

Ordinance 2024-03 – Land Use Code - Adopted 5.13.24

Article 1. General Provisions

§ 1-01. Title

This Ordinance shall be known as the Land Use Code of the Commissioners of Bellefonte, commonly known as the Town of Bellefonte, New Castle County, Delaware (“Land Use Code”).

§ 1-02. Authority

This Land Use Code has been made in accordance with the grant of power in the Town Charter, Title 22, Chapters 3 and 7 of the *Delaware Code*, and other governing laws.

The Bellefonte Planning Commission is charged with authority over land use and zoning in the Town of Bellefonte. The Planning Commission functions as the Zoning Review Board.

The Bellefonte Zoning Review Board is authorized to review, decide and rule on zoning review applications.

In order to apply for a building permit from the New Castle County Land Use Department an owner or their authorized representative must first complete a zoning review application and get it approved by the Zoning Review Board.

The Bellefonte Board of Adjustment handles all appeals with regards to zoning in the Town of Bellefonte. See Article 8 – Zoning Appeals.

§ 1-03. Purposes

A. Pursuant to the *Delaware Code* and other governing laws, this Land Use Code has been made in accordance with a comprehensive plan and is designed to accomplish the following:

- (1) Lessen congestion in the streets.
- (2) Secure safety from fire, panic and other dangers.
- (3) Promote health and the general welfare.
- (4) Provide adequate light and air.
- (5) Prevent the overcrowding of land.
- (6) Avoid undue concentration of population.
- (7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

B. Pursuant to the *Delaware Code* and other governing laws, the regulations contained in this Land Use Code have been made with reasonable consideration, among other things, of the following:

- (1) The character of each district and its peculiar suitability for particular uses.
- (2) Conserving the value of buildings.
- (3) Encouraging the most appropriate use of land throughout the Town of Bellefonte.

§ 1-04. Applicability

This Land Use Code shall apply to all land within the incorporated boundaries of the Town of Bellefonte. It is intended that the extent of its applicability be automatically changed in accordance with any amendments of this Land Use Code or amendment of State law which may affect its applicability.

§ 1-05. Components

- A. Text and Map—This Land Use Code consists of the regulations written herein and a map depicting zoning districts in the Town, which shall be known as the official zoning map of the Town of Bellefonte.
- B. Tables—The tables contained herein are integrated as part of this Land Use Code.
- C. Drawings and Graphics—The drawings and graphics herein are integrated as part of this Land Use Code unless otherwise indicated.

§ 1-06. Compliance Required

- A. Partition, Combination, Land Development—Tracts, parcels, lots, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, in conformance with the provisions of this Land Use Code. This section also applies to land offered for sale or lease.
- B. Use—All buildings and land shall be used in conformance with the provisions of this Land Use Code.
- C. Construction, Reconstruction, Alteration, Relocation—Buildings and parts of buildings shall be erected, reconstructed, converted, enlarged, moved, or structurally altered in conformance with the provisions of this Land Use Code and the New Castle County Building Code and New Castle County Property Maintenance Code (per Ordinance 2016-03).
- D. Yards and Open Space
 - (1) No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted by a variance granted by the Board of Adjustment.
 - (2) A yard or other open space associated with a building on a lot shall not be considered as a required yard or open space for a building on any other lot.
- E. Height of Buildings and Structures
 - (1) General—No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted by variance by the Board of Adjustment.
 - (2) Sloping Lot—On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.

§ 1-07. Provisions are Minimum Requirements

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

§ 1-08. References to Other Codes, Ordinances, and Regulations

- A. References to titles, sections, subsections, and other parts of the Delaware Code, Administrative Code, and State Regulations shall apply to the Code/Regulations as existing or amended subsequently.
- B. References to titles, sections, subsections, and other ordinances the Town of Bellefonte or the Bellefonte Town Charter shall apply to the Code/Charter as existing or amended subsequently.
- C. References to titles, sections, subsections, and other parts of other codes, laws, regulations, or policies shall apply to the codes, laws, regulations, or policies as existing or amended subsequently.

§ 1-09. Interpretation of Land Use Code Language

- A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense.
- C. The word "shall" is mandatory. The word "may" is permissive.
- D. The meaning of the word "used" shall include "designed" or "intended or arranged to be used."

- E. The meaning of the word "erected" shall include "constructed," "reconstructed," "altered," "placed," or "moved."
- F. The meaning of the terms "land use" and "use of land" shall include "building use" and "use of building."
- G. The meaning of the word "adjacent" shall include "abutting" and "adjoining."

§ 1-10. Interpretation of Zoning Map

- A. Zoning Districts—The incorporated area of the Town is divided into the zoning districts shown on the Zoning map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Land Use Code.
- B. Land Created by Changing Level of Water Bodies—Land hereafter created by the filling or changing of the level of water bodies shall assume the zoning district of the contiguous land.
- C. Uncertainty as to Boundaries—Where uncertainty exists as to the boundaries of zoning districts as shown on the Zoning map, the following rules shall apply:
 - (1) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
 - (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (3) Boundaries indicated as approximately following Town or County limits shall be construed as following Town or County limits.
 - (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s).
 - (5) Boundaries indicated as following shore lines shall be construed to follow such shore lines. If the shore line changes, the boundary shall be construed as moving with the actual low water mark of the shore line.
 - (6) Boundaries indicated as approximately following the centerlines of streams, lakes, ditches, or other bodies of water shall be construed as following such centerlines.
 - (7) Boundaries indicated as parallel to, or extensions of, features described in this subsection shall be so construed. Distances not specifically indicated on the Zoning map shall be determined by the scale of the map.
 - (8) Where physical or cultural features existing on the ground differ from those shown on the Zoning map, or in other circumstances not covered by this Section, the Board of Adjustment shall interpret the zone boundaries.
- D. Errors or Omissions—If because of error or omission, the Zoning map does not show a property as being in a zoning district, such property shall be classified the same as the adjacent properties as determined by the Zoning Review Board. If a such property is adjacent to multiple different zoning districts the least intense district shall apply. The least intense district is defined in order from least to most as R1, R2, RMX1 and MX2.
- E. Parcels Split by Zoning Districts—Where a zoning district boundary divides a lot, tract, parcel, or property, the location of the district boundary, unless the Zoning map indicates its dimensions, shall be determined by applying the map scale shown on the Zoning map scaled to the nearest foot.
- F. Boundary Disputes—The Board of Adjustment shall decide disputes concerning the boundaries of zoning districts.

§ 1-11. Interpretation of Uses

- A. A use not specifically listed as permitted in a zoning district is prohibited unless determined to be comparable with, analogous with, akin to, or like a use permitted in that zoning district, as determined by the Zoning Review Board.
- B. Standards for Interpretation of Uses.
 - (1) The use closely resembles and contains the same characteristics as the uses in the zone to which it is to be added.
 - (2) The use does not create dangers to health and safety and does not create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
 - (3) The use does not create traffic to a greater extent than do other uses listed in the classification to which it is to be added.
- C. The determination of similar uses shall not apply to off-street parking or signs.

§ 1-12. Building Permits.

Building permits are issued by New Castle County Land Use Department. A Zoning Review Board application approved by the Town of Bellefonte is required prior to applying for a building permit.

