and dental clinics and offices	1 space per 300 square feet of gross floor area.
Motels/Hotels	1 space for each rental room or suite. If a restaurant open to the public is operated in connection with such use, additional off-street parking space meeting the minimum requirements for a restaurant must be provided.
Museum, art gallery, and similar uses	1 space per 1,000 square feet of gross floor area.
Personal services, not otherwise specified	1 space per 400 square feet of gross floor area.

Post office	1 space per 200 square feet of gross floor area devoted to patron use, plus 2 spaces per 3 employees on the shift of greatest employment.
Public library	1 space per 450 square feet of floor area for public use, plus 1 space per 2 employees.
Public safety facilities	1 space per 300 square feet of gross floor area.
Public swimming pool	1.0 space per 5,000 square feet of land area plus 1.0 space per 75 square feet of water area.
Railroad passenger stations, bus terminals, public transportation facilities	1 space per 4 seating accommodations for waiting passengers, plus 1 space per employee on the shift of greatest employment.
Restaurants, taverns, bars, nightclubs, pubs, and similar uses	1 space per 100 square feet assigned for patron use, including any accessory open-air seating area, plus 1 per 2 employees on the largest shift.
Retail store, supermarket	1 space per 400 square feet of floor area used for sales or display of merchandise purposes, plus 1 space for each 2 employees on the largest shift.
Senior high school, high school	1 space per employee plus 1 space per each 6 students based on rated design capacity.
Shopping centers	3 per 1,000 square feet of gross leasable area.
Technology centers	1 space per 400 square feet of office and meeting floor area.
Temporary staffing agency	1 space per permanent employee on the largest shift, plus 1 space per 200 square feet of floor area.
Theater, excluding drive-in	1 space per 4 seats.
Warehouse	1 space per 500 gross square feet.

7.2.3 Calculation of Required Parking Spaces.

In the case of combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit joint use of parking areas or other modifications. Whenever a major fraction of a space is required, a full space shall be provided.

7.2.4 Location of Required Parking Spaces.

1. Residential Districts (R-1, R-2, R-B and R-S Districts):
 - a. Required parking spaces shall be provided on the same lot as the residence served. This space shall be graded for parking use and be readily accessible from the street.
 - b. Open parking areas may encroach on any required side or rear yard to within three (3) feet of a property line.
2. General and Multifamily Residential Use District (R-3 Districts):
 - a. Required parking spaces shall be provided on the same lot as the residence served.
 - b. In computing the number of parking spaces required, if the computation shall result in a fraction, a space shall be required for each such fractional amount.
3. Commercial Districts (C Districts):
 - a. Required parking spaces shall be provided on the same lot as a business, residential, institutional or industrial use, or not more than 400 feet distant from them.
 - b. Where such parking is situated adjacent to a residential use it shall be set back a minimum of six (6) feet from the residential lot line, and an adequate landscape buffer in shall be provided within such setback area.

7.2.5 Off-Street Parking Waiver.

Off-street parking requirements may be waived in whole or in part upon finding by the Planning Commission that:

1. Adequate public off-street parking facilities are available within 400 feet of the lot containing the subject use, or
2. Evidence of satisfactory off-site parking arrangements has been provided.

7.2.6 Construction of Parking Areas.

Off-street parking areas shall be paved with a suitable all-weather, dust-free surface with the exception of those for single-family residences. Parking areas shall be:

1. Visibly marked with paint or other durable material.
2. Provided with curbing or wheel stops to keep parked vehicles within proper boundaries.
3. Designed, graded and surfaced for proper drainage.

7.2.7 Landscaping.

At least 10 percent of the area of a lot used for off-street parking shall be devoted to landscaping with lawn, trees, shrubs or other plant material. All loading berths and parking areas of three or more spaces that abut a residential lot line, and any parking lot for more than 20 cars, shall be

screened adequately from adjoining properties. All parking areas and landscaping shall be maintained in accordance with applicable Town Ordinances.

Section 7.3 -- Off-Street Loading and Unloading.

7.3.1 Wherever a lot or structure is used for manufacturing, commercial, business or other similar uses, there shall be provided and maintained, on said lot, off-street loading facilities.

7.3.2 Loading berths shall be located to the rears of structures in such a way as not to unreasonably interfere with the movement of people and vehicles on public rights-of-way. The Planning and Zoning Commission may allow use of public rights-of-way to satisfy loading berth requirements.

7.3.3 Landscaping shall be as required in Section 7.2.7.

7.3.4 For retail stores, markets, wholesale and jobbing establishments and storage warehouses, the number of berths based on the gross floor area devoted to such use shall be as follows:

- 1) Five thousand to 7,999 square feet of floor area: one berth.
- 2) Eight thousand to 19,999 square feet of floor area: two berths.
- 3) Each additional 20,000 square feet or major fraction thereof up to a maximum of 60,000 square feet of floor area: one additional berth.

7.3.5 For hotels and motels, the number of berths based on the gross floor area devoted to such uses shall be as follows:

- 1) Eight thousand to 20,000 square feet of floor area: one berth.
- 2) Each additional 50,000 square feet or major fraction thereof up to a maximum of 120,000 square feet of floor area: one additional berth.

7.3.6 Each manufacturing, office research and industrial establishment with a total of 3,500 square feet or more of gross floor area devoted to manufacturing, research and/or industrial uses shall provide loading space adequate to accommodate the normal demands for loading and unloading incidental to the type of use proposed on the premises

Section 7.4 -- Sidewalks and Driveways

7.4.1 Portions of driveways which lie within public rights-of-way shall be constructed in conformance with specifications set forth by the Town and the Delaware State Department of Transportation.

7.4.2 All work and materials within public rights of way shall be furnished as required to meet specifications set forth by the Town and the Delaware State Department of Transportation.

7.4.3 No more than two driveways to a single commercial establishment entering on one street shall be permitted, except as permitted by the Delaware State Department of Transportation or Planning and Zoning Commission.

1. Any curb cuts will require approval by the Town in accordance with fees established by The Town of Ellendale Town Council, as well as any state permits required.
2. For a single-family residence driveway and parking area, a suitable all-weather dust free surface shall be provided and shall be designed, graded and surfaced for proper drainage.

Section 7.5 – Fences and Walls

Fences and walls are permitted as follows:

7.5.1 Where a driveway meets a street, no hedge, wall or other planting shall be installed and maintained which exceeds three (3) feet in height above grade or street pavement, whichever is greater, to within 8 feet of the public right-of-way.

7.5.2 The minimum distance for clear vision at a street intersection shall be twenty-five (25) feet measured from the intersection along the lot lines of the lot.

7.5.3 Fences, walls, hedges or screen plantings may be required, as specified elsewhere in this Ordinance multi-family, commercial or industrial uses, as is necessary to protect the residential quality of adjacent property. Fences or other enclosures may be required as provided under section sections 10.2.12 and 10.2.13 of this Ordinance.

7.5.4 Fence and wall regulations.

1. In all Districts except the C Commercial District a maximum height of three (3) feet above grade or street pavement, whichever is greater, shall be allowed for fences in front yards. Fences and walls shall be constructed of materials that shall not hinder clear vision in conformance with Section 7.6.2. Fences in side and rear yards shall not exceed eight (8) feet in height above grade or street pavement, whichever is greater.

2. In all Commercial Districts, a maximum height of eight (8) feet in height above grade or street pavement, whichever is greater shall be allowed for fences in front yards.
3. The finished, or decorative, side of a fence shall face toward the neighboring property.

7.5.6 The clear vision area shall contain no plantings, fences, walls, structures, or temporary or permanent obstructions exceeding three (3) feet in height measured from the top of the street pavement or grade, unless such plantings have all branches and foliage removed to a height of eight (8) feet above the finished grade.

Section 7.6 -- Design for Unique Physical Features.

Applicants must make every effort to preserve unique physical features such as historic landmarks, stream banks, forested areas, natural lookouts, trails, desirable views.

Section 7.7 -- Open Space, Parks and Playgrounds.

The Planning and Zoning Commission may require, as a condition of site plan approval, that specific areas be designated for open space and recreational purposes. Such designation shall depend upon the magnitude and character of the project. All lands proposed for park or recreation purposes shall meet the following minimum standards.

7.7.1 Such lands shall be held in corporate ownership and maintained by an established organization.

7.7.2 Such lands shall have locational and physical characteristics that render them readily usable for appropriate recreational purposes. Their locations shall be selected with a view to minimizing hazards and vehicular traffic conflicts.

Section 7.8 -- Utilities.

7.8.1 Provision for water supply and sanitary sewer shall conform to specifications set forth by the Town. Sanitary Sewer must comply with the requirements of Sussex County.

7.8.2 Utility Easements. An easement shall be provided for all utility lines wherever they do not fall within a dedicated right-of-way. All utility easements shall be plotted on the site plan submitted to the Planning and Zoning Commission. Utility easements shall have a minimum width of twenty feet (20).

Section 7.9 -- Commercial Districts.

7.9.1 Design Standards.

1. General Standards: The following standards apply to Light Industrial Uses:
 - a. Smoke shall not be emitted when the shade of such smoke is darker than the No. 2 rating on the Ringelmann's Scale as published by the U.S. Bureau of Mines.
 - b. Noise levels shall not exceed 85 dba measured at the boundaries of the lot.
 - c. Discharge of effluent into the sanitary sewer system shall not occur. Outside storage or stacking of hazardous materials is prohibited.
 - d. Any inside storage of hazardous materials shall be in accordance with the standards of the Delaware Department of Natural Resources and Environmental Control (DNREC).
2. Specific Standards:

- a. Storage Facilities shall be screened.
- b. Wherever possible, freight handling shall either be on the sides of a building that do not face on a street or be suitably screened.
- c. Buffers and Landscaping:
- d. Landscaping: All areas of the site not occupied by buildings, parking, driveways, walkways or storage shall be landscaped with lawn, trees, shrubs, or other plant material.
- e. Such landscaping shall take into consideration the natural growth presently on the premises, and the nature and condition of the terrain, as well as the situation of the lands and premises themselves.
- f. Off-Street Parking and Loading shall conform to Sections 7.2 and 7.3. Signs shall conform to the requirements of Article 8, Signage.
- g. Utilities: All water and sewer facilities shall be designed and installed according to Town and, as applicable, County standards as per Section 7.8 of this Ordinance.

Section 7.10 -- Business Licenses.

7.10.1 Standards. Prior to the commencement of providing or performing any temporary or permanent work or services within the Town of Ellendale, all businesses or individuals must possess and maintain a valid and current business license issued by the Town of Ellendale regardless of the nature, or value of the work performed or services provided, including but not limited to home occupations. For more on home occupations see section 10.6 of this Ordinance.

7.10.2 Process. A business license may be obtained by completing the Business License Application included in the Addendum section of this Ordinance, and delivering a completed application and a non-refundable payment of \$125.00 per year to the Town Hall. Work shall not commence within the Town until a valid Business License is issued to the applicant. A Business license shall be renewed every year.

Section 7.11 -- Gasoline Stations, Service and Repair Garages, Automobile Sales Areas.

7.11.1 Minimum lot dimensions shall be:

1. Minimum design standards for driveways, curb cuts and other design features relative to access to public roads shall be those of the Delaware State Department of Transportation (DelDOT).
2. Minimum lot size shall be fifteen thousand (15,000) square feet. Minimum lot depth shall be one hundred (100) feet.
3. Minimum lot width shall be one hundred twenty (120) feet. Maximum lot coverage shall be forty percent (40%).
4. Minimum setback line from all street lines shall be fifty (50) feet.
5. Minimum distance between any buildings and any lot zoned for residential use shall be fifty (50) feet.
6. Minimum distance between any access driveway or curb cut and any lot zoned for residential use shall be fifty (50) feet.
7. Minimum distance between gasoline pumps or pump islands, compressed air equipment, tire racks and similar equipment and facilities and any street right-of-way shall be twenty-five (25) feet.

7.11.2 All automobile parts, including tires, are to be stored within a building. Tires that are offered for sale may be placed outside during normal business hours, but must be stored in a rack. Old tires to be scrapped or sold for junk must be stored either inside a building or behind an 8' high fence, wall or natural screen in conformance with Section 7.13 and at no point be visible over the screening.

7.11.3 All repair work is to be performed within a building. Automobiles waiting to be serviced on the premises shall not encroach on any required yard area. Wrecked automobiles being held for insurance adjuster inspection may be stored for a period not to exceed thirty (30) days and must be stored in the rear of the premises and screened to the greatest extent possible either inside a building or behind an eight (8) foot high fence, wall or natural screening in conformance with section 7.6.

7.11.4 A site plan must be submitted to the Planning and Zoning Commission.

7.11.5 Hydraulic hoists, service pits and all lubrication, greasing, repair and washing equipment must be entirely enclosed within buildings.

7.11.6 A compact evergreen screen or a fence either solid or with narrow openings not more than one (1) inch for each ten (10) inches of length and not less than six (6) feet in height shall be placed along all property lines separating the establishment from any lot in an adjoining residential district.

7.11.7 Except for permitted curb cuts, a solid vertical curb in accordance with the Town standards and DelDOT standards if required must be provided along all street lines.

7.11.8 Exterior lighting must be located, designed and shielded so that it will not cause glare hazardous to passing motorists and annoying to adjacent properties.

7.11.9 Junked or stripped vehicles in an inoperative condition are prohibited on the premises.

7.11.10 All waste petroleum products must be stored in tanks meeting the approval of the National Fire Protection Association and State Fire Marshall.

7.11.11 A minimum of two (2) off-street employee parking spaces and one (1) off-street parking space for each service bay must be provided.

7.11.12 No vehicles shall be parked or equipment placed, goods displayed or sign or light erected within the street right-of-way.

7.11.13 The entire service area of all access driveways and parking places must be paved with a suitable all weather dust free surface and be graded to direct all water away from adjoining lots.

7.11.14 The minimum distance between any gasoline station and any school, day nursery, hospital, nursing home, library or similar use must be two hundred (200) feet, measured along the same street line in the same block from the nearest property line of the gasoline station.

7.11.15 Where the storage and sale of liquefied petroleum gases is carried on as an accessory use to a gasoline station, the required service station site plan must clearly show the number, locations and capacities of liquefied petroleum gas storage tanks. No tank shall be installed and no truck carrying tanks shall be parked closer than twenty-five (25) feet from the street line or any property line.

7.11.16 Where the rental of utility trailers and/or small trucks is carried on as an accessory use to a gasoline station, the required site plan must clearly show the location and dimensions of the parking area for these vehicles. No more than fifteen percent (15%) of the total lot area may be devoted to parking for rental utility trailers and trucks, and no trailer or truck may be parked closer to any street line than the setback distance required for gasoline pump islands. Parking areas for rental utility trailers and trucks must be clearly marked on the ground and must be located to avoid interference with normal customer traffic flow onto, within and from the service station lot and with traffic visibility at road intersection.

7.11.17 Parking:

1. No vehicle shall be parked, stored or left standing within 15 feet of the street line and/or fuel pump islands.
2. Parking requirements shall be in conformance with Section 7.2. Such parking areas shall not conflict with the traffic pattern established for the use of the fuel pumps. Additional parking area may be required by the Planning and Zoning Commission to accommodate tractor-trailer delivery.
3. Where parking areas abut a residential use, they shall be screened by a buffer area no less than ten (10) feet in depth composed of densely-planted plant material, solid fencing, or a combination of both which, in the opinion of the Planning and Zoning Commission, will be adequate to prevent the transmission of headlight glare across the zone boundary line.
4. Such buffer screen shall have a minimum height of six (6) feet above finished grade at the highest point of the parking area. The materials used shall be in keeping with the character of the adjacent residential area. If said shrubbery or fences becomes decayed and fails to provide an adequate screen, the Code Enforcement Officer may direct the property owner to replace said shrubs or fences.

7.11.18 All storage and display areas shall be provided with a hard, dust-free surface, shall be adequately drained.

7.11.19 A maximum of two driveways and curb cuts shall be permitted per lot frontage. These shall be no less than 20 feet and no wider than 30 feet, and located a minimum of 30 feet from any street intersection. A minimum distance of 30 feet shall be maintained between such driveways or curb cuts.

Section 7.12 -- Buffer and Landscaping.

7.12.1 Intent.

The objective of this Section is to ensure consideration of the physical and visual elements of land use development in The Town of Ellendale which require, or may be improved, by buffering, setbacks and landscaping in order to enhance the appearance, screen or effectively separate different land uses and minimize impacts on adjoining uses such as dirt, litter, noise, glare and incompatible buildings or uses (such as outdoor storage, loading and parking areas). The Planning and Zoning Commission may require that a professional licensed Landscape Architect prepare plans under this Section.

7.12.2 Buffer and Landscaping Techniques.

The particular type of buffer and landscaping treatment shall be as determined by the Planning and Zoning Commission to meet the intent of this Section. The following types of treatment may be considered:

1. Landscaping and other screening including tree planting, use of berms, and planting of shrubs designed to separate, obscure or soften an incompatible view or use. Visual setting, including ground cover and plant materials designed to stabilize the landform and provide an appropriate foreground or setting.
2. Physical separation, including setbacks from public streets or adjacent uses in combination with plant materials or features designed to separate land use types or activities.

7.12.3 Planting Standards.

1. Trees. All trees shall be plant species having an average crown spread of greater than fifteen (15) feet and having trunks which can be maintained in a clean condition, free of branches from grade to five (5) feet above grade. Trees having an average mature spread of less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown. Tree species shall be a minimum of seven (7) feet of overall height immediately after planting. Tree plantings along public rights-of-way shall be of native species.2. Shrubs and hedges. Shrubs shall be a minimum of two (2) feet in height at planting. Hedges, when measured, shall be planted and maintained so as to form a continuous visual screen within two (2) years after time of planting.
3. All disturbed soil areas on the site shall be replaced or reseeded.
4. No landscape feature shall be erected, placed or maintained in such a manner as to interfere with clear vision and/or the safe movement of vehicular traffic.
5. All landscaping shall be adequately and regularly maintained and replaced as necessary.
6. Native plant materials must be used.

7.12.4 Storm Water Management Ponds.

1. Storm water management ponds shall be landscaped by the property owner/home owners association. The use of the storm water management areas for other than parkland or additional open space shall be prohibited. The landscaping of storm water areas shall be approved by the Planning and Zoning Commission and the Sussex Conservation District.

Section 7.13 -- Fast Food Restaurants.

Where permitted, fast food restaurants meeting the definition of this Ordinance shall conform to the following standards that shall be regarded as minimum requirements.

7.13.1 Minimum Lot Size shall be 15,000 sq. ft.

7.13.2 At least one lot frontage shall be a minimum of 100 feet.

7.13.3 Access.

1. A maximum of two driveways and curb cuts shall be permitted on each street frontage. All drives shall be no less than 20 and no wider than 30 feet in width.
2. Drives shall be located a minimum of 30 feet from any street intersection and shall maintain a minimum of 30 feet between such driveways or curb cuts.

3. Driveways shall create minimal conflict with pedestrian access to the building from the parking lots and sidewalk abutting the property. 7.13.4 Parking.

1. The number of parking spaces shall be as specified in Section 7.2.
2. Parking lots shall be designed to provide pedestrian safety.

7.13.5 Loading and Unloading.

1. Adequate space shall be provided for loading and unloading as specified in section 7.3. 2. Off-street loading and unloading spaces shall be designed to provide pedestrian safety.

7.13.6 Landscape Requirements.

A landscape area contiguous to the public right-of-way and extending a depth of 10 feet shall be provided. Landscaping, including trees, shall also be used to screen or buffer parking, dumpsters, freezers and other accessory uses as per Section 7.13.

Section 7.14 -- Drive-In Uses

7.14.1 All drive-through lanes shall be distinctly marked and shall be separate from circulation lanes.

7.14.2 To the extent possible, lanes shall not cross any principal pedestrian access to the building or site.

7.14.3 Stacking or Queuing Requirements.

1. Fast food Restaurants: A minimum of 140 feet between start of lane to the service window.
 - a. Minimum 80 feet from start of lane to order station.
 - b. Minimum 60 feet from order station to service window.
2. Banks and other businesses:
 - a. Minimum of 100 feet from start of lane to service window.
3. Multiple drive-through lanes: The Planning and Zoning Commission may allow reductions for businesses with multiple drive-through lanes based on review of proposed traffic circulation and usage.
4. All uses shall maintain a minimum distance of 60 feet from the service window to the public right-of-way or interior parking aisles.

Section 7.15 - Commercial Parking Lots.

7.15.1 A minimum of 20% percent of the lot area shall be devoted to landscaping, including tree planting, which shall be provided in conformance with Section 7.13.

7.15.2 Sidewalks shall be provided as necessary and shall be designed to ensure pedestrian safety.

7.15.3 Ingress and egress shall be designed to promote the orderly flow of traffic. Directional signs shall be used as necessary to ensure this flow.

Section 7.16 - Conversion Of Single-Family Dwellings.

The conversion of existing single-family owner-occupied housing for multi-family rental use is subject to the following standards.

7.16.1 Prohibited conversions.

- (1) In all districts, except as otherwise specified in this section:
- (i) No building currently used as a single-family dwelling may be altered or changed to be used for occupancy for multi-family occupancy; and
 - (ii) No building currently used as a two-family dwelling may be altered or changed to be used for occupancy for multi-family occupancy.
- (2) For purposes of this subsection, an empty building is considered to be a single-family dwelling unless it was last lawfully used, in compliance with the normal density control requirements of the zoning use district in which it is located, as a dwelling for multi-family occupancy.

7.16.2 Authorization of Special Use Conversion by the Board of Adjustment.

- (1) In all districts except the R-1 District, the Board of Adjustment may authorize, as a special use, the conversion of a single-family dwelling for multi-family occupancy, as long as the number of dwelling units permitted conforms with the density requirements for the zoning use district in which the building is located.
- (2) When authorizing a conversion, the Board may impose conditions and restrictions that include a limit on the number of occupants.
- (i) Under no circumstances may the Board approve the conversion of a single-family dwelling to a multi-family use unless the property meets the minimum lot size requirements.
 - (ii) The Board may waive the requirements of item (i) of this paragraph (2) for carriage houses, non-conforming uses and vacant buildings.

7.16.3 Special use permission for conversion - procedures.

- (1) In addition to the requirements of this Ordinance for Special Uses, the following procedures apply to a special use requested under this section.
- (2) When an application is filed for conversion to multi-family use, the applicant must submit to the Code Enforcement Officer of the Town of Ellendale plats and construction and floor plans adequate for Town review.
- (3) The Code Enforcement Officer must submit to the Board a written advisory recommendation stating his or her findings and recommendation, including a finding as to the impact of the proposed conversion on the character of the neighborhood. The Board may proceed without the recommendation of the Code Enforcement Officer if the Code Enforcement Officer fails to submit its recommendation within 3 weeks of the date it received the plats and plans.

Section 7.17 - Telecommunications Antennas & Towers

No telecommunications antenna may be erected or established in the Town except in conformance with the following standards.

7.17.1 Applicability.

1. New Towers and Antennas. All new towers or antennas in the Town of Ellendale shall be subject to these regulations, except as provided in this Section.

2. Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and owned and operated by a federally licensed amateur radio station operator or used exclusively for receive only antennas.
3. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance.
4. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

7.17.2 General Requirements.

1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. The presence of an existing use or structure on the same lot shall not preclude the installation of an antenna or tower on the lot.
2. Lot Size. The dimensions of the entire lot shall control for these regulations, even though the antennas or towers may be located on leased parcels on only a portion of the lot.
3. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Code Enforcement Officer an inventory of existing towers, antennas, or sites approved for towers or antennas, within one mile of the Town.
4. Aesthetics. Towers and antennas shall meet the following requirements:
 - (a) Color - Towers shall either maintain a galvanized steel finish or be painted a neutral color;
 - (b) Design of Structure - the design of buildings and structures shall use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings;
 - (c) Lighting - towers shall not be artificially lighted, unless required by the FAA or other applicable authority;
 - (d) State or Federal Requirements - All towers must meet or exceed current standards and regulations of the state or federal.
 - (e) Building Codes - The owner of a tower shall ensure that it is constructed and maintained in compliance with the requirements of applicable state or local building codes and standards published by the Electronic Industries Association.
5. Signs. No signs shall be allowed on an antenna or tower.
6. Collocation - Multiple Antenna/Tower Plan. The Town encourages the users of towers and antennas to collocate their antennas on the same towers. It also encourages the submission of a single application for approval of multiple towers and/or antenna sites.
7. Public Schools and Parks. No Tower shall be permitted within 1,500 feet of a public school or park.

7.17.3 Permitted Uses.

General. The uses listed in this Section are deemed to be permitted uses but are subject to site plan review:

1. Antennas or towers located on property owned, leased, or otherwise controlled by the Town provided a license or lease authorizing such antenna or tower has been approved by the Town.
2. Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

3. Minor Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Code Enforcement Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided: (a) The antenna does not extend more than thirty (30) feet above the highest point of the structure; (b) The antenna complies with all applicable FCC and FAA regulations; and (c) The antenna complies with all applicable building codes.

4. For a single user, up to ninety (90) feet in height; for two users collocating together at a single location, up to one hundred twenty (120) feet in height; and for three or more users collocating, up to one hundred fifty (150) feet in height.

7.17.4 Information required for special permit applications for antennas and towers:

1. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and the zoning the site and all properties within the applicable separation distances set forth in Section 5.10, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Code Enforcement Officer to be necessary to assess compliance with this ordinance.
2. Legal description of the parent tract and leased parcel (if applicable).
3. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
4. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
5. A landscape plan showing specific landscape materials.
6. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
7. A description of compliance with the requirements of this Zoning Ordinance and with all applicable federal, state or local laws.
8. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
10. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
11. A description of the feasible location(s) of future towers or antennas within the Town based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

7.17.5 The Planning and Zoning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning and Zoning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning and Zoning Commission concludes that the goals of this ordinance are better served thereby:

1. Height of the proposed tower;
2. Proximity of the tower to residential structures and residential district boundaries;
3. Nature of uses on adjacent and nearby properties;
4. Surrounding topography;
5. Surrounding tree coverage and foliage;
6. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

7. Proposed ingress and egress; and
8. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 7.19.6 of this ordinance.

7.17.6 Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.

An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area that meet the applicant's engineering requirements.
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
7. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
8. Setbacks. The following design standards apply to all towers for which a special use permit is required:

7.17.7 Design Standards:

1. Setbacks: Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from an adjoining lot line.
2. Guys and accessory buildings must satisfy minimum zoning district setback requirements.
3. Separation: No tower shall be erected within 1,500' of any residential use, public school, church or park.
4. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device, provided however, that the Planning Commission may waive such requirements, as it deems appropriate.
5. Landscaping. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. In addition, existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

Section 7.18 - Environmental Review Standards

The following standards will be used in reviewing the environmental aspects of development applications.