§ 1-13. Relationship to Prior Zoning Codes

- A. Building Permits.
 - 1. Where construction has begun in accordance with a building permit validly issued more than 6 months prior to the adoption of this Land Use Code, such construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued.
 - 2. Where a building permit has been validly issued within 6 months prior to the adoption of this Land Use Code, construction may be completed as long as it complies with the zoning or subdivision regulations in effect at the time the permit was issued and as long as construction begins within 6 months of the adoption of this Land Use Code
 - 3. Construction has 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) Provision—Any lot, which was legally recorded and was a buildable lot under the zoning or subdivision regulations in effect immediately prior to the effective date of this Land Use Code, is a buildable lot under this Land Use Code and does not require a variance to construct a single-family dwelling.
 - (2) Applicability.
 - (a) This provision applies to all zones.
 - (b) This provision permits construction of a single-family dwelling only if the owner of the substandard lot owned no adjoining, unimproved lot or parcel on the effective date of this Land Use Code.
- C. Plats—Any final subdivision plat, approved during the 6 months immediately prior to the adoption of this Land Use Code, may be recorded. Any lot, shown on such plat, shall be a buildable lot even though it may contain less than the minimum required area for any residential zone. However, the plat containing such a lot must be recorded within 6 months following the adoption of this Land Use Code.
- D. Vested-Rights Exemptions.
 - (1) Who May File—Any person, entity, owner or equitable owner of property not otherwise exempted from the requirements of this Land Use Code that asserts a vested right to continue with a pending development application under the ordinances, regulations, laws, policies,

standards, or fee structures in place immediately before the adoption of this Land Use Code or any amendment thereto, such person or entity may seek a vested rights exemption from the Board of Adjustment.

- (2) **Criteria for Approval**—The Board of Adjustment may grant a vested rights exemption and allow the development to proceed under standards in place immediately prior to the adoption of this Land Use Code if the Board finds that the person or entity meets each of the following criteria:
 - (a) Has made a substantial change in position;
 - (b) Has made substantial expenditures;
 - (c) Incurred substantial obligations in good faith reliance upon the previous provisions of the ordinances, regulations, laws, policies, standards, or fee structures of the Town.
- (3) **Filing Deadline**—Any person or entity seeking a vested rights exemption must make a written request for a hearing on the exemption by the Board of Adjustment within 90 days after the adoption or amendment of this Land Use Code by the Town Commissioners.
- (4) **Fee Required With Application**—A fee for Board review, in the amount of \$700.00, must accompany the application for the exemption or the application. The application shall not be deemed filed until the fee is paid.

§ 1-14. Relationship to Other Regulations

- A. **In General**—Where this Land Use Code imposes a standard that differs from a standard imposed by other statutes, resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter standard shall govern.
- B. **Conflict with Other Laws**—Pursuant to Title 22, Section 307 of the *Delaware Code*,
 - (1) Wherever the regulations contained in this Land Use Code require a greater width or size of yards or courts, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations in this Land Use Code shall govern.
 - (2) Wherever any other statute, local ordinance or regulation requires a greater width or size of yards or courts, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposed other higher standards than are required by the regulations in this Land Use Code, such statute, local ordinance or regulation shall govern.
- C. **Compliance with Other Applicable Regulations**—Compliance with the standards prescribed in this Land Use Code does not relieve an applicant from compliance with other applicable statutes, resolutions, ordinances, rules, regulations, easements, or deed restrictions.
- D. Except as otherwise expressly stated herein, nothing in this Land Use Code shall be deemed to supersede Ordinance 2005-3 (adopting New Castle County’s property maintenance code and transferring property maintenance functions to New Castle County).

§ 1-15. Relationship to Private Agreements

It is not intended that this Land Use Code invalidate or annul any easements, covenants, or other private written agreements between parties.

§ 1-16. Noise

Noise standards, as adopted and promulgated by New Castle County, are hereby adopted by the Town of Bellefonte by reference, and shall act as the noise standards for the Town.

§ 1-17. Fees

Fees for all actions contemplated by this Land Use Code shall be paid in accordance with the express provisions herein. All fees shall be paid in advance of any application or service provided by the Town.

§ 1-18. Annexation

Land hereafter annexed to the Town of Bellefonte shall be placed in an appropriate zone, and shall be incorporated into the official zoning map, as part of the annexation proceedings.

§ 1-19. Severability

- A. The Town Commissioners hereby declare that the sections, paragraphs, sentences, clauses, and phrases of this Land Use Code can be separated from one another.
- B. Should a court decide that any section or provision of this Land Use Code is unconstitutional or invalid, such decision shall not affect the validity of this Land Use Code as a whole or any part other than the part judged unconstitutional or invalid.

Article 2. Zoning Districts (Zones)

§ 2-01. Residential Districts

A. 1- and 2-Family District.

- (1) Name—1- and 2-Family District.
- (2) Symbol—R-1.
- (3) Purposes.
 - (a) This District is intended primarily for 1-family dwellings and customary accessory uses with 2-family dwellings allowed by special exception.
 - (b) In this District, home-based businesses that would not detract from the residential character of the District, are allowed.

B. Multi-Family District.

- (1) Name—Multi-Family District.
- (2) Symbol—R-2.
- (3) Purposes.
 - (a) This District is intended to accommodate a wider range of dwelling types than the 1- and 2-Family District.
 - (b) This District is intended for 1- and 2-family dwellings as well as small apartment (multi-family) buildings and customary accessory uses.
 - (c) This District is most appropriately located between commercial areas and homes in the 1- and 2-Family District.
 - (d) In this District, home-based businesses that would not detract from the residential character of the District, are allowed.

§ 2-02. Mixed-Use Districts

A. Residential Mixed Use 1 District.

- (1) Name—Residential Mixed Use 1 District.
- (2) Symbol—RMX-1.
- (3) Purposes.
 - (a) This District is intended for convenience retail and personal service uses as well as business and professional offices that provide services to surrounding residential neighborhoods. It is not intended for highway-oriented uses such as gasoline stations or drive-in uses.
 - (b) This District is most appropriately located along collector streets, such as Brandywine Boulevard.
 - (c) Residential uses, either free-standing or in combination with commercial establishments or offices, are also appropriate in this District.

B. Mixed Use 2 District.

- (1) Name—Mixed Use 2 District.
- (2) Symbol—MX-2.
- (3) Purposes.
 - (a) This District is most appropriately situated along arterial streets, such as Philadelphia Pike, and not within residential neighborhoods.
 - (b) This District is intended for a wider range of uses than provided for in the RMX-1 and might include certain highway-oriented uses.

- (c) It is further intended to allow apartments as stand-alone uses (multi-family) or integrated with non-residential uses.
- (d) Where possible, buffering, in the form of plantings, fencing, or additional building setback, is encouraged when commercial and office uses are adjacent to residential neighborhoods.

Article 3. Use and Dimensional Regulations

§ 3-01. Permitted Uses and Structures

USES AND STRUCTURES				ZONING DISTRICTS				
Blank	Not Permitted	SE	Special Exception, see Ordinance 2024-02 – Board of Adjustment	R-1	R-2	RMX-1	MX-2	
P	Permitted Use	D	See Definition in 0					
Agriculture-Related Use								
Community Garden				P	P	P	P	
Residential Uses								
Bed and Breakfast				D		SE	P	
Dwelling, 1-Family				D	P	P	P	
Dwelling, 2-Family				D	SE	SE	SE	
Dwelling, Commercial Apartment				D			P	
Dwelling, Multi-Family (≥ 3 Dwelling Units)				D		P	P	
Family Child Care Home – Small				D	SE	SE		
Home-Based Business – See Article 12 Definitions.				D	P	P	P	
Hotel or Motel							P	
Retail Sales and Service Uses								
Automobile Repair Services				D			P	
Automobile Sales				D			SE	
Bank						P	P	
Business Service Establishment				D		P	P	
Gasoline Station				D			SE	
Gasoline Station and Convenience Center				D			SE	
Office				D		P	P	
Personal Service Establishment				D		P	P	
Restaurants				D		P	P	
Retail Sales Establishments				D		P	P	
Retail Service Establishment				D		P	P	
Wholesale Trade Establishments				D		SE	P	
Other Uses								
Club, Fraternal and Social Organization				D			P	
Commercial Communications Towers, see § 9-12.C(1).					SE	SE	SE	
Community Center, Public				D		P	P	
Day-Care Center, Adult				D		P	SE	
Day-Care Center, Child				D		P	SE	
Family Child Care Home – Large				D			SE	
Funeral Home				D			P	
Government Facilities and Services, Local				D	P	P	P	
Government Facilities and Services, Non-Local				D	SE	SE	SE	
Library							P	
Medical Clinic				D			SE	
Museum							P	
Nursing and Care Facilities				D			SE	
Parks and Open Space					P	P	P	
Place of Worship				D	SE	SE	P	
Public-Safety Facilities				D			P	
Public-Utility Service Facilities				D	SE	SE	P	
Public-Utility Service Lines				D	P	P	P	
Recreation Facility				D			SE	
Recreation Facility, Public				D			SE	
School				D			P	
Surgical Center				D			SE	
Accessory Uses, see § 3-02					P	P	P	

§ 3-02. Accessory Uses

- A. Definition—A use is a permissible accessory use if it meets all of the following criteria:
 - (1) It is located on the same lot as a principal building or structure;
 - (2) It is incidental and subordinate to the principal use;
 - (3) It is customary to the principal use;
 - (4) It is operated and maintained under the same ownership and on the same lot as the principal use;
 - (5) It does not include structures or structural features inconsistent with the principal use;
 - (6) Except for integrated garages as further provided for in this Section, it does not include overnight lodging or living space.
- B. Where Permitted—Except as otherwise provided, accessory uses are permitted in all zones.
- C. Additional Regulations for Certain Accessory Uses.
 - (1) Private, Residential Garage.
 - (a) Where Permitted—On any lot containing a 1- or 2-family dwelling.
 - (b) Definition—See “Garage, Private Residential” in 0
 - (c) Number Permitted—Each dwelling unit may have 1 private, residential garage associated with it, with up to three (3) garage bays.
 - (d) Arrangement—A private, residential garage may be integrated with the principal building or it may be detached from it.
 - (e) Living Space Standards.
 - [1] Integrated Garage—Living space permitted.
 - [2] Detached Garage—Living space and overnight lodging prohibited.
 - (f) See also § 3-06.
 - (2) Accessory Uses Other Than Private, Residential Garages.
 - (a) Where Permitted—In all zoning districts on lots containing a principal building.
 - (b) Number Permitted
 - [1] Each 1- or 2-family dwelling unit may have 1 accessory building or structure in addition to either an integrated garage or a detached garage.
 - [2] On lots having other than a 1- or 2-family dwelling unit, 1 accessory building or structure is permitted.
 - (c) Arrangement—An accessory building or structure, other than a private residential garage, may be either attached to or detached from the principal building or structure.

§ 3-03. Prohibited Uses

- A. Abattoir where livestock are killed and prepared for distribution to butcher shops and food markets.
- B. Animal Rendering where waste animal parts are converted into other materials.
- C. Asphalt Refining.
- D. Automobile Wrecking Yard—An establishment that cuts up, compresses, or otherwise disposes of motor vehicles.
- E. Blast Furnace, Garbage or Offal Reduction, Dumping.
- F. Bulk storage of toxic chemicals, gasoline above-ground, explosives, junk, oil, except those associated with, are located on the same lot with, and dispense heating fuels to dwelling units.
- G. Crude Oil Refining.

- H. Junkyard—Any lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.
- I. Liquid Waste Disposal.
- J. Manufacture of asphalt, bleaching compounds, coal, coke, cork products, corrosive acid, fertilizer, gelatins, glue, industrial alcohol, linoleum, matches, oils, paint, rubber, soap, tar products.
- K. Ore Smelting.
- L. Rubber Treatment.
- M. Salvage Yard—A facility for storing, selling, dismantling, shredding, compressing, or reclaiming scrap, discarded material, or equipment.
- N. Solid Waste Disposal.
- O. Tanning or Curing of Hides.

§ 3-04. Basic Dimensional Standards—Residential Districts

- A. Applicability—R-1 and R-2 Districts.
- B. Dimensional Standards for Principal Buildings and Structures.
 - (1) Intent—No owner(s) of real property situate in the Town of Bellefonte, nor their heirs, assigns, agents, attorneys or any other person acting in the stead of such owner(s) nor any other person or entity acting on behalf of any person or entity shall be permitted to seek or cause subdivision of any existing parcel of real estate where such subdivision would result in the creation of at least one subdivided parcel less than 6,500 square feet in area.
 - (2) Table of Standards.

STANDARD	ZONING DISTRICT Building or Structure Type	R-2 DISTRICT		
		R-1 DISTRICT 1- or 2-Family Dwelling	1- or 2-Family Dwelling	Multi-Family (≥ 3 Dwelling Units)
Lot Area (Square Footage)				
Improved		None	None	N/A, see § 3-04.B(1). 6,500 SF
Unimproved		4,000 SF	4,000 SF	
Street Frontage				
Improved		None	None	50 Feet
Unimproved		40 Feet	40 Feet	
Setbacks				
Lot Line, Front - Abutting a Street		20 Feet	20 Feet	10 Feet
Lot Line, Side - Abutting a Street		5 Feet	5 Feet	5 Feet
Lot Line, Side, Interior				
1 side		5 Feet	5 Feet	8% of Lot Width, but no fewer than 3 feet, plus 2 feet for each story greater than 2
Sum of Both Sides		10 Feet	10 Feet	2 x 1 side
Lot Line, Rear		30 Feet	30 Feet	15 feet
Maximum Height				
Feet		30 Feet	30 Feet	45 Feet
Stories		2 Stories	2 Stories	3 Stories
Maximum Building Coverage of Lot Area Including Accessory Buildings and Structures		40%	40%	60%

Notes

- 1. All dimensions are minimum standards unless specified otherwise.

2. DU means Dwelling Unit. See definition in 0
3. SF means Square Feet.
4. See Figure 1.
5. Setback for side lot line abutting a street (re: corner lot) – Only applies to front of the house/property. The side of the house uses the same setback as an interior side lot line – 5 feet.