7.18.1 Wetlands and Water bodies:

1. Preserve and enhance Ellendale's wetlands and water bodies through conservation, protection and responsible development practices.
2. Minimize creating impermeable surfaces that inhibit the recharge of aquifers and threaten flooding.
3. Inappropriate development is prohibited within mapped wetland areas delineated by the State Wetland Mapping Project. Inappropriate development includes subdividing wetlands into lots, construction of permanent structures or dwellings and construction of storm water management ponds. Disturbance of wetlands may be unavoidable for such activities as utility lines or road crossings, but such activities should occur only if there is no alternative.
4. Delineate wetlands on site plans and obtain U.S. Army Corps of Engineers verification.
5. Require compliance with the Regulations Governing the Use of Subaqueous Lands (Chapter 72, Title 7, Delaware Code).
6. Require a vegetated buffer zone of no less than 50 feet from any water body or wetland. Wider buffer zones are encouraged where significant natural resources exist or where water quality would benefit.
7. Compliance is required with the Delaware Sediment and Storm water Regulations (Chapter 40, Title 7 Delaware Code) and best management practices as contained in the Delaware Erosion and Sediment Control Handbook.
8. Identify opportunities for stream, wetland and swamp restoration projects.

7.18.2 Forests & Trees

1. Limit the extent of forest clearing and prevent forest fragmentation.
2. Maintain existing street trees and plant new ones.

7.18.3 Flood Prevention

1. Require that 100-year floodplains (and base flood elevations if determined by FEMA or a professional engineer and approved by FEMA) be shown on site plans.
2. Locate buildings outside of the 100-year floodplain whenever possible.
 - a. If development or newly constructed buildings are proposed within the floodplain, require that the lowest floor of the building be elevated on a properly designed foundation so that the bottom of the horizontal floor supports are at or above the 100-year flood level.
 - b. In all instances, require that the lowest floor level shall be at or above the level of immediately adjacent roads to allow positive drainage.
 - c. Require that the inside crawl space floor of buildings constructed on crawl spaces be at or above the lowest outside grade.
 - d. Require that all mechanical equipment, and HVAC components be located above the base flood elevation.

7.18.4 Water Resource Protection Areas

1. Protect groundwater quantity and quality by establishing wellhead protection areas and areas of excellent and good groundwater recharge (as delineated by DNREC). Follow

recommended source water protection practices as outlined in the Sourcewater Protection Guidance Manual for the Local Governments of Delaware (March, 2004).

7.18.5 Drainage

1. Require that tax ditch right-of-ways be shown on site plans.
2. Ensure that development projects do not hinder off-site drainage upstream of a project area and ensure that the project does not create off-site drainage problems by release of on-site storm water.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 8 -- SIGNAGE

Section 8.0 -- General.

8.0.1 Intent.

The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of designated areas, and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of natural beauty and community environment. Any sign which is greater in size than 32 square feet and which is to be placed along a state maintained road must receive approval from DelDOT prior to installation.

8.0.2 Sign Definitions

Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

ABANDONED SIGN - A sign structure that has ceased to be used for the display of sign copy, or as otherwise defined by state law.

ANIMATED SIGN - A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this Ordinance, include the following types: Electrically activated, animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

ARCHITECTURAL PROJECTION - Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning" and "Canopy, attached and freestanding."

AWNING - An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

AWNING SIGN - A sign that is mounted, painted or attached to an awning or other window or door canopy. See also "Wall or fascia sign."

BANNER SIGN - A temporary sign of cloth or similar material that celebrates an event, season, community, neighborhood or district and is sponsored by a recognized community agency or organization.

BLADE SIGN - A vertically mounted wall sign.

BULLETIN BOARD SIGN - A sign that identifies an institution or organization on whose premises it is located and contains the name of the institution or organization, the names of individuals connected with it and general announcements of events or activities occurring at the institution, or similar messages.

BUILDING ELEVATION - The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

CANOPY (Attached) - A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached canopy may be illuminated by means of internal or external sources of light. See also "Marquee."

CANOPY (Free-standing) - A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and/or soffit of a free-standing canopy may be illuminated by means of internal or external sources of light.

CANOPY SIGN - A sign attached to the underside of a canopy.

CHANGEABLE SIGN - A sign with the capability of content change by means of manual or remote input, including signs which are:

1. Electrically activated. Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."
2. Manually activated. Changeable sign whose message copy or content can be changed manually.

COMBINATION SIGN - A sign that is supported partly by a pole and partly by a building structure.

CONSTRUCTION SIGN - A temporary sign erected on the premises where construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest in the structure or project.

COPY - Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

DEVELOPMENT COMPLEX SIGN - A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance the requirements of this Ordinance.

DIRECTIONAL SIGN - Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.

DIRECTORY SIGN - A sign listing the tenants or occupants of a building or group of buildings and that may also indicate their respective professions or business activities.

DOUBLE- FACED SIGN - A sign with two faces, back to back.

EXTERIOR SIGN - Any sign placed outside a building.

FASCIA SIGN - See "Wall or fascia sign."

FREE-STANDING SIGN - A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

FRONTAGE (Building) - The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

FRONTAGE (Property) - The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

GROUND SIGN - A freestanding sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground. See "Free- standing sign."

HANGING SIGN - A freestanding sign supported by the extended arm of a single post, with the top edge of the sign face not exceeding 8 feet above grade level.

HOME OCCUPATION SIGN - A sign containing only the name and occupation of a permitted home occupation.

ILLUMINATED SIGN - A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

INSTITUTIONAL SIGN - A sign identifying an institutional use.

INTERIOR SIGN - Any sign placed within a building, but not including "window signs" as defined by this Ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

MARQUEE - See "Canopy (attached)."

MARQUEE SIGN - See "Canopy sign." Manually activated. Changeable sign whose message copy or content can be changed manually.

MENU BOARD - A free- standing sign orientated to the drive through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.

MULTIPLE- FACED SIGN - A sign containing three or more faces.

OFF-PREMISE SIGN - See "Outdoor advertising sign."

ON-PREMISE SIGN - A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

OUTDOOR ADVERTISING SIGN - A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

PARAPET - The extension of a building facade above the line of the structural roof.

PEDESTRIAN-SCALE SIGNAGE - Signage sized and scaled so as to be easily read and seen by nearby pedestrians, as distinguished from larger highway-oriented signage designed to be legible to passing motorists.

POLE SIGN - See "Free-standing sign."

POLITICAL SIGN - A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

PORTABLE SIGN - Any sign not permanently attached to the ground or to a building or building surface.

PROJECTING SIGN - A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

REAL ESTATE SIGN - A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

ROOF LINE - The top edge of a peaked roof or, in the case of an extended facade or parapet, the uppermost point of said facade or parapet.

ROOF SIGN - A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs. For a visual reference, and a comparison of differences between roof and fascia signs, see Section 8.0.3.

SIGN - Any object, device, display or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. A "sign" does not include the flag or insignia of any nation or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or similar organization, or of any campaign, drive, movement, or event which is temporary in nature.

SIGN AREA - The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

SIGN COPY - Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

SIGN FACE - The surface upon, against or through which the sign copy is displayed or illustrated not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

1. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.

2. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed.

3. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy.

4. In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

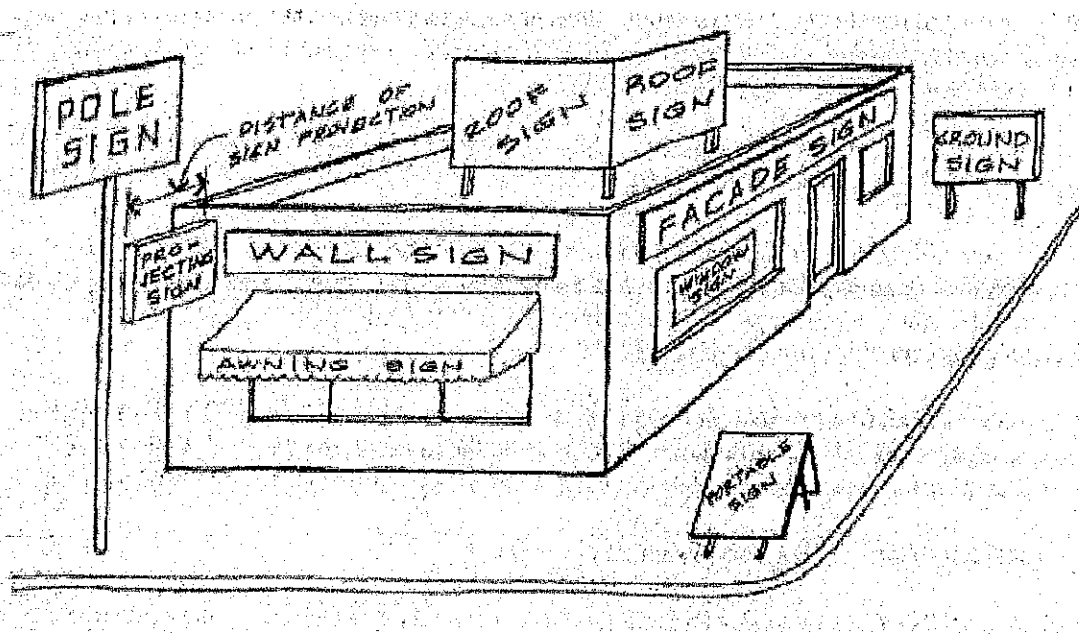
SIGN STRUCTURE - Any structure supporting a sign.

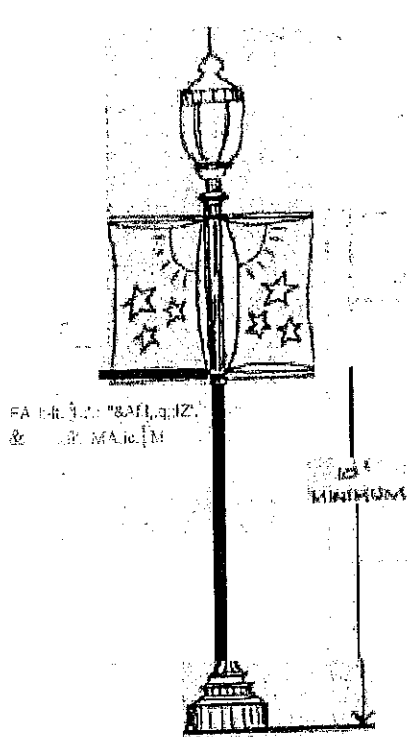
TEMPORARY SIGN - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

WALL OR FASCIA SIGN - A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed.

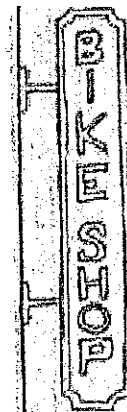
WINDOW SIGN - A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

8.03 Sign Types

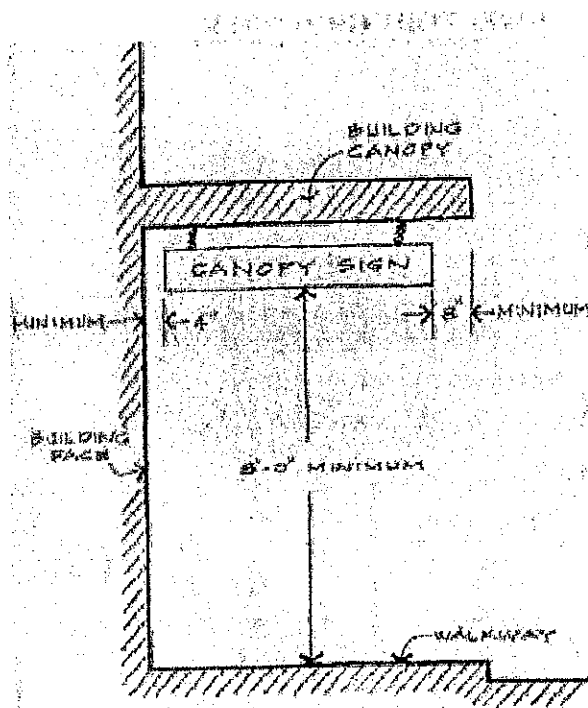




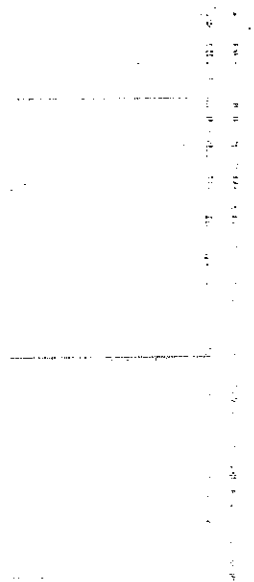
BANNER SIGN

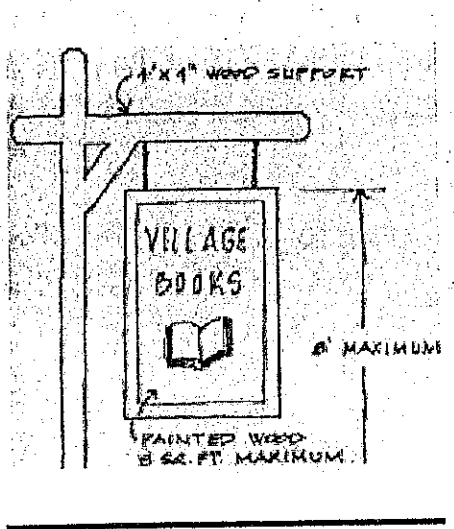


BLADE SIGN

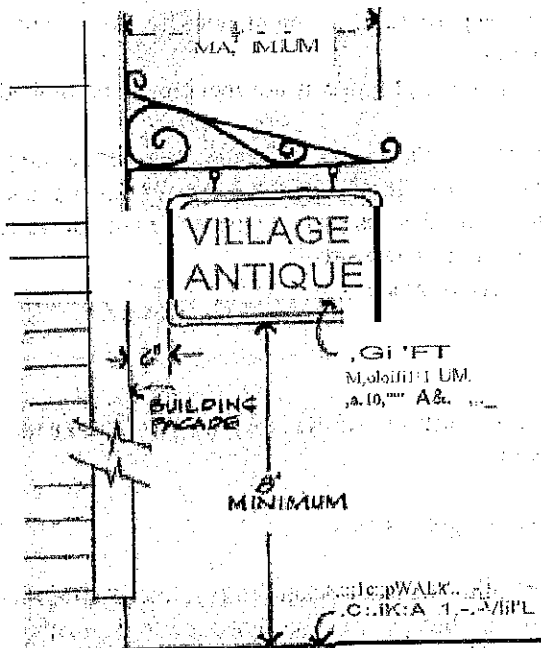


CANOPY SIGN

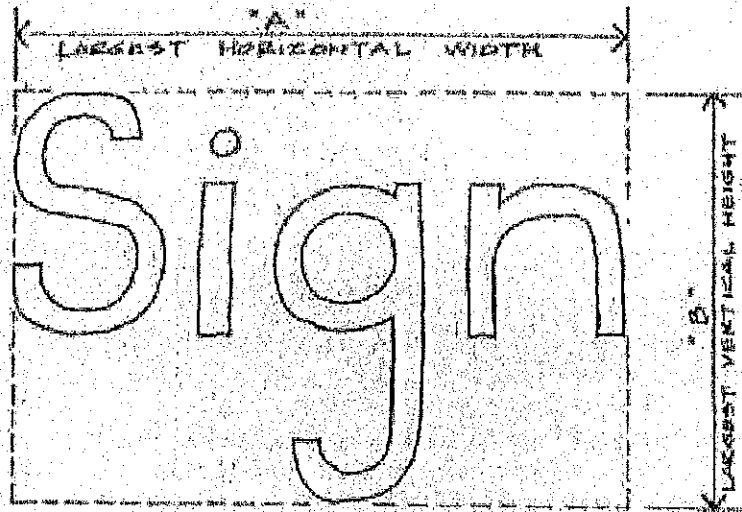

$$\frac{d}{dt} \left(\frac{\partial L}{\partial \dot{x}} \right) = \frac{\partial L}{\partial x}, \quad \text{where } L = T - V$$



HANGING SIGN



SHINGLE SIGN



SIGN AREA

8.04 Signs restricted.

1. The construction, erection, alteration, reconstruction, display, ownership, maintenance or operation of any sign within the Town except as provided by this article is hereby prohibited.
2. Signposts are specifically prohibited from the public right-of-way with the exception of those necessary for transportation purposes as recommended by the State of Delaware Manual of Uniform Traffic Control Devices.
3. Signs overhanging the public right-of-way are specifically prohibited except as provided by this article.
4. Signs judged offensive by the Planning and Zoning Commission are prohibited.
5. No electric sign or electrically illuminated sign, or any sign board, signpost, portion of any advertising nature or otherwise shall be permitted or allowed to remain on the sidewalk nor on any portion of the Town streets.
6. No animated, electronic message sign or center is permitted in any district.

8.05 Institutional signs.

Institutional signs shall not exceed thirty-two (32) square feet in sign area nor shall there be more than one such sign per institution.

8.06 Temporary banners within rights-of-way.

Signs, other than official street or traffic signs, shall not be erected within the right-of-way lines of any street, except that temporary banners may be permitted for festivals or special events with the requirement that special permits for such banners shall be issued for periods no longer than ten (10) days be issued by the Code Enforcement Officer. Applicants are responsible for ensuring the safety of the public and the Town of Ellendalé takes no liability for the sign.

8.0.7 General Provisions:

1. Permits required: A sign permit shall be required before any sign may be erected, altered, reconstructed or displayed within the Town except as provided by this Article.
2. Application for permit: Written application shall be made to the Code Enforcement Officer on a form provided by the Code Enforcement Officer and shall be accompanied by complete plans and specifications showing the construction, method of support and materials to be used. Application may be made by the owner of the property upon which such sign is to be placed. The Code Enforcement Officer may require the plans and specifications be signed by a professional engineer or architect registered in the state.
3. Permit fees. Each application shall be accompanied by a fee as established by the Town Council. The Code Enforcement Officer of The Town of Ellendale may require proof of the monetary value of sign.
4. Upon the approval of the Code Enforcement Officer of such application and of the place and manner of erecting the sign therein mentioned, and upon writing or stamping thereon the amount of the fee required for the sign applied for, the applicant shall pay to the Code Enforcement Officer the fee prescribed by this division, and thereupon shall issue to the applicant a permit for the sign applied for.
5. Unsafe, unlawful and deteriorating signs: Whenever it shall appear to the Code Enforcement Officer that any sign has been constructed or erected or is being maintained in violation of the terms of this article, or is unsafe or insecure, or is a menace to the public, or has been allowed to deteriorate, the Code Enforcement Officer shall give written notifications to the property owner and/or tenant. Said sign shall be removed or repaired and placed in a safe condition within ten (10) days after receipt of the written notification. If the foregoing is not complied with, the Town will have the sign in question removed and the bill for the cost of removal sent directly to the property owner. If the bill for the cost of removal is not paid within sixty (60) days, a lien will be placed on the property.
6. In the event a sign has been damaged and presents an immediate threat to the public, the Code Enforcement Officer may order the immediate removal of said sign and take appropriate action to protect the public and recover costs. Any time a business goes out of business or moves, the owner or company shall remove all signs and structural supports of said business.
7. Sign mounting: All exterior signs shall be securely mounted and anchored.
8. Restrictions. Signs shall not in any way obstruct the required door or window area of any building or structure. Signs shall not be attached to or placed upon any portion of a fire escape. Signs shall not be erected that will in any way interfere with the activities of the fire department. Signs constructed or erected after the adoption of this Zoning Ordinance shall not be rotating or contain any moving parts.
9. Traffic control signs. Signs necessary for traffic control on private property and containing no advertising may be erected, not to exceed an area of twelve (12) square feet per sign.
10. Exemptions. The provisions of this article shall not apply to the following signs:
 - a. Traffic signs erected by DelDOT or other governmental bodies.
 - b. Railroad warning signs.
 - c. Municipal signs.
 - d. Memorial signs or tablets, names of buildings and date of erection when cut in any masonry surface or when constructed of bronze or other non-combustible materials.

- e. Occupational signs denoting only the name and profession of an occupant in commercial buildings and the name and nature of the occupancy in public and institutional buildings. Such signs shall not exceed four and one-half (4.5) square feet in size.
11. Illumination: Signs may be illuminated at night by back lighting or direct lighting only provided the latter is so screened as not to cast any direct light upon any residence or street right-of-way. No sign or lighting device shall be of the flashing, intermittent or reciprocating type.
12. Illuminated signs must bear the National Underwriters Seal of Approval or must be inspected and approved by the Code Enforcement Officer.
13. Glass in any wall sign must be safety glass or comparable material.
14. Attaching to trees, poles or structures: It shall be unlawful for any person to paint, post, place or fix any business or commercial advertisement, paper, handbills or circulars, or cause the same to be done upon any utility poles, structures or trees within the limits of the Town.
15. No Non-conforming sign may be replaced without conforming to the provisions of this Article.

8.0.8 Temporary signs.

Temporary "For Sale", "To Let" or "Household Sale" signs relating to the premises and containing the name, address and telephone number of the owner or authorized agent, or both, and not exceeding four (4) square feet in area. Not more than one (1) such sign shall be permitted for each street frontage and may not be illuminated or impede pedestrian traffic. Temporary signs must be removed within forty-eight (48) hours after the intent of business of the sign is complete. No permit is required.

8.0.9 Political signs.

1. No artificially illuminated signs of any type are allowed.
2. Size is limited to six (6) square feet per side. Signs must be free standing.
3. No more than one sign per candidate is allowed per lot.
4. Signs may be erected no sooner than thirty (30) days before an election and shall be removed within forty eight (48) hours following the election.
5. No sign shall be placed closer than twenty five (25) feet to an intersection.
6. No political signs shall be erected in a right-of-way.
7. No permit is required.

Section 8.1 -- Signs in the R-1 Residential Use Districts.

8.1.1 Identification signs.

Identification signs shall be permitted as an accessory use in any residential district as follows:

1. Customary professional or home occupation identification signs not over two (2) square feet in size, related solely to the profession or home occupation conducted on the premises by a resident thereof.

2. No more than one (1) such identification sign shall be permitted for each professional or other person so engaged and residing in the premises; but if a dwelling has frontage on more than one (1) street, an additional identification sign shall be permitted for each additional frontage.
3. Such identification sign may be affixed to the face of the building or may be erected on a post or posts not over four (4) feet high, located in the yard but at least five (5) feet from the property line and not to impede pedestrian traffic.
4. The sign may not be illuminated.
5. A permit is required.

8.1.2 Bulletin boards.

1. Permanent bulletin boards or similar announcement signs are allowed only for churches and other nonprofit institutions. They may not exceed thirty-two (32) square feet in gross area and shall be located at least five (5) feet from the property line. One (1) such sign shall be permitted for each street frontage.
2. Signs may be illuminated at night by back lighting or by direct lighting provided the latter is so screened as not to be visible from an adjacent residence.
3. A permit is required.

Section 8.2 -- Signs in the R-B and R-S Use Districts.

8.2.1 Signs in R-B and R-S Districts shall conform to the following regulations:

Applicants are strongly encouraged to use pedestrian-scale signage wherever practicable within the Town, and especially in Districts located along Main Street. Pedestrian-scale signage is smaller in size than the more standard forms of signage designed for highway locations.

The following types and standards of pedestrian-scale signage are encouraged and permitted:

8.2.2 Wall-Mounted Signs:

1. One (1) Wall-Mounted Sign is allowed for each building facade visible from a dedicated right-of-way.
2. Mounted Signs should not obscure windows, columns, or architectural features.
3. The bottom of Wall-Mounted Sign must be at least 8' above street level.
4. Maximum sign area shall not exceed 20 square feet.
5. Projection from facade: Not to exceed 6".
6. Signs may be painted directly on facade.

8.2.2 Marquee Signs:

1. One (1) Marquee Sign is permitted for each facade visible from a dedicated right-of-way.
2. Marquee Signs shall be used primarily to list tenants and/or occupants of the building to which it is applied.
3. Marquee Signs shall be applied flat to a facade.
4. Marquee Signs shall be located at or near building corners or at the entrance of a building.
5. Marquee Signs shall not obscure or cover Transom windows. Upper floor windows or Architectural features.
6. Sign Size: Not to exceed 24 square feet.
7. Projection from facade: Not to exceed 6".

8. Signs may be painted directly on building facade.

8.2.3 Awning Signs

1. Signage may be incorporated onto Awnings applied to any facade.
2. Size of signage applied to Awnings shall be included in the allowable Sign size described in Mounted Signs.
3. Lettering and Graphics shall be applied flat to the Awning face only, and shall not extend horizontally or vertically beyond it.
4. Maximum of one (1) Sign per canopy or Awning permitted.

8.2.4 Hanging & Projecting Signs:

1. One (1) Hanging or Projecting Sign is allowed per tenant per facade.
2. Hanging Signs shall be set perpendicular to the facade and hang from a top support.
3. Projecting Signs shall be set perpendicular to the facade and are supported at the top, bottom or on the face of the Sign only.
4. Hanging or Projecting Signs, when used, shall be placed above or near entrances or in a location which is consistent with the facade.
5. Bottom of Hanging or Projecting Signs shall be a minimum of 8' above the street level and no higher than 12' above the street level.
6. Hanging or Projecting Signs may be set on building corners at 135 degrees to each facade.
7. Sign Face Size: Not to exceed 4 sq. ft. per side
8. Projection from facade
9. Sign and apparatus shall project no greater than 4' from facade.
10. Sign and apparatus may extend beyond building setback line including into the right-of-way, but no greater than the closer of 4' or the back of curb.

8.2.5 Window Graphics:

1. Lettering and Graphics, when used, shall be applied to glass only.
2. The combined total square footage of lettering and graphics applied to a window shall not exceed 30% of the clear glass area.
3. Lettering and Graphics shall be applied to windows on floors 1-2 only.
4. Neon Signs shall be placed on inside face of glass only.
5. Neon Signs are limited to a maximum size of 4 square feet.
6. Neon used within the structure is not restricted.

8.2.6 Identification signs.

Identification signs shall be permitted as an accessory use in the R-S and R-B districts as follows:

1. Customary professional or home occupation identification signs not over two (2) square feet in size, related solely to the profession or home occupation conducted on the premises by a resident thereof.
2. No more than one (1) such identification sign shall be permitted for each professional or other person so engaged and residing in the premises; but if a dwelling has frontage on more than one (1) street, an additional identification sign shall be permitted for each additional frontage.
3. Such identification sign may be affixed to the face of the building or may be erected on a post or posts not over four (4) feet high, located in the yard but at least five (5) feet from the property line and not to impede pedestrian traffic

4. The sign may not be illuminated.
5. A permit is required.

8.2.7 Bulletin Board Signs.

1. Permanent bulletin boards or similar announcement signs are allowed only for churches and other nonprofit institutions. They may not exceed thirty-two (32) square feet in gross area and shall be located at least five (5) feet from the property line. One (1) such sign shall be permitted for each street frontage.
2. Bulletin Board Signs may be illuminated at night by back lighting or by direct lighting provided the latter is so screened as not to be visible from an adjacent residence.
3. A permit is required.

8.3 Signs in the C Commercial Use District

8.3.1. The following types of signs are allowed in the C Commercial Use District:

Each business establishment shall be allowed the following types of signs only and which shall be installed at the business location only. Further, any area allowed in a ground sign or a pole or pylon type shall be deducted from the total area allowed under Section 8.2.2., "Size Limitations."