C. Dimensional Standards for Accessory Buildings and Structures.

(1) 1- and 2-Family Dwellings.

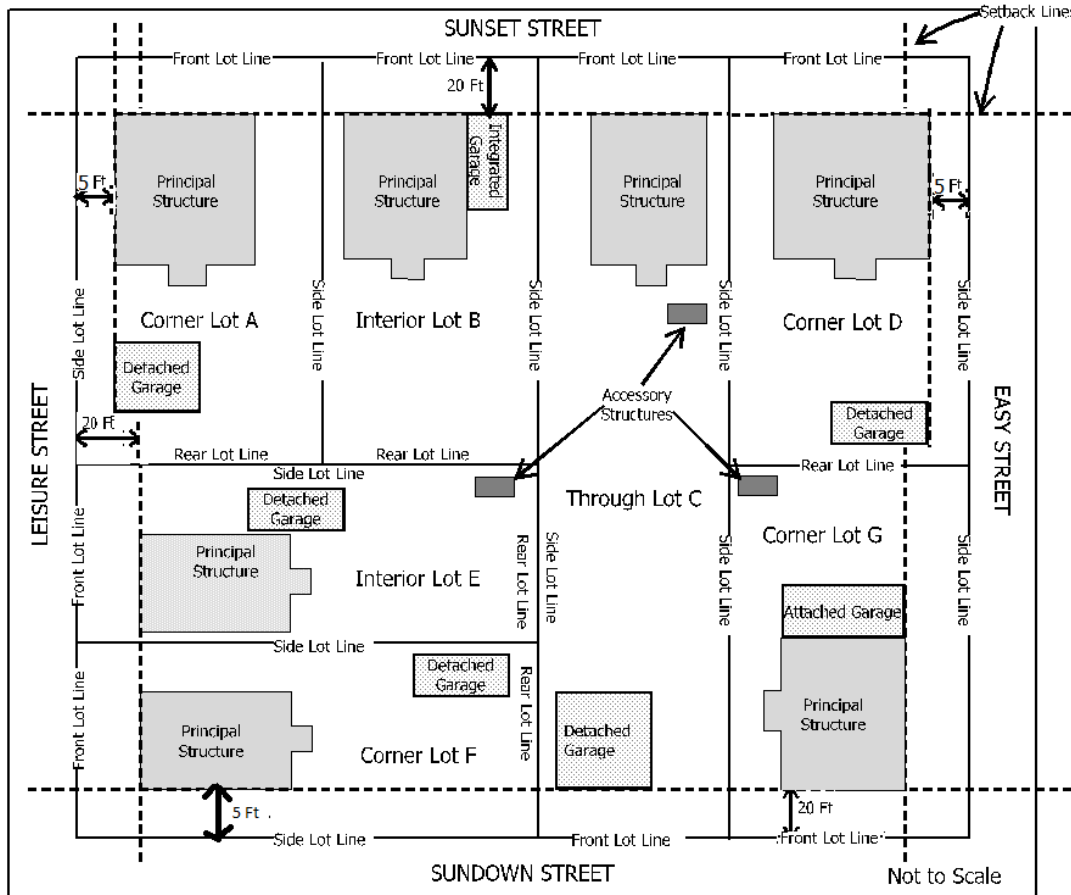
STANDARD	INTEGRATED GARAGE See definition in 0	DETACHED GARAGE See definition in 0	OTHER
Number Permitted	1, but not in addition to a detached garage	1, but not in addition to an attached garage	1 in addition to either attached or detached garage
Placement	Side or rear yard only	Side or rear yard only	Rear yard only
Setbacks			
From Any Lot Line Abutting a Street	Same as principal building	Same as principal building	Same as principal building
From Any Lot Line not Abutting a Street			
From Front Lot Line	Same as principal building	Same as principal building	Not allowed in front yard
From Side Lot Line	Same as principal building	2 Feet.	2 Feet.
From Rear Lot Line	Same as principal building	2 Feet.	2 Feet.
Maximum Height	Same as principal building	15 Feet.	15 Feet.
Building Coverage of Lot Area	Must be included with maximum building coverage of principal building		
Building Footprint	Same restrictions as principal building	50.0% Smaller than principal building with less square footage and less lot coverage. Still must adhere to restriction on lot coverage. Table of Standards 3-04 (2)	50.0% Smaller than principal building with less square footage and less lot coverage. Still must adhere to restriction on lot coverage. Table of Standards 3-04 (2)

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. See § 3-02.
3. See Figure 1.

(2) Multi-Family—Same as standards for “Other” in § 3-04.C(1).

Figure 1. Setbacks from Streets and Structure Placement for 1- and 2-Family Dwellings



§ 3-05. Basic Dimensional Standards—Mixed-Use Districts

- A. Applicability—RMX-1 and MX-2 Districts.
- B. Dimensional Standards for Principal Buildings and Structures.

STANDARD	TYPE OF BUILDING OR STRUCTURE	1- OR 2-FAMILY & MULTI-FAMILY DWELLINGS	RESIDENTIAL & NON-RESIDENTIAL MIX	NON-RESIDENTIAL
Lot Area (Square Footage)			None	None
Street Frontage		SAME	None	None
Setbacks				
From Any Lot Line Abutting a Street		AS	None	None
From Interior Side Lot Line			Same as R-2 District	None
From Rear Lot Line		R-2	Residential on First Story—15 Feet Other—None	None
Maximum Height		DISTRICT	45 Feet	45 Feet

Notes

- 1. All dimensions are minimum standards unless specified otherwise.
- 2. SF means Square Feet.

- C. Dimensional Standards for Accessory Buildings and Structures—Same as R-2 District.

§ 3-06. Permitted Projections into Required Setbacks

TYPE OF PROJECTION	FRONT YARD	REAR YARD	SIDE YARD
Balconies	3 feet. (1)	3 feet. (1)	3 feet. (2)
Bay or Oriel Windows	3 feet. (1)	3 feet. (1)	3 feet. (2)
Chimneys	2 feet.	2 feet.	2 feet.
Cornices, Eaves, Gutters, Windowsills, other Ornamental Features	2 feet.	2 feet.	2 feet. (2)
Fire Escapes	3 feet.	3 feet.	3 feet. (2)
Porches, Decks, Patios			
Open, 1-Story, Unscreened	5 feet into the setback	R-1 District—8 feet. Other Districts—5 Feet.	3 feet.
Enclosed or screened	Not Permitted	Not Permitted	Not Permitted
Open, Multiple Story, Unscreened	With Board of Adjustment Authorization—5 feet and railings no more than 36 inches	With Board of Adjustment Authorization—5 feet and railings no more than 36 inches	Not Permitted
Steps, Stoops, Exterior Stairways			
Open	3 feet.	3 feet.	3 feet.
Roof Cover for Steps, Stoops, Exterior Stairways	3 feet.	3 feet.	3 feet.

Notes—All dimensions are minimum standards unless specified otherwise.