8.3.2 Size limitations.

The total display area of all signs, including wall, projecting, ground, pole, pylon, roof, canopy, awning and window, permitted upon a single lot shall be two (2) square feet of display area for each lineal foot of building frontage facing the main street or highway.

8.3.3. Wall signs.

1. Any sign attached to a building shall not extend more than fifty (50) percent above the roofline immediately behind the sign, and in no case shall the sign extend above same roofline by more than five (5) feet.
2. Wall signs shall not extend more than twelve (12) inches from the face of the building into any street, alley, sidewalk, thoroughfare or other public space.
3. Wall signs projecting six (6) inches or more into any public space from the face of a building shall have a clearance of not less than eight (8) feet between the bottom of such sign and the sidewalk level of any public thoroughfare.

8.3.4. Projecting signs.

1. Total area shall not exceed 30 square feet.
2. No projecting sign shall extend above the roofline of the building to which it is attached.
3. No projecting sign shall cover, wholly or partially, any wall opening.
4. No projecting sign shall include moving, flashing or animated parts.
5. Projecting signs shall be at least 8' above the sidewalk.
6. Only one projecting sign shall be permitted per façade.

8.3.5. Ground signs.

Two (2) ground signs may be permitted not exceeding sixty-five (65) square feet in total area subject to the following regulations:

1. Shall not be more than ten (10) feet each in height as measured from the ground.
2. Any open space between the ground and the bottom of the sign shall not exceed three (3) feet.
3. Ground signs may not be located in any area that shall affect visibility for motor vehicle traffic.

8.3.6. Monument pole or pylon signs.

One (1) monument pole or pylon sign may be permitted per street frontage but no more than two and not exceeding seventy-two (72) square feet each in area and subject to the following regulations:

1. The height of the monument pole or pylon shall not be more than twenty-eight (28) feet above the ground or curb, whichever is lower.
2. An open space of not less than ten (10) feet for pole or pylon sign shall be maintained between the ground level and the bottom of such sign.

8.3.7. Roof Signs.

1. No roof sign shall extend above the peak of the roofline of the building upon which it is attached.
2. No roof sign shall cover, wholly or partially any wall opening.
3. No roof sign shall include moving, flashing or animated parts.
4. Only one projecting sign shall be permitted.
5. Total area shall not exceed 48 square feet.

8.3.8 Canopy signs and Awnings

1. Canopy signs and awning signs shall be no lower than 8' above the sidewalk and 12' above any area used by motor vehicles.
2. No canopy or awning sign shall include moving, flashing, or animated parts.
3. The outer edge of an awning shall not extend within 12" of the inside curb line.
4. Awnings shall be constructed of fabric or metal (no plastic awnings).
5. Awning signs shall not be illuminated.

8.3.9 Window signs.

No window sign shall occupy more than 40% of the total area of the window upon which it is located.

Section 8.4 - Administration and Violations.

Notwithstanding any other provision of this Article, upon application to the Board of Adjustment, the Board may vary or adopt the strict application of any of the requirements of this Article. The enforcement of the provisions of this Article will be performed in conformity with Article 13 "Remedies" of this Ordinance.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 9. NON-CONFORMING USES, LOTS, BUILDINGS AND STRUCTURES

Section 9.0 Non-Conforming Uses

9.0.1 Continuation

Any lawful use of a building, structure, or land existing at the effective date of this Zoning Ordinance may be continued although such use, building or lot does not conform to the provisions of this Ordinance, subject to the following standards.

9.0.2 Extension

a. Land. The non-conforming use of unimproved land may be extended up to fifty per cent (50%) of the land area occupied by such use as of the effective date of this ordinance a variance is first obtained from the Board of Adjustment provided that such extension or enlargement is immediately adjacent to the existing non-conforming use and conforms to the dimensional requirements for the district in which it is located.

b. Buildings and Structures. The non-conforming use of a building or structure may be extended within the interior of a non-conforming building or structure a variance is first obtained from the Board of Adjustment; and provided that neither the exterior dimensions (height, length, width), lot coverage or cubic volume of the building or structure is increased, and that such extension meets other dimensional and supplementary requirements of this ordinance for either the district in which it is located or the type of use involved, whichever is more restrictive (e.g., off-street parking, signs, yards).

9.0.3 Changes.

A non-conforming use of a building or land may be changed to a non-conforming use of the same or more restricted classification. Whenever a non-conforming use of a building or land has been changed to a use of a more restrictive classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.

9.0.4 Restoration.

a. No building or structure containing a non-conforming use which is wholly or substantially destroyed by voluntary demolition shall be restored or reconstructed and used except in compliance with the use provisions of the district in which it is located. For purposes of this paragraph, the gradual replacement of 50% or more of the structural members of the building or structure within any 24 consecutive months shall be prohibited unless the use is in compliance with the regulations of the district.

b. A building or structure containing a non-conforming use which is wholly or partially destroyed by fire, explosion, flood, tide, windstorm, or other Act of God, may be reconstructed and used for the same non-conforming use, provided that reconstruction shall be commenced within twelve (12) months from the date the building was destroyed and shall be completed within one (year) of commencement.

c. Anything in the ordinance to the contrary notwithstanding, any mobile home, house trailer, or manufactured home lawfully existing in any district in the Town limits as a non-conforming use as of the effective date of this ordinance may be removed and replaced by a

modular or stick-built single-family dwelling unit on such lot provided that the degree of dimensional non-conformity is not increased unless a variance is first obtained from the Board of Adjustment.

9.05 Abandonment.

If a non-conforming use of a building or land is voluntarily abandoned and ceases for a continuous period of one (1) year or more, subsequent use of such land or building shall be in conformity with the provisions of this Ordinance.

9.06 No Casual Creation of Non-conformity.

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use, and the existence of a non-conforming use on a part of a lot shall not be construed to establish a non-conforming use on the entire lot.

Section 9.1 Non-Conforming Buildings and Structures

9.1.1 Continuation.

Any building or structure lawfully existing at the effective date of this Zoning Ordinance may be continued although such building or structure does not conform to the height, yard setback or lot coverage provisions of this Ordinance, subject to the following standards.

9.1.2 Extension.

Any non-conforming building or structure may be enlarged or extended provided that such extension or enlargement complies with the height, yard, and lot coverage provisions of this ordinance.

9.1.3 Restoration.

a. No non-conforming building or structure which is wholly or substantially destroyed by voluntary demolition shall be restored or reconstructed except in compliance with the height, yard and lot coverage provisions of this ordinance. For purposes of this subparagraph the gradual replacement of 50% or more of the structural members of the building or structure within any 24 consecutive months shall be prohibited unless the use is in compliance with the height, yard and lot coverage provisions of this ordinance.

b. Any non-conforming building or structure which is wholly or substantially destroyed by fire, explosion, flood, windstorm, tide, windstorm or other Act of God, to the point where repair is not economically feasible, may be replaced or reconstructed in the same location and dimensions as the building or structure which existed just previous to its destruction, provided that reconstruction shall be commenced within twelve (12) months from the date the building was destroyed and completed within one (year) of commencement. Such reconstruction shall not increase the previous degree of dimensional non-conformity in any way.

Section 9.2 Non-Conforming Lots

9.2.1 Continuation, Merging of Contiguous Non-conforming Lots.

Any lot which is not of the required minimum street frontage or area, or is of such dimensions that the owner would have difficulty providing the required yards, may be utilized for a single-

family detached dwelling unit and permitted accessory uses if:

- a. Such lot was held in single or separate ownership as of the effective date of this Ordinance, or
- b. As of the effective date of this Ordinance, such lot and any contiguous lot not held in single and separate ownership have characteristics or features which significantly preclude their being merged to meet the lot area or street frontage requirements of this ordinance.

9.2.2 Merging of Contiguous Non-conforming Lots Under Identical Ownership.

Where a property owner owns two or more contiguous vacant lots, which have become non-conforming as a result of the adoption of this Ordinance, the contiguous vacant lots may be deemed merged to meet the dimensional requirements of this Ordinance unless there is a practical reason why they cannot be so merged.

Section 9.3 -- Necessary Maintenance and Repairs.

A Non-conforming building or structure may be repaired or restored to a safe condition except as specified in Section 9.1.4.

Section 9.4 -- Prior Construction.

Any building or structure for which a building permit was issued prior to the effective date of this Ordinance, or any subsequent amendment thereof, may be completed and used in accordance with the plans and specifications for such building and structure.

Section 9.5 -- Reduction in Lot Area.

A building permit shall not be issued for any lot that has been reduced in area so that it creates a non-conforming lot in violation of the regulations contained in this Ordinance.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 10. RESIDENTIAL - GENERAL REQUIREMENTS

10.0 – General.

10.0.1 Scope.

The provisions of this chapter shall govern the minimum conditions and the responsibilities of person for maintenance of structures, equipment, and exterior property both land and structures.

10.0.2 Responsibility.

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. Occupants of a dwelling unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control. All rented and leased premises are subject to The Town Code of Ellendale.

10.1 – Vacant structures and land.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to negatively affect the aesthetics of the Town or adversely affect the public health or safety.

10.2 – Exterior Property Areas.

10.2.1 Sanitation.

All exterior property and premises shall be maintained in a clean, safe and sanitary condition.

10.2.2 Grading and Drainage.

All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon or cause any erosion, or overflow upon any public or private property of another.

10.2.3 Lawn/Grass/Weeds/Trees/Bushes/Shrubbery/Gardens.

The property owner shall be responsible for maintaining the landscaping upon their property. Grass height must not exceed six (10) inches including weeds growing amongst, within, and/or around the grass of one's own yard. The property owner shall be responsible for ensuring that any trees, bushes, shrubbery, flowers, or garden does not encroach upon, or over any public or private property of another. Unregulated weed growth is prohibited and no owner, agent of such owner or occupier of any lot, place, area, or property shall permit any unregulated growth of weeds, grass or other vegetation.

10.2.4 Rodents.

All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health and proper precautions shall be taken to eliminate and prevent future rodent reinfestation.

10.2.5 Exhaust Fans.

No pipes, ducts, fans, or blowers shall discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or onto that of another.

10.2.6 Motor Vehicles/Automobiles.

1. No inoperative or unlicensed, untagged motor vehicle shall be parked, kept or stored on any premises unless it is kept within a structure or enclosed area, or at no point be visible from the front exterior of the property.

2. Vehicle Repair/Restoration. A vehicle of any type may undergo major overhaul, including body work; provided that such work is performed inside a structure or similarly enclosed area or situated on the premises as such that it is at no point visible from the front exterior of the property.

3. All automobile parts, including tires are to be stored within a structure or enclosure.

4. The Ellendale Police shall be responsible for enforcing this provision regarding inoperative, unlicensed, untagged motor vehicles in yards, streets, and right of ways.

10.2.7 Recreational Vehicles, Boats, Trailers, Lawnmowers, Yard/Farming Equipment.

All recreational vehicles, boats, travel trailers, utility trailers, campers, lawn mowers, yard and farming equipment, shall be parked, and/or stored in either a structure or enclosed area, or if outside a structure, parked and/or stored on the side or rear portions of the property.

10.2.8 Defacement of Property.

1. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

2. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

10.2.9 Rubbish and Garbage.

1. Accumulation of rubbish or garbage- All exterior property and premises and the interior of every structure, shall be free from any accumulation of rubbish, garbage or debris and the owner of the premises shall be responsible for the removal of rubbish.

2. Container and Disposal of garbage- The owner/operator/inhabitant of every dwelling producing garbage shall at all times use approved leak proof containers with close-fitting covers for the storage of such materials until removed from the premises for disposal.

10.2.10 -- Accessory Building and Uses.

10.2.10.a Accessory Buildings.

All Accessory Buildings and structures shall be maintained structurally sound and kept in good condition. No exterior or accessory structures shall be kept in a deteriorating or dilapidated condition or in a manner that poses a threat to the health and safety of the public or in such a condition that attracts the infestation of vermin, rodents or the harborage of animals or wildlife.

Accessory buildings shall comply with the following:

1. All accessory buildings shall require a building permit.
2. Accessory buildings shall only be located on the same lot as the principal use stated in the Density Control Table.
3. Accessory buildings shall only be located in a rear or side yard and the minimum setback from the side and rear property line shall be a minimum of six (6) feet.
4. Accessory buildings shall not be located closer than five (5) feet to the principal building or any other permitted accessory structure.

10.2.10.b Accessory Uses.

In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as or on a lot adjacent to the principal structure, shall not be located in front yard on such lots; and shall be located not less than six (6) feet from side and rear lot lines and shall not adversely affect the character of any residential neighborhood or any other accessory structure by reason of noise or glare or safety.

10.2.11 Driveways and Sidewalks.

All sidewalks, walkways, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions and any alterations, repairs, or development thereof is subject to section 7.4.

10.2.12 Fences and Walls.

Any fence or wall must be kept in a proper state of repair so as not to adversely affect the public health or safety. Any fencing that is falling down, dilapidated, rotting, loose or in disrepair must be repaired in accordance with this Ordinance, and subject to the provision in section 7.5 and 10.2.13 this Ordinance.

10.2.13 Swimming Pools, Spas and Hot Tubs.

Where a swimming pool is permitted as an accessory use, whether above ground or in ground, it shall be located, installed, constructed or maintained in conformity with the following requirements:

1. Swimming pools shall be maintained in a clean and sanitary condition and in good repair. During seasons when the pool is not kept in conditions for use, it shall be either drained or covered.
2. Fences. In ground swimming pools shall be completely enclosed by a fence or barrier of not less than four (4) feet in height. The fence shall have:
 - (a) a gate that is self-closing and self-latching with a lockable latch to control access to the pool; and
 - (b) where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate.