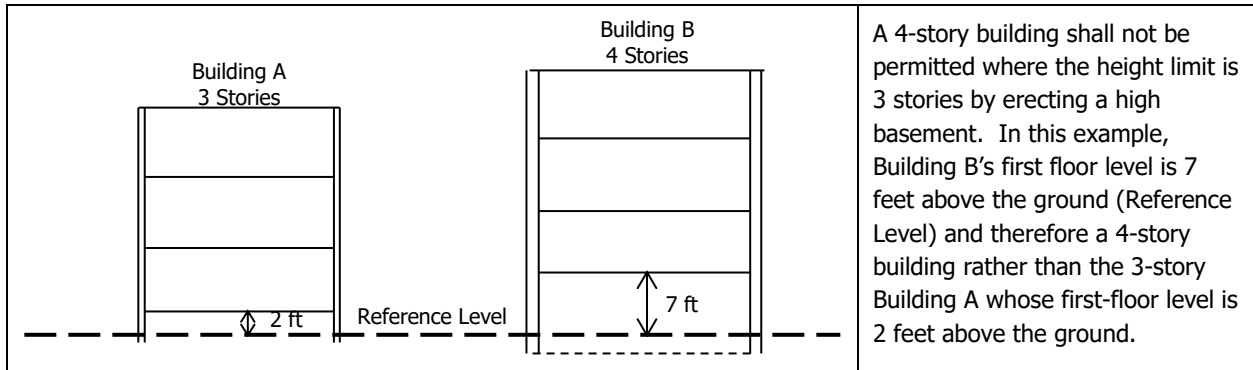
- (1) Shall not be wider than half the width of the building wall on which it is located.
- (2) Shall not be wider than 1/3 the depth of the side yard and shall not extend across more than 1/2 the width of the side yard or within 3 feet of the vertical plane of any side lot line.
- (3) Shall not extend farther than 1/2 the distance between the rear of the principal structure and the rear lot line.
- (4) BoA means Board of Adjustment.

§ 3-07. Height

A. Interpretation—See also Figure 2.

- (1) Heights shall be measured above a reference level, which is defined as the average curb level adjacent to the lot, except that if the average curb level is not established, or if the average natural ground level within 5 feet of the proposed building or structure is higher than such average curb level, then such average natural ground level shall be the reference level.
- (2) Heights of buildings shall be measured up to the mean level of the highest roof thereon. In all other cases, the height is defined as the maximum height.
- (3) No story shall be deemed a first story if its floor level is more than 4 feet above the reference level. Any basement which is occupied for sleeping purposes by other than a janitor or watchman shall be deemed a first story. A mezzanine story shall be deemed a full story if the mezzanine floor covers more than one-third the area of the ground floor, or the height of the story which includes the mezzanine is greater than 24 feet. An attic shall be a full story.

Figure 2. Height Limit Interpretation



B. Height Limit Exemptions.

See also maximum heights for each Zoning district in § 3-04 and § 3-05.

- (1) In all Zoning Districts.
 - (a) The height limitations of this Land Use Code do not apply to appurtenances usually required to be placed above the roof level and not intended for human occupancy, except where they would be a hazard to aircraft flight operations.
 - (b) The following specific structures are exempt from the height limitations provided that the area of the base of any such structure does not exceed 20% of the lot area: domes, spires, cupolas, belfries, monuments or chimneys, windmills, transmission towers, flag staffs, radio towers, water tanks or towers, or hose towers.
- (2) In R-1 and R-2 Districts—Structures exempt from height limitations shall not be placed within 30 feet of any street line or lot line.
- (3) For Multi-Family and Non-Residential Uses in RMX-1 and MX-2 Districts—Height limitations shall not apply to roof bulkheads, elevator enclosures or monitors as long as the area of the base of any such structure does not exceed 30% of the lot area.

§ 3-08. Fences, Walls, Hedges, and Shrubbery

A. Setbacks—The building setback and yard requirements of this Land Use Code shall not apply to fences, walls, hedges, or shrubbery.

B. Residential Areas (R-1, R-2, and RMX-1).

- (1) Applicability—Properties used for residential purposes.
- (2) Maximum Height.
 - (a) Front Yard—4 feet.
 - (b) Side and Rear Yards—6 feet.

C. Non-Residential (MX-2).

- (1) Applicability.
 - (a) Properties used for other than residential purposes.
 - (b) Properties used for mix of residential and non-residential purposes.
- (2) Maximum Height.
 - (a) Front Yard—4 feet.
 - (b) Side and Rear Yards—8 feet.

D. Fence Materials.

- (1) Generally—Fences shall be constructed of materials specifically designed for fences.
- (2) Residential—In residential zones and on property used residentially, barbed wire, razor wire or any similar material, or wire measuring less than 11 gauge is prohibited.
- (3) Non-Residential—Barbed or razor wire fencing may be utilized in conjunction with a mixed-use building or structure, but a landscape screen shall be provided between the fence and any street or adjacent residential use.

§ 3-09. Garage and Yard Sales

Garage and yard sales shall be permitted under the following conditions:

- A. No more than 4 sales shall be conducted in any calendar year; and
- B. No sale shall exceed 3 consecutive days.

§ 3-10. Home-Based Businesses

A. Definition—A business, occupation, or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit. The business use is not permitted to change the essential residential character of the dwelling and neighborhood. Any home-based businesses in R-1 and R-2 areas shall have minimal traffic impact from employees, clients or suppliers. See Article 5 for parking restrictions.

B. Permitted Home-Based Businesses.

- (1) Offices for professionals, including architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract managers, graphic designers, construction contractors, landscape designers, surveyors, cleaning services personnel, salespersons, manufacturers' representatives, and travel agents.
- (2) Personal services, including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering, and chauffeuring services.
- (3) Instructional services, including music, dance, art and craft classes, tutoring.
- (4) Babysitting services defined as the occasional care of children and not on a regular basis like a Family Child Care Home. Restrictions do not apply except as they would conflict with Family Child Care Home – small or large.
- (5) Studios for artists, sculptors, musicians, photographers, and authors.
- (6) Workrooms for tailors, dressmakers, milliners, and craft persons, including weaving, lapidary, jewelry making, cabinetry, and woodworking.
- (7) Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines.
- (8) Family child care home - small (1-6 children), see definition in 0

C. Prohibited Home-Based Businesses.

- (1) Family day care home - large (7 or more children), see definition in 0
- (2) Kennels, stables, veterinary clinics and hospitals.
- (3) Medical clinics, dental clinics, hospitals, see definition in 0
- (4) Restaurants, bars, and night clubs.
- (5) Funeral homes and undertaking establishments.
- (6) Adult entertainment uses as defined in Title 24, Chapter 16 of the *Delaware Code*.

D. Operational Standards.

- (1) General—Businesses such as those listed in subsection § 3-10.B shall be considered as operating within the home-based business standards as long as they do not cause undue traffic congestion, and comply with the standards governing equipment used or operated by home-based businesses.
 - (a) The use is not permitted to change the essential residential character of the dwelling and neighborhood.
 - (b) The area used for the practice of a profession shall occupy no more than 25% of the total floor area, including garages.
 - (c) The profession shall be clearly incidental to the residential use of the dwelling unit and shall not change the essential residential character of the dwelling.
 - (d) No external alterations inconsistent with the residential use of the dwelling unit shall be permitted.
 - (e) Separate off-street parking for customers of the business must be provided. On-street parking is limited and should be reserved for residents and their guests.
 - [1] Customer parking must have a separate entrance.
 - [2] Customer parking must be signed. Refer to Article 5 for complete limitations.
- (2) Operating Hours.
 - (a) Customer and client visits to the home-based business are limited to the hours from 7:00 A.M. to 9:00 P.M.
- (3) Employees.
 - (a) On-Premise Employees—A home-based business shall have not more than 2 non-resident employees on the premises at any 1 time.
 - (b) Off-Premise Employees—The number of non-resident employees, working at locations other than the home-based business (i.e., off-premise), is not limited.
- (4) Equipment—The operation of the home-based business, including equipment used therein, shall not:
 - (a) Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines.
 - (b) Generate noise that violates any Town ordinance or regulation pertaining to noise.
 - (c) Create any electrical, magnetic, or other interference off the premises.
 - (d) Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties.
 - (e) Use and/or store hazardous materials in excess of quantities permitted in residential structures.
- (5) Outdoor Storage Prohibited—Materials utilized in the home-based business shall be stored inside of the building or structure used for the home-based business.
- (6) Signs—See Article 5.

§ 3-11. Drainage

- A. No property shall be developed, redeveloped, or maintained in such a way that unreasonably hampers, collects, channels, discharges or alters the natural flow of water, or causes ponding on the subject property or any adjacent property.

- B. All lots on which new buildings and structures are built shall be graded so as to carry water away from the building or structure and dispose of all runoff without ponding. All federal, state, and common law regulations relating to drainage shall be followed.
- C. Drainage Plan Required—A drainage plan shall be submitted to the New Castle County “Department of Land Use” prior to the commencement of any development or redevelopment of property, change in land use, alteration, extension, or renovation that may cause a change in drainage.

Article 4. Off-Street Parking and Loading

§ 4-01. Purposes and Scope

A. Purposes.

- (1) Relieve congestion and facilitate the movement of vehicular traffic.
- (2) Facilitate the movement of police, fire, and other emergency vehicles.
- (3) Promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen vehicle movements in the vicinity of intensive pedestrian traffic.
- (4) Protect adjoining residential neighborhoods from the negative effects of on-street parking.
- (5) Promote the general convenience, welfare, and prosperity of commercial and other uses that depend on off-street parking and loading facilities.

B. Scope.

- (1) When Required—Off-street parking and loading facilities shall be provided under the following conditions:
 - (a) When there is a change in use that increases the parking requirements set forth in G. Minimum Required Spaces.
 - (b) When any building or structure is erected or expanded.
 - (c) When any building or structure is altered or renovated by 30% or more.
- (2) The parking and loading requirements in this Article are in addition to requirements in other parts of this Land Use Code and other applicable laws and ordinances.
- (3) The parking and loading requirements in this part of the Land Use Code do not limit requirements or conditions that may be imposed in conjunction with other approvals, reviews, or applications.
- (4) Parking and loading facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

§ 4-02. Off-Street Parking

A. Definition—An off-street parking space is a permanently reserved, temporary storage area for 1 motor vehicle that is not located on, but is directly accessible to, a dedicated street right-of-way by a paved driveway that affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

B. Computation of Required Number of Spaces.

- (1) Fractional Spaces—Where the computation of spaces results in a fractional space, the fractional space shall be counted as 1 additional required space.
- (2) Shared Facilities.
 - (a) Places of worship, auditoriums, or educational institutions may make arrangements with business establishments, which normally have different days or hours of operation, for sharing their required parking facilities.
 - (b) The **Zoning Review Board** shall approve shared-parking arrangements.
- (3) Uses Not Specifically Listed—The required number of parking spaces for uses not specifically listed in this Code shall be the same as for a similar listed use.

C. Location.

- (1) General.
 - (a) Parking facilities shall be located on the same lot with the building or use served.

- (b) Parking facilities may be located within required building setback areas.
- (2) Exception—Required parking facilities may be located within 300 feet of the building or use served in any of the following situations.
 - (a) When a change in use increases the parking requirements set forth in § 4-02.G.
 - (b) When spaces are provided collectively to serve more than 1 building.

D. Design and Maintenance Standards.

- (1) Spaces and Driveway Aisles.
 - (a) Parking Space—10 feet by 20 feet.
 - (b) Driveway Aisle Width—10 feet for 1-way traffic; 20 feet for 2-way traffic.
- (2) Entrances and Exits.
 - (a) The location and design of entrances and exits shall be in accord with the requirements of applicable state regulations and standards.
 - (b) Landscaping, curbing, pavement marking, or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians. They shall be of a type and sited so that, when mature, they will not obstruct visibility for vehicles that enter and exit the parking facility.
- (3) Drainage—Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
- (4) Surface Material—Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable State or Town specifications.
- (5) Separation from Walkways and Streets—Where feasible, off-street parking spaces shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing, or other approved protective device or by distance so that vehicles cannot protrude over publicly used areas.
- (6) Marking.
 - (a) Parking spaces in lots of more than 10 spaces shall be marked by painted lines, curbs, or other means to delineate individual spaces.
 - (b) Signs or markers shall be used as necessary to ensure efficient traffic operation within the lot.
- (7) Lighting—On properties used for non-residential purposes, the following standards shall apply.
 - (a) Adequate lighting shall be provided if off-street parking spaces are to be used at night.
 - (b) The lighting shall be arranged and installed to minimize glare into residential areas.
- (8) Maintenance—Off-street parking areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee.
- (9) DelDOT—All standards adopted and promulgated under state law or by the Delaware Department of Transportation (DelDOT) must be followed.

E. Handicapped Parking.

- (1) Number of Spaces, Design Standards—Parking spaces for the disabled shall be provided in compliance with the **Americans with Disabilities Act**.
- (2) Reservation of Spaces—Property owners or tenants shall reserve required handicapped-accessible spaces for the duration of any approved land use.

F. Front-Yard Parking—Parking within front-yard setbacks shall be allowed only on surfaces designed and intended for the parking of vehicles.

G. Minimum Required Spaces

RMX-1 Zone	
USES	PARKING SPACES REQUIRED
Building with Commercial Business alone	No parking restrictions
1 residential apartment combined with any commercial use as permitted in section 3-02.a	No parking restrictions
More than 1 residential apartment combined with any commercial use as permitted in section 3-02.a	1 space per dwelling unit
Building with only residential units	1 space per dwelling unit