3. Above ground pools, hot tubs, and spas, less than forty-six (46) inches in height shall be similarly fenced or drained when not in use. Above ground pools that are forty-six (46) inches or more above grade shall not require a fence. All accesses to above ground pools shall be provided with a lockable gate, or removable steps. Walking space of at least three (3) feet in width shall be provided between the pool walls and the protective fence.
4. Spas or hot tubs with a safety cover that complies with ASTM F 1346 of the U.S. Consumer Product Safety Commission shall be exempt from the provisions of this section.
5. Setbacks and Coverage. Outdoor swimming pools shall be located in rear or side yards and shall maintain a minimum of ten (10) feet of distance from property lines.
6. Drainage. No permit shall be issued for such pool unless the applicant can show that drainage is adequate and will not interfere with the property of others.
7. Lighting. Lighting must not create an annoyance to surrounding properties.
8. Overhead Wiring. No swimming pool will be placed under overhead wiring, towers or platforms.
9. Permits. Building permits shall be required for all swimming pools.
10. Applications for swimming pool permits shall comply with these regulations and all other applicable requirements of other agencies. Where the regulations are inconsistent, the more restrictive requirements shall govern.

Section 10.3 -- Exterior Structure

10.3.1 General.

The Exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

10.3.2 Premises Identification.

Building shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch.

10.3.3 Exterior Walls.

All exterior walls shall be free from holes, breaks and loose or rotting materials; and maintained weatherproof.

10.3.4 Roofs and drainage.

Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interiors portion of the structure. Roof drains, gutters, and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public or private nuisance.

10.3.5 Overhang Extensions.

All overhang extensions including but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition.

10.3.6 Exterior view.

Any doors, stairways, ramps, handrails, guardrails, decks, porches, enclosures, gazebos, pergolas, benches, swing sets, playgrounds, balconies, windows, skylights, decorative features, chimneys, door frames, or any accessory structure or appurtenances visible from the exterior of the property shall be maintained in good repair, structurally sound with proper anchorage and if applicable, capable of supporting imposed loads.

Section 10.4 -- Interior Structure.

The interior of a structure and the equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

Section 10.5 -- Pets.

10.5.1 General.

Domesticated animals and household pets such as dogs, cats, and encaged animals including but not limited to birds, fish, rabbits and reptiles are permitted but must be kept within the confines of the property owner/occupant's yard and /or residence.

10.5.2 Noise.

Any noise nuisance associated with pets shall be the sole responsibility of the property owner and/or occupant to control and shall be minimized particularly between the hours of 11pm and 7am seven (7) days a week.

10.5.3 Stray animals.

Stray dogs, cats or any other animal(s) will be turned over to animal control if their owner cannot be located or is unable or unwilling to maintain control of the pet.

10.5.4 Farm Animals.

Chickens, cows, horses, pigs and any other farm animal or livestock are prohibited on any property within the Town of Ellendale.

Section 10.6 -- Home Occupations.

Home occupation uses shall conform to the following standards that are minimum requirements:

1. No more than 25% of the total floor area of a dwelling unit, or 500 square feet, whichever is less, shall be used for home occupation use.
2. The use shall be carried on wholly within the enclosed walls of the dwelling unit or within an accessory building.
3. No stock, merchandise, equipment or displays shall be visible from outside the dwelling unit or accessory building.
4. No external structural alterations that are not customary to a residential building shall be allowed.
5. The use shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the character of the neighborhood.

6. No manufacturing, repairing or other mechanical work shall be performed outside of the dwelling. Such activity conducted inside the dwelling shall be conducted so that no noise, odor, glare, vibration, electromechanical interference or dust and smoke are perceptible beyond the property line.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 11. GENERAL EXCEPTIONS

Section 11.0 -- Public Properties.

Nothing in this Ordinance shall restrict construction or use in the exercise of a governmental function of public buildings, lands or property.

Section 11.1 -- Public Utilities.

Nothing in this Ordinance shall restrict the construction or use of underground or overhead distribution facilities of utilities that serve the public operating under the laws of the State of Delaware. Other facilities may be constructed subject to a site plan approval.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 12. ADMINISTRATION

Section 12.0 -- Enforcement.

This Ordinance shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Council of The Town of Ellendale. No building permit shall be issued or reissued except where all the provisions of this Ordinance have been complied with. The Code Enforcement Officer shall keep the Planning and Zoning Commission advised of all matters pertaining to the enforcement of this Ordinance other than routine duties and shall submit a monthly report to the Town Council enumerating the applications received, inspections made, permits issued or refused, and other actions taken.

Section 12.1 -- Certificate of Occupancy.

12.1.1 No land shall be occupied or used and no building or other structure erected, altered, extended, enlarged or, if a Non-conforming use, restored, occupied, used, or changed in use until a Certificate of Occupancy has been issued by the Code Enforcement Officer stating that the building, other structure or proposed use thereof complies with the provisions of the Zoning Ordinance of the Town. Vacated existing commercial properties may not be used or occupied until a certificate has been issued to ensure that the new use or occupancy is permitted.

12.1.2 All Certificates of Occupancy for new or structurally altered buildings or structures shall be applied for coincident with the application for a building permit therefore. Such Certificate of Occupancy shall be issued within thirty (30) days after the erection or alteration has been approved as complying with the provisions of this Ordinance.

12.1.3 The Code Enforcement Officer is hereby empowered to cause any building, other structure or tract of land to be inspected and examined and to order, in writing, the remedying of any condition found to exist therein or there at in violation of any provision of this Ordinance. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to comply with such order. No new structure on a parcel that has had a site plan approval may be occupied before a Certificate of Occupancy has been issued.

Section 12.2 -- Building Permits.

12.2.1 No building or structure shall be erected, added to, or structurally altered until a building permit has been issued by the Code Enforcement Officer. No building permit shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Ordinance.

12.2.2 For zoning purposes, there shall be submitted with all applications for building permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this Ordinance.

12.2.3 One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with such permit to the applicant, upon the payment of a fee as set by the Town Council of The Town of Ellendale.

12.2.4 No building permit will be issued for a parcel until all fees due to The Town of Ellendale has been paid in full.

Section 12.3 Stop-Work Orders

At any time when the Code Enforcement officer finds that construction is being undertaken in violation of any provision of this Zoning ordinance, the Code Enforcement Officer may issue a stop-work order or revoke the building permit under which the work is being performed. Prior to issuing a stop-work order or revoking a building permit, the Code Enforcement Officer shall provide a written notice of the violation to the property owner. The written notice will specify the section of the Zoning Ordinance which has been violated. It will offer the property owners a date, time and place for a public hearing on the violation by the Town Council. The Town Council will make a tape recording of the public hearing. If at the conclusion of the public hearing, the Town Council concludes that construction is proceeding in violation of the Zoning Ordinance, the Town Council will instruct the Code Enforcement Officer to issue a stop-work order or revoke the building permit. No building permit shall be reissued, and no stop work order lifted, until the violation has been corrected.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 13. -- REMEDIES

Section 13.0 -- Complaints of Violations.

Any conditions not in accordance with this Ordinance shall constitute a violation of this Ordinance and subject to applicable warnings, citations, fines, penalties and legal action. Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, include the address of the property suspected to be in violation of this Ordinance, a detailed description of the violative condition(s), and shall be filed with the Code Enforcement Officer, who shall properly record such complaint and investigate the report thereon in a timely manner. See Complaint of Violation form in the addendum section of this Ordinance.

Section 13.1 -- Notice of Violations

13.1.1 General.

Whenever in the opinion of the Code Enforcement Officer, after proper examination and inspection, there appears to exist a condition which is a violation of any provision of this Ordinance, or of any rule or regulation adopted pursuant thereto, the Code Enforcement Officer shall serve a written notice of violation upon the owner of the property in violation. The Code Enforcement Officer shall within seven (7) days of discovery of the violation of this Ordinance, issue all necessary notices and orders to abate such conditions.

13.1.2 Standard.

A notice of violation shall: (1) inform the owner of the nature and details of the condition, (2) reference the exact provisions(s) of this Ordinance in which the property is in violation, (3) outline the date by which the violation must be remedied or removed in order to be in compliance with this Ordinance and (4) the next step of enforcement/penalty should the violation not be cured in time.

Section 13.2 -- Procedure for Abatement of Violations.

After the notice of a condition not in accordance with this Ordinance and the associated timing set forth below, the condition shall be considered a violation and shall be subject to appropriate penalties and other remedies as provided for herein and under the laws of the State of Delaware.

Section 13.3 -- Timing for Corrective Action of Violations.

13.3.1 Where sufficient cause exists to believe that the terms of this Ordinance have been violated, the property owner or occupant has the following timeframe after the issuance of a written notice of violation mailed by certified mail return receipt requested to the record owner(s) of the property where the violation occurs, in which to bring the property within compliance of this Ordinance;

- Five (5) business days for grass/lawn height violations; or
- Ten (10) business days for all other violations.

Timing allotted for the remedy of violative conditions shall exclude weekends, holidays and the day the notice was issued.

13.3.2 If corrective action is not taken within the prescribed time period, each week thereafter that the violation continues shall constitute a separate offense and the Code Enforcement Officer is authorized to issue a fine/penalty to the property owner as outlined below.

Section 13.4 -- Fines/Penalty.

13.4.1 In the event the violation is not remedied within the prescribed time period, then the person notified of such violation shall be subject to a fine of:

- For the first violation of its kind, one hundred dollars (\$100.00) for each day the property or condition remains in noncompliance;
- Two hundred dollars (\$200.00) per day for the second violation of its kind in which both first and second offenses were committed within a period of five (5) years; and
- Three hundred dollars (\$300.00) per day for the third violation of its kind in which all three offenses were committed within a period of five (5) years.
- Habitual offender- When a property owner receives more than three (3) notices of violations for the same condition within a one (1) year time period, they shall be deemed a habitual offender and fined \$350.00 per day for every violation of the same condition thereafter unless and until a one (1) year time period passes in which no violation has occurred and then they will be subject to the normal fine/penalty schedule listed above.

13.4.2 When, after the notice of a violation, the conditions in violation are not remedied within the prescribed time period then a civil citation/appearance ticket will be issued returnable to the Justice of the Peace Court in and for Sussex County, either in person or by certified mail, directing the alleged violator to appear in a designated local civil court at a designated future time in connection with the alleged and designated offense.

13.4.3 Corrective Action by Town. Upon failure to comply with a notice of violation in accordance with 13.3.1 of this Ordinance and ten (10) days after Court Action, any duly authorized employee of The Town of Ellendale or contractor hired by The Town of Ellendale shall be authorized to enter upon the property in violation and to remedy the violation thereon, with the costs for labor and materials of such remedy shall be charged to the owner or agent responsible for the property. Labor charges are set at one hundred dollars (\$150.00) per hour.

13.4.4 The property owner shall be responsible, for both 1) any assessed fine/penalty associated with the violation, and 2) any corrective action taken by The Town of Ellendale for the same violation. After adjudication by the Court, if the violation(s) is not corrected within ten (10) business days all fines, costs and fees associated with bringing the property into compliance with this Ordinance, court costs, and attorney's fees will be assessed as a lien on the property.

13.4.5 In addition to the owner, the general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or an architect, builder, contractor, or anyone who commits or assists in any violation of any of the provisions of this Ordinance shall be subject to the procedure and penalties imposed by this Article.

Section 13.5 -- Alternative Penalty.

13.5.1 In addition to the foregoing remedies, in the case of any violation or threatened violation of any of the provisions of this Ordinance, or conditions imposed by the Town Council or Planning and Zoning Commission

of The Town of Ellendale, in addition to other remedies herein provided, the Town Council may institute any appropriate action or proceeding in a court of competent jurisdiction to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

Section 13.6 -- Appeals.

Application for Appeal. Any person directly affected by a decision of the code official, or a notice or order issued under this Ordinance shall have the right to appeal to the Board of Adjustment, provided that a written application for appeal is filed within twenty (30) days after the day the decision and notice or order was served. Application must be in compliance with section 14.1 of this Ordinance. See Board of Adjustment Appeals Application and Fee Schedule in Addendum Section of this Ordinance.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 14. BOARD OF ADJUSTMENT

Section 14.0 -- Establishment and Duties

14.0.1 Pursuant to the Laws of the State of Delaware, as amended, Delaware Code, Title 22 "Municipalities", Chapter 3, Subchapter II, The Town of Ellendale shall establish a Board of Adjustment consisting of not less than 3 nor more than 5 members and the mayor of the Town shall appoint 3 members confirmed by a majority vote of the Town Council, each to be appointed for a term of 3 years and removable for cause by the appointing authority upon written charges and after public hearing, who, with the presiding officer of the zoning commission, shall constitute the board of adjustment for such city or town. Membership terms shall be subject to the following provisions;

1. All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. In order to reset terms after this Ordinance is adopted in order to stagger Board membership, the 3 members, other than the Mayor and Town solicitor, shall be appointed terms as follows: (1) member for a term of 3 years, (1) member for a term of 2 years and (1) member for a term of 1 year then new members shall be appointed for a term of 3 years. The board of adjustment so selected shall elect from among their own number a chairperson and a secretary.
2. Any member of the Board of Adjustment may be removed from office by the Town Council for cause after a hearing by a majority vote of all the elected members of the Council of the town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

14.0.2 Powers and Duties.

The Board of Adjustment shall have all the powers and duties as follows:

1. Interpretation.

It shall be the responsibility of the Board of Adjustment to hear and decide appeals from, and review, any order, requirement, decision, or interpretation made by the Code Enforcement Officer.