USES	PARKING SPACES REQUIRED	
	R-1, R-2, and MX-2 Zones	
Institutional: Community, Neighborhood, and Residential		
Dwelling, 1-family	D	2.0 spaces per dwelling unit
Dwelling, 2-family	D	2.0 spaces per dwelling unit
Dwelling, commercial apartment	D	1.0 space per bedroom
Dwelling, multi-family	D	1.0 space per bedroom
Places of public assembly and places of worship	D	1.0 space per 4 permanent seats or 10.0 spaces per 1,000 SF of public assembly area, whichever is greater
Clubs & associations without food service	D	10.0 spaces per 1,000 SF of GFA
Clubs & associations with food service	D	10.0 spaces per 1,000 SF of GFA
Fire station		4.0 spaces per vehicle bay plus 10.0 spaces per 1,000 SF of public assembly area
Library or museum		3.5 spaces per 1,000 SF of GFA, calculate public assembly areas separately at 0.75 rate
Nursing homes		0.33 space per bedroom
Day care, kindergarten, preschool	D	3.5 spaces per 1,000 SF of GFA
Schools: elementary & junior high		2.0 spaces per classroom, calculate public assembly areas at 0.75 rate
Schools: senior high, trade and vocational, college and university		10.0 spaces per classroom, calculate public assembly areas at 0.75 rate
Age-restricted residential developments		1.50 spaces per dwelling unit
Group homes, institutional, residential, monasteries & convents		0.75 space per bedroom
Rooming & boarding houses		1.25 space per guestroom
Police station		4.0 spaces per 1,000 SF of GFA
Post office		5.0 spaces per 1,000 SF of GFA
Commercial Uses: Office		
General		3.5 spaces per 1,000 SF of GFA
Government offices		4.0 spaces per 1,000 SF of GFA
Medical		4.5 spaces per 1,000 SF of GFA
Bank/financial		4.0 spaces plus 6.0 stacking spaces per drive-in window
Commercial Uses: Services		
General		4.0 spaces per 1,000 SF of GFA

USES	PARKING SPACES REQUIRED
	R-1, R-2, and MX-2 Zones
Shopping center	4.5 spaces per 1,000 SF of GFA
Furniture & carpet stores	5.0 spaces minimum, plus 1.0 space per 1,000 SF of GFA
Roadside stand—permanent	1.0 space per 250 SF of sales and display area (exclusive of production area)
Hardware, paint & home improvement	4.0 spaces per 1,000 SF of GFA
Commercial Uses: Light Auto Service	
General	1.5 spaces, or 4.0 spaces per bay, whichever is greater
Carwashes—single car, automatic bay	2.0 spaces plus 6.0 stacking spaces per bay and 1.0 drying
Carwashes—multiple car, automatic bay	4.0 spaces plus 12.0 stacking spaces per bay and 2.0 drying
Carwash—self-wash bay	3.0 spaces per bay
Gasoline station D	1.5 spaces or 4.0 per bay, whichever is greater
Commercial Uses: Services	
Drive-in facility	6.0 stacking spaces per window unless a stricter standard applies
Personal service businesses	4.0 spaces per 1,000 SF of GFA
Funeral homes	8.0 spaces per 1,000 SF of GFA
Fitness center/health club	10.0 spaces per 1,000 SF of GFA
Restaurants D	9.0 spaces per 1,000 SF of GFA plus parking for one-quarter of the area of outdoor seating
Fast food restaurants with 20 or fewer seats, or take-out	9.0 spaces per 1,000 SF of GFA plus parking for one-quarter of the area of outdoor seating
Fast food restaurants with more than 20 seats	15.0 spaces plus parking for one-quarter of the area of outdoor seating
	3.5 spaces per 1,000 SF of GFA
Veterinary services, pet grooming	
Kennels	5.0 space minimum plus 0.5 per 1,000 SF of GFA
All others	4.0 spaces per 1,000 SF of GFA
Commercial Uses: Commercial Lodging	
Hotel, motel	1.0 space per guest room, plus required spaces for restaurant, lounge, banquet and meeting room facilities as they may exist
Bed & breakfast	1.0 space per guest room, plus 2.0 spaces per dwelling unit
Campgrounds	1.0 space per camp space, plus 3.0 spaces per 50 spaces at office
Commercial Uses: Heavy Retail/Service	
General	4.0 spaces per 1,000 SF of GFA
Auto, boat, mobile dwelling unit, truck, trailer, outdoor equipment and machinery sales	5.0 space minimum, plus 1 per 1000 SF of floor and ground area devoted to sales, service, display and storage
Building materials	2.0 spaces plus 5.0 space minimum
Vehicle repair/service	1.0 space per 1,000 SF of GFA or 4.0 spaces per bay, whichever is greater
Recreation and Amusement Uses: Outdoor Recreational	
Camps, day or youth	1.0 space per 1,500 SF of area
Golf course	3.0 spaces per hole
Golf driving range or rifle range	1.0 space per station
Parks, playground	1.0 space per 5,000 SF of area
Equestrian facilities	1.0 space per 4 stalls, plus 1 per 2000 SF of riding area
Swimming pool	1.0 space per 400 SF pool surface area
Tennis courts	3.0 spaces per court
Athletic fields	15.0 spaces per field plus 1.0 space per 4 permanent seats
All other active	1.0 space per 10,000 SF of area
All other passive	5.0 space minimum plus 1.0 per acre for areas less than 50 acres or 1.0 space per 3 acres for areas over 50 acres

Recreation and Amusement Uses: Indoor Recreational	
Swimming pool	1.0 space per 100 SF pool surface area
Indoor court games	3.0 spaces per court
Community center, auditorium, stadium, gymnasium and other similar uses	1.0 space per 4 permanent seats or 10.0 spaces per 1,000 SF of public assembly area, whichever is greater
All others	1.0 space per 4 permanent seats or 10.0 spaces per 1,000 SF of public assembly area, whichever is greater
Recreation and Amusement Uses: Outdoor Commercial Amusement	
General	5.0 space minimum plus 1.0 per 1,500 SF of area
Outdoor court games	3.0 spaces per court plus 1.0 per 4 permanent seats
Outdoor arenas	1.0 space per 3 seats
Recreation and Amusement Uses: Indoor Commercial Amusement	
General	6.0 spaces per 1,000 SF of GFA
Amusement parks	Special study
USES	R-1, R-2, and MX-2 Zones
Bowling alley/pool rooms	4.0 spaces per lane, 2.0 spaces per pool/billiard table
Skating rinks	1.0 space per 100 SF skate surface
Theaters/assembly rooms	1.0 space per 4 permanent seats or 10.0 spaces per 1,000 SF of public assembly area, whichever is greater
Industrial Uses	
Mini-warehouses/self-storage	3.5 spaces per 1,000 SF of GFA of sales/rental office
Warehouse, storage establishment, wholesaling, manufacturing or industrial establishment	5.0 space minimum plus 0.5 space per 1,000 SF of GFA

Notes

1. All dimensions are minimum standards unless specified otherwise.
2. D means definition can be found in 0
3. DU means Dwelling Unit. See definition in 0
4. SF means Square Feet.
5. GFA means Gross Floor Area. See definition in 0

H. Modification Permitted.

- (1) It is recognized that the character of the Town’s development pattern may preclude even partial compliance with the number of required off-street parking spaces in this Article, especially on lots occupied by retail, office, institutional, and other non-residential uses in the mixed-use zoning districts.
- (2) For RMX-1 and MX-2 Zones: When multiple uses occupy within the same building or property shared parking will be considered on a case-by-case basis. The Zoning Review Board shall make this determination when an application is submitted to them. If the business owner or property owner requests a variance then the Board of Adjustment shall make the determination.
- (3) The Board of Adjustment may modify, through the grant of a variance, the number of required off-street parking spaces when it finds that full or partial compliance is unreasonable or impractical due to the size or placement of existing structures or the lot size or configuration, where sufficient off-street parking is available, and where all applicable standards for the grant of a variance are met.