2. Area Variances.

a. The Board of Adjustment, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant area variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this Ordinance.

b. In making its determination, the Board of Adjustment shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board of Adjustment shall also consider:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; and/or

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; and/or
- (3) Whether the requested area variance is substantial; and/or
- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and/or
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Adjustment, but shall not necessarily preclude the granting of the area variance
- (6) Whether the proposed change could be made on another portion of the lot without recourse to a variance.

3. If the Board of Adjustment, in its discretion, shall grant an area variance, it shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

4. Imposition of conditions. The Board of Adjustment shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this Ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community. All work which is authorized by variances granted shall be commenced and completed within one year of the granting of the variance by the Board of Adjustment.

Section 14.1 -- Appeal Application.

14.1.1 Purpose.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be made within thirty (30) days from the decision being appealed and by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An application for appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or the requirement of this Ordinance are adequately satisfied by other means. Appeals of notice and orders (other than Imminent Danger Notices) shall stay the enforcement of the notice, violation and order until the appeal is heard by the appeals board Area variances.

14.1.2 Process.

All appeals and applications made to the Board of Adjustment shall be in writing, on form(s) prescribed by said Board. See Appeal Application in Addendum Section and associated fee (see Fee Schedule in Addendum Section). Every appeal or application shall: (1) refer to the specific provision of the Ordinance involved, (2) set forth exactly the interpretation that is claimed, or the

details of the variance that is applied for, and (3) the grounds on which it is claimed that the variance should be granted, as the case may be.

Section 14.2. -- Procedure.

14.2.1 General Procedure.

1. The Board shall meet upon notice from the Chairman, within twenty (60) days of the filing of an appeal. All hearings before the board shall be open to the public. Any person whose interests are affected shall be given an opportunity to be heard.
2. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify the application of any of the regulations or provisions of this Ordinance relating to the use, construction, structural changes in, equipment or alteration of buildings or structures, or the use of land, so that the spirit of the Ordinance shall be observed, public safety and welfare secured and substantial justice done.
3. The Board of Adjustment shall hold a public hearing on appeals within 20 days after receipt and give due notice of such public hearing by advertising in the official newspaper at least 10 days prior to the date scheduled for the public hearing.
4. The applicant shall mail notices of such public hearings to the owners or occupants of the town or those within a radius of two hundred (200) feet from all boundary lines of the property for which the appeal is being requested. The Town will provide the applicant with the required information to be included in the notification letter. Such notices shall be mailed certified and postmarked at least ten (10) days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five (5) days prior to the public hearing.
5. Copies of the appeal or application document shall be delivered to the members of the Board of Adjustment. The Board of Adjustment shall meet within sixty (60) days of the date of filing the appeal or application to conduct the required hearing and review the matter.
6. The Board of Adjustment shall decide on appeals and on other matters referred to it within sixty (60) days after final public hearing.
7. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of said Board in the particular case.
8. The Board of Adjustment shall have no power to vary or modify the application of the provisions and requirements of the Delaware State Fire Prevention Regulations, other State regulations or Building Code adopted by Sussex County.
9. Appeals from Board of Adjustment findings shall be in accordance with Title 22 Chapter 3 Item 328 of the Delaware Code that permits any person aggrieved by any decision of the Board of Adjustment to appeal the decision to the Superior court setting forth that such decision is illegal in whole or in part and shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board.

14.2.2 Rules of Procedure, By-Ordinances, Forms.

1. Meetings Open To The Public. All meetings of the Board of Adjustment shall be open to

the public.

2. Minutes of Meetings. Such Board shall keep minutes of each of its meetings which it shall at its next meeting certify as accurate and which describe the factors considered by the Board in reaching its decision and which show the vote of each member on every application to the Board. Each member present at any meeting of the Board shall have a vote on every question brought before the Board for its consideration. If a member is absent or abstains from voting the minutes shall indicate such fact.

3. Quorum and Majority Vote. A majority vote of the Board shall constitute a quorum and a majority vote on any matter upon which said Board is required to pass under the provisions of this Ordinance. A split vote shall constitute a denial of the application.

a. A quorum shall consist of not less than two thirds of the Board's membership. The Board shall adopt and make available to the public, procedures under which a hearing will be conducted.

b. The strict rules of evidence do not apply procedurally to the Board's hearing, but only relevant information shall be received. The Board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

c. The decision of the board shall be recorded and copies furnished to appellant and the code official.

d. Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law.

e. Application for review shall be made in the manner and time required by law following the decision.

4. Additional Procedures and By-Laws. The Board of Adjustment shall have the power to make, adopt, and promulgate such additional written rules of procedure, by-laws, and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this Ordinance.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 15. AMENDMENTS

Section 15.0 - Procedure.

The Town Council of The Town of Ellendale may, from time to time, on its own motion, or on petition, or upon recommendation by the Planning and Zoning Commission, amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established under this Article after public notice and hearing in each case. All proposed amendments of the regulations or districts herein established shall be filed in writing in a form required by the Town Council.

Section 15.1 - Advisory Report to the Town Council.

Every proposed amendment, unless initiated by the Planning and Zoning Commission, shall be referred by the Town Council to the Planning and Zoning Commission. The Planning and Zoning Commission shall report in writing its recommendations thereon to the Town Council and the Code Enforcement Officer, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning and Zoning Commission fails to report within a period of forty-five (45) days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Council, the Town Council may act without such report. If the Planning and Zoning Commission recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Council shall not act contrary to such disapproval or recommendation except by a four-fifths vote.

Section 15.2 - Petition by Owners of 50 Percent of Frontage.

Wherever the owners of 50 percent of the frontage directly adjacent to a property subject to a proposed amendment shall present a petition duly signed and acknowledged to the Town Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Council to vote upon said petition within ninety days after filing of the same by the petitioners with the Town Clerk.

Section 15.3 - Public Notice and Hearing.

The Town Council of The Town of Ellendale shall, by resolution, fix the time and place of the public hearing and cause notice to be given as follows:

15.3.1 By publishing notices of the proposed amendment and the time and place of the public hearing in a newspaper of general circulation in the Town and may also provide notice on the Town Gazebo bulletin board, on the Town's website, on the bulletin board at the Town's Post Office, and on the front door of the Town Hall not less than ten (10) days prior to the date of public hearing.

15.3.2 By giving written notice of hearing to any required municipal, county, state, or federal agency in a manner prescribed by law.

15.3.3 The applicant shall notify all owners, within two hundred (200) feet of the boundaries of the property which is the subject matter of the petition, of the time and date for the public hearing on the proposed change or amendment or proposed land use by sending such property owners a copy of the notice that is published in a paper of general circulation. Such notices shall be sent Certified Mail Return Receipt Requested to property owners a minimum of ten (10) days prior to the date scheduled for the public hearing. A list of properties mailed to, copies of proof of mailings and return receipts shall be provided to the Code Enforcement Officer five (5) days prior to the public hearing.

Section 15.4 - Protest by Owners.

If a protest against the proposed amendment is presented to the Town Council, duly signed and acknowledged by the owners of twenty (20) percent or more of the area of land included in such proposed amendment, or by the owners of twenty (20) percent or more of the area of land immediately adjacent extending 100 feet therefrom, or by the owners of twenty (20) percent or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least a three-fourths majority of the Town Council.

Section 15.5 - Decision by Town Council.

The Town Council shall set the public hearing as required and shall render its decision within 60 days of the receipt of the Planning and Zoning Commission's report. If the Town Council deems it advisable, it may require as a condition for approval of the amendment, that the amended area be put to use within a reasonable length of time.

Section 15.6 - Notification of Decision.

The Town Council shall notify the applicant for an amendment of its decision in writing within five (5) days after the decision has been rendered.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 16 -- FEES

A schedule of fees for all permits and applications required by this Ordinance shall be set from time to time by the President and Town Council of The Town of Ellendale by resolution.

1. The fee structure may be designed to allow the town to recover the cost of municipal services required, including consultant services, to process each application.
2. The Municipality must be in receipt of full payment of all application and review fees at time of application. Applications received without full payment of fees are considered incomplete and will not be scheduled for any reviews or hearings as permitted and defined by this ordinance.
3. No building or construction permits will be issued to any applicant with outstanding fees, bills, taxes, or fines due to the Town. Any outstanding fees, bills, taxes or fines must be paid in full prior to the issuance of any permit.
4. If an application is deemed unnecessary, the application and review fees will be returned to the applicant.
5. See also Fee Schedule in Addendum Section.

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

ARTICLE 17. ADOPTION AND EFFECTIVE DATE

This Zoning Ordinance of The Town of Ellendale was adopted by the Town Council of The Town of Ellendale, Delaware on the 10th day of January, 2012 and shall take effect twenty days from this date.

THE TOWN OF ELLENDALE

BY: _____
PRESIDENT,
ELLENDALE TOWN COUNCIL

ATTEST _____
SECRETARY,
ELLENDALE TOWN COUNCIL

ZONING ORDINANCE OF THE TOWN OF ELLENDALE, DELAWARE

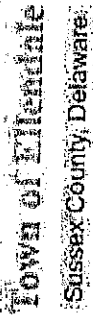
ZONING ORDINANCE OF THE TOWN OF ELLENDALE THE TOWN OF ELLENDALE, SUSSEX COUNTY, DELAWARE

SECTION 5.1

DIMENSIONAL REQUIREMENTS AND DENSITY CONTROL TABLE

District	Maximum Height/ Stories	Minimum Lot Area ¹	Maximum Lot Coverage	Front Yard Setback ²	Side Yard Setback	Rear Yard Setback	Minimum Width	Minimum Depth
R-1	42 3	9,600	40	30	10	15	60	160
R-2	42 3	4,000	60	20	8 ³	10	40	60
R-3	SEE SECTION 4.3.3							
R-B ⁴	35 3	9,600 ⁵	60	20	10	10	60	160
C-1	35 3	9,600	None	30	20	10	60	160
C-2	45 4	7,200	None	10	10	10	60	100
C-3	75 7	None	None	40	10	10	None	None
R-S ⁶	35 3	9,600	None	0	0	10	60	160

Within Clustered Projects, minimum lot size is 4,000 square feet.
Along streets where existing buildings have a variety of front yard setbacks, the setback for a new building may be the average of the existing setbacks.
With respect to the one wall in common with one adjacent living unit, no side yard shall be required for any semidetached dwelling or two-family dwelling; provided, however, that any semidetached or two-family dwelling shall have a minimum side yard.
Residence above Retail Shops is permitted as a Mixed-Use in the R-B and R-S Use Districts.
Minimum Lot Size 1 Unit for a Duplex or Multi-family Dwelling in the R-B District is 5,000 square feet.
Residence above Retail Shops is permitted as a Mixed-Use in the R-B and R-S Use Districts



Official Zoning Map

MEMPHIS JOURNAL

Zoning

- R-1 Single-Family Residential Use District
 R-2 Single-Family Residential Use District
 R-3 General and Multifamily Residential District
 RB Residential Business Use District
 C Commercial Use District
 RS Railroad Square Use District
 Railroad Square
 Parcel Boundaries
 Major Roads
 Streets
 Rail Lines
 Major Rivers

This is specifying that this is the Official Zoning of the Town of Ellendale as referred to in Article 5 of the Town of Ellendale Zoning Ordinance.

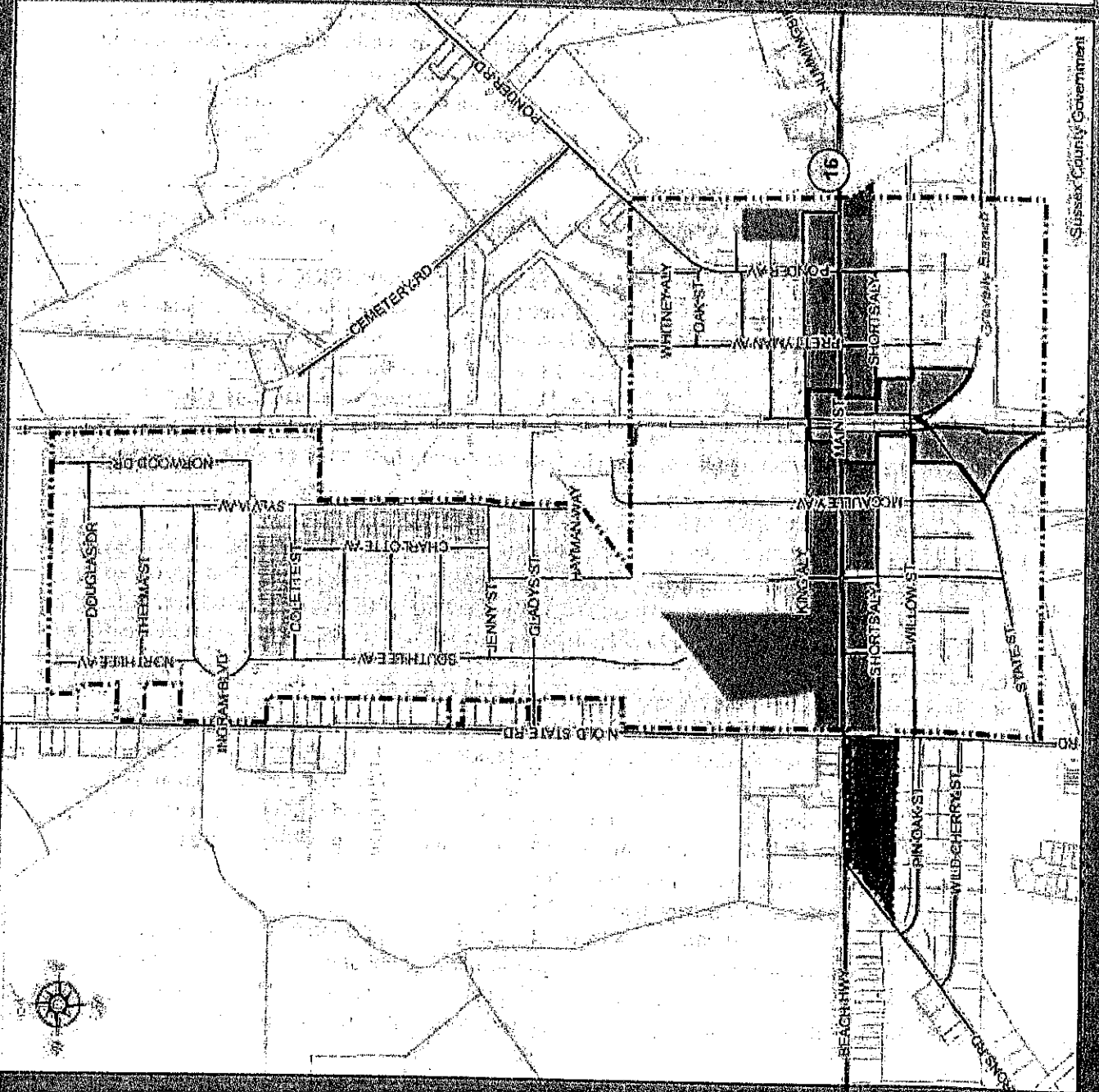
President, Town of Ellendale Town Council

THEORY OF MEAN CURVATURE

CONFIDENTIAL

[illegible]

Website for Public Administration
www.pda.maharashtra.gov



**TOWN OF ELLENDALE, SUSSEX COUNTY, DELAWARE
NEW MUNICIPAL ZONING ORDINANCE
EXECUTIVE SUMMARY**

PURPOSE

The Town Council of The Town of Ellendale is considering the adoption of a new Municipal Zoning Ordinance to be part of the Code of the Town of Ellendale. Heretofore, zoning within the Town of Ellendale has been regulated under the Sussex County Zoning Ordinance. The purpose of the new Zoning Ordinance is to provide for improved zoning regulation of land use, density and design within the Town of Ellendale in accordance with the adopted and certified Ellendale of the Forest: 2004 Greater Ellendale Comprehensive Plan and updated State of Delaware statutes and regulations.

ARTICLE 1 - TITLE, PURPOSE, AND AUTHORITY

Article 1 specifies the statutory basis for the proposed Zoning Ordinance, the public purpose of the Ordinance, and the fact that the regulations contained in the Ordinance have been made in accordance with the Comprehensive Plan as approved by The Town of Ellendale Town Council and certified by the State of Delaware. The grant of authority and powers conferred upon The Town of Ellendale in the creation and implementation of this Zoning Ordinance is set forth in Title 22 of the Delaware Code Section 301 et seq.

ARTICLE 2 - INTERPRETATION

Article 2 specifies the interpretation of commonly used terms and provides definitions for words used in the Zoning Ordinance.

ARTICLE 3 - ESTABLISHMENT OF USE AND OVERLAY DISTRICTS

Article 3 establishes six (6) use or overlay districts: (1) a R-1 Single-Family Residential Use District, (2) a R-B - Residential-Business Use District, (3) a R-S - Railroad Square Use District, (4) a C - Commercial Use District, (5) a LPD-OD - Large Parcel Development Overlay District for larger planned subdivisions and (6) a HP-OD - Historic Preservation Overlay District. Section 3.3 identifies and includes the Official Zoning Map of The Town of Ellendale, which is an integral part of the Zoning Ordinance. The Official Zoning Map shows the locations of all zoning use and overlay districts.

ARTICLE 4 - ZONING USE AND OVERLAY DISTRICTS

Article 4 provides regulations for each proposed use and overlay district, including a statement of intent, a list of permitted principal uses; permitted accessory uses, buildings and structures, and special permitted uses as well as design regulations limiting height, bulk and density of development, off-street parking and loading, signage, site plan review and special requirements as applicable.

Section 4.1 - R-1 Single-Family Residential Use District

The intent of the R-1 Single-Family Residential Use District is to delineate areas where predominantly single-family detached, low-density residential development has occurred or is desired and likely to occur in the future, and to protect the integrity of these residential areas by prohibiting the intrusion of any use which is not compatible with this predominant type and intensity of use. The R-1 district recognizes the value of such other permissible uses as churches, schools, libraries, parks and playgrounds.

Section 4.2 - R-B - Residential-Business Use District

The intent of the R-B Single-Family Residential and Business Use District is to delineate areas for the development of detached or attached single-family residential uses at densities similar to that of the R-1 use district, while allowing compatible business uses as Special Uses requiring Planning and Zoning Commission site plan review and approval. The R-B district protects the

integrity of these residential areas by prohibiting the intrusion of any use that is not compatible with these types and intensities of use.

Section 4.3 - R-S - Railroad Square Use District

The intent of the R-S Railroad Square Use District is to delineate the Railroad Square area that is historic and pedestrian in scale and is appropriate for a traditional mixture of residential and small-scale retail, service and office uses. The R-S Use District encourages a range of uses that serve the needs of the surrounding Town and County populations and ensures that any use permitted is compatible with the character of the district and its permitted types and intensities of use. The purpose of the R-S District is also to recognize its unique historical character as a part of the heritage of The Town of Ellendale and Sussex County.

Section 4.4 - C - Commercial Use District

The intent of the C - Commercial Use District is to delineate areas which are currently used or are appropriate for existing and future general commercial or business uses which provide a range of retail, wholesale, service, office or light manufacturing uses to fulfill the needs of residents, businesses and visitors and which by the nature or scale of the operations permitted and careful site planning and design are compatible with adjoining residential areas.

Section 4.5 - LPD -OD - Large Parcel Development - Overlay District

The intent of the LPD-OD - Large Parcel Development Overlay District is to delineate areas which are 3 acres or greater in area and which are suitable for larger-scale development for mixed uses in a planned and unified manner reflective of the overall design character and scale of the Town of Ellendale. The LPD-OD is a floating zone in that it is not shown on the Official Zoning Map unless and until an application is made and approved for a LPD-OD.

Section 4.6 - HP-OD Historic Preservation Overlay District

The intent of the HP-OD Historic Preservation Overlay District is to provide for consideration of historic preservation design and development factors within the Historic Area of Ellendale, as identified in the Ellendale of the Forest: The 2004 Greater Ellendale Comprehensive Plan, and to base this review on the Secretary of the United States Department of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

ARTICLE 5 - DIMENSIONAL REQUIREMENTS - DENSITY CONTROL

Article 5 provides area and height and bulk, or density control, design regulations for the use districts. Section 5.1 provides a Density Control Table that describes minimum lot sizes, setbacks, coverage of land area and building heights and separation requirements.

ARTICLE 6 - PLANNING AND ZONING COMMISSION: SPECIAL USE PERMITS AND SITE PLAN REVIEW AND APPROVAL

Article 6 provides for the approval of Special Use Permits and Site Plan Review by a Town of Ellendale Planning and Zoning Commission that will be appointed by the Town Council.

ARTICLE 7 - DEVELOPMENT GUIDELINES

Article 7 establishes general and specific development guidelines for specific land use activities and use districts.

ARTICLE 8 - SIGNAGE

Article 8 provides regulations for types of signage permitted in each use district.

ARTICLE 9 - NON-CONFORMING USES, BUILDINGS & STRUCTURES AND LOTS

Article 9 establishes regulations governing the continuation of legal, pre-existing non-conforming uses, buildings and structures and lots, based on the principle that any lawful use,

building, structure or lot legally existing at the effective date of the Municipal Zoning Ordinance of The Town of Ellendale, as enacted by the Ellendale Town Council, may be continued, subject to certain limitations.

ARTICLE 10 - RESIDENTIAL PROPERTY GENERAL REQUIREMENTS

Article 10 discusses the minimum requirements of interior and exterior real and personal property conditions on and within the residential areas of the Town of Ellendale.

ARTICLE 11 - GENERAL EXCEPTIONS

Article 11 discusses the exception of governmental and public utility uses and functions from the requirements of the Zoning Ordinance.

ARTICLE 12 - BOARD OF ADJUSTMENT

Article 12 discusses the establishment and duties of a three-member Town of Ellendale Board of Adjustment that will be appointed by the Ellendale Town Council. The Board of Adjustment will review cases and make final decisions allowing for any exceptions, variances or interpretations to the Municipal Zoning Ordinance. Procedures are included dealing with terms of appointment, interpretation, area variances and general procedures.

ARTICLE 13 - ADMINISTRATION

Article 13 establishes regulations for the enforcement of the Zoning Ordinance by a professional Code Enforcement Officer who will be employed on a full or part-time basis by the Town of Ellendale.

ARTICLE 14 - REMEDIES

Article 14 specifies that whenever a violation of this Ordinance occurs any person may file a complaint in regard thereto and establishes procedures for abatement of violations including penalties.

ARTICLE 15 - AMENDMENTS

Article 15 specifies procedures for use by the Town Council in amending the Zoning Ordinance.

ARTICLE 16 - FEE SCHEDULE

Article 16 states that a schedule of fees for reviewing applications and issuing permits as required by this Ordinance shall be set by the Mayor and Town Council of The Town of Ellendale by resolution from time to time.

ARTICLE 17 - EFFECTIVE DATE

Article 17 states that the new Zoning Ordinance of The Town of Ellendale shall become effective twenty (20) days after the date of its passage by the Mayor and Town Council of Ellendale.

TOWN OF ELLENDALE BUSINESS LICENSE APPLICATION

PLEASE CHOOSE ONE OF THE FOLLOWING OPTIONS:

☐ NEW Business License

☐ RENEWAL Business License Number _____

Previous License Number if Applicable: _____

1. BUSINESS NAME: _____

(Enter the name you will be doing business as. You must operate and advertise in the exact name listed.)

MAILING ADDRESS: _____

PHYSICAL ADDRESS: _____

2. BUSINESS LICENSE FEE: \$ _____ See Fee Schedule Addendum of Zoning Ordinance for Town of Ellendale.
Checks must be made payable to Town of Ellendale.

3. OWNERSHIP TYPE: ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC

☐ LLP

☐ LP

☐ Other

4. NAME(S) OF OWNER(S) OR ENTITY NAME: _____

BY SIGNING THIS APPLICATION I DECLARE, UNDER PENALTY OF PERJURY, THAT THIS APPLICATION IS TRUE AND COMPLETE.

PRINTED NAME: _____ TITLE: _____ PHONE: _____

SIGNATURE: _____ DATE: _____

This application shall be submitted in conformity with Section 7.10 – "Business Licenses" of the Zoning Ordinance of the Town of Ellendale which provides in pertinent part: "Prior to the commencement of providing or performing any temporary or permanent work or services within the Town of Ellendale, all businesses or individuals must possess and maintain a valid and current business license issued by the Town of Ellendale regardless of the nature, or value of the work performed or services provided, including but not limited to home occupations. Work shall not commence within the Town until a valid Business License is issued to the applicant. A Business license shall be renewed every year."

BOARD OF ADJUSTMENT APPEALS APPLICATION

(PLEASE SUMIT 5 COPIES)

The undersigned owner(s) of the following described property hereby petition the Board of Adjustment to make a determination on the following Request:

PROPERTY:

OWNERS NAME(s): _____

MAILING ADDRESS: _____

PHONE NUMBER: _____ FAX NUMBER: _____

EMAIL ADDRESS: _____

DESCRIPTION OF THE PROPERTY:

STREET ADDRESS: _____

PARCEL IDENTIFICATION NUMBER: _____

EXISTING USE: (PLEASE CHECK ONE) _____ RESIDENTIAL _____ NON-RESIDENTIAL

BUSINESS NAME: (IF APPLICABLE) _____

ZONING CLASSIFICATION

ZONING DISTRICT: _____

Please note that pursuant to Section 14.1 "Appeal Application" of the Zoning Ordinance for the Town of Ellendale, this application must conform with the following:

"Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officer. Such appeal shall be made within thirty (30) days from the decision being appealed and by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An application for appeal shall be based on a claim that the true intent of this Ordinance or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Ordinance do not fully apply, or the requirement of this Ordinance are adequately satisfied by other means. Appeals of notice and orders (other than Imminent Danger Notices) shall stay the enforcement of the notice, violation or order until the appeal is heard by the Board of Adjustment."

Applicants are also subject to the Fee associated with a Board of Adjustment Appeal Application and Hearing pursuant to the Fee Schedule found in the Addendum section of the Zoning Ordinance for the Town of Ellendale.

REQUEST:

Please outline below: (1) the specific provision of the Ordinance involved, (2) set forth exactly the interpretation that is claimed, or the details of the variance that is applied for, and (3) the grounds on which it is claimed that the variance should be granted, as the case may be.

I hereby certify that I am the owner of property involved in the above described request and that the information set forth is true and correct.

BY: _____ Signature of Property Owner
 Print Name

BY: _____ Signature of Property Owner
 Print Name

BY: _____ Signature of Property Owner
 Print Name

RECEIVED BY THE BOARD OF ADJUSTMENT ON: (DATE) _____
BY: _____

This application will be presented to the Town of Ellendale Board of Adjustment for public hearing.

Violation of Zoning Ordinance of the Town of Ellendale Complaint Form
COMPLAINT OF VIOLATION

Statement by Person Making Complaint:

On the basis of my understanding of _____
(Cite specific zoning ordinance provision)
of the Zoning Ordinance of the Town of Ellendale, it is my belief that the property located at:

(Address of alleged property in violation)
and being used by _____
(Name of alleged violator Owner/Occupant)
may be in violation of the Zoning Code because (cite reasons below):

(Name of Person Making Complaint)

(Address)

(Zip Code)

(Date)

(Phone)