§ 4-03. Off Street Loading

- A. Definition—An off-street-loading space is a space, a bay or berth that is not on a dedicated street that is used for the loading or unloading of cargo, products, or materials from vehicles.

B. Minimum Required Spaces.

USE OR CATEGORY	SQUARE FEET OF GFA	LOADING BAYS REQUIRED
Retail stores, shopping centers, supermarkets, restaurants, and storage warehouses	Fewer than 3,4999	No requirement
	3,500-7,999	1
	8,000-20,000	2
	20,001-40,000	3
	40001 or more	4
Office buildings, automobile dealerships, motels, and hotels	Fewer than 7,999	No requirement
	8,000-20,000	1
	20,001-70,000	2
	70,001-120,000	3

C. Design Standards.

- (1) Loading-Space Dimensions.
 - (a) Width—12 feet
 - (b) Depth—60 feet
 - (c) Vertical Clearance—14 feet
- (2) Maneuvering Space—Adequate off-street truck maneuvering space shall be provided on-lot and not within any public street right-of-way or other public lands.
- (3) Location—All loading areas shall be located on the same lot as the building or lot served by the loading area.
- (4) Obstructions
 - (a) At no time shall any part of a truck or van be allowed to extend into a public thoroughfare or right-of-way while the truck or van is being loaded or unloaded.
 - (b) All loading spaces and maneuvering spaces shall be accessible at all times.
- (5) Fire Exit or Emergency Access—Off-street loading facilities shall be designed so as not to interfere with any fire exits or emergency access facilities to either a building or site.

Article 5. Signs

§ 5-01. Applicability, Purposes and Definition

A. Applicability—These sign regulations apply within every existing and future zoning district in the Town. A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with this Land Use Code and other applicable ordinances and laws.

B. Purposes.

- (1) Encourage the effective use of signs as a means of communication in the Town.
- (2) Avoid visual clutter and competition among sign displays in their demand for public attention.
- (3) Promote the safety and convenience of pedestrians and motorists.
- (4) Minimize the adverse effects of signs on nearby public and private property.

C. Definition

SIGN: Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed for the purpose of conveying information or attracting attention.

BUSINESS SIGN: Any sign used commercially to advertise a business, product or service.

EXCEPTION: A mural or artistic display on the building itself that also includes a limited amount of advertising (Less than 20% by area) is permitted. Said mural or artistic display must be approved by the Zoning Review Board.

§ 5-02. Regulations Applying to All Signs

A. Sign Area Measurement—The sign area is the entire portion of the sign that can be enclosed within a single rectangle. The area includes the extreme limits of the letters, figures, designs, and illumination, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

- (1) Supports—The structure that supports a sign is not included in measuring the sign area unless the structure is designated and used as an integral part of the display. A support having a perimeter larger than 4 feet at the widest point is an integral part of the display.
- (2) Multiple Sections—The area of a sign that consists of more than 1 section includes the space between the sections plus the measurement of the sections of the sign.
- (3) Multiple Faces—The area of a sign with more than 1 face or plane is measured as follows.
 - (a) General—All sides of a sign that can be seen at any one time from any vantage point outside the property line of the site where the sign is located are included in the computation of sign area.
 - (b) Parallel Faces.
 - [1] A parallel sign is one whose faces or sides are equidistant from one another at all points.
 - [2] When the faces of a parallel sign are separated from each other by fewer than 2 feet or are double faced or back to back, the larger of the parallel faces is used in the computation of sign area.
 - [3] When the faces are more than 2 feet apart, the sum of both faces or sides is used in the computation of sign area.
 - (c) “V” Shaped—The area of a 2-sided sign constructed in the form of a “V” is calculated by the same method as parallel faces if the angle of the “V” is less than 30 degrees and the distance between the sides does not exceed 5 feet at any point. If the angle is equal to or greater than 30 degrees or the distance between the sides is greater than 5 feet, the sum of all the planes will be used in the computation of the sign area, unless the applicant demonstrates that only 1 side of the sign will be visible from any single vantage point.
 - (d) 3-Dimensional—Where 3-dimensional signs are used, the area of the sign equals the total surface area of the sides that can be seen from a single vantage point outside the property lines of the site where the sign is located.
- (4) Non-Display Sides of Signs—In order for the sign back or non-display side of a sign to be excluded from consideration as sign area, it must be a single, neutral color, if the back or non-display side is visible from outside the property lines of the property where the sign is located.

B. Sign Placement.

- (1) Setbacks—Setbacks are measured from the portion of the sign nearest the property line.
- (2) Height—Height is measured from the portion of the sign that is vertically the farthest from the ground.
- (3) Sign Illumination.
 - (a) Prevention of Glare—Signs must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.
 - (b) Near a Residence—Any sign on a lot or parcel within 150 feet of a residential use may be illuminated only during the hours the entity is open for public business, unless the applicant demonstrates that the sign is located so that it will not have an adverse impact on the residence.

§ 5-03. Temporary Signs

A. Real Estate and Construction Signs.

(1) General Requirements.

(a) Materials—Real estate, development, and subdivision signs must be made of materials sufficiently durable for the time that they are displayed. (b) Where Allowed—In All Zoning Districts.

(2) Additional Requirements by Sign Type.

SIGN TYPE(S)	STANDARD	REGULATION
Real Estate Sign Indicates sale, rental or lease of the premises on which it is located.	Number Allowed	1 sign for each street frontage
	Maximum Area	8 square feet per side
	Max Number of Sides	2, must be back-to-back
	Maximum Height	4 feet
	Minimum Height	N/A
	Placement	Only on property offered for sale, rent, or lease and not in public right-of-way
	Illumination	Not Permitted
	Removal Required	Within 30 days of the sale of the property
	Permit Needed	No
Construction Sign Identifies those engaged in construction.	Number Allowed	1 for each street frontage
	Maximum Area	12 square feet
	Max Number of Sides	N/A
	Maximum Height	5 feet
	Minimum Height	N/A
	Placement	Only on property under construction
	Illumination	Not permitted
	Removal Required	Within 30 days following project completion
	Permit Needed	No

B. Temporary Signs in Residential Zones.

(1) Definition—A temporary sign is a sign displayed on private property for fewer than 10 days, usually made of non-permanent material such as canvas, cardboard, paper, or wood.

(2) Requirements.

ITEMS	REQUIREMENT
Number Allowed	1
Maximum Area	4 square feet
Maximum Height	4 feet
Placement	10 feet from property line
Illumination	Not Permitted
Permit Needed	No

§ 5-04. Permanent Signs

A. Definition—A permanent sign is a sign intended to be displayed for an indefinite period of time and constructed in a manner and of materials that will withstand long-term exposure to the elements.

B. Permanent Signs in the R-1 and R-2 Districts, Dwelling Units in Mixed-Use Districts.

SIGN TYPE	STANDARD	REGULATION
Freestanding Sign Not wholly or partially attached to a building. Supported: Attached to pole, column, frame, or brace as its means for support. Ground: Erected on the ground; bottom edge is within 12 inches of the ground, support structure is integral part of sign.	Number Allowed	1 per lot
	Maximum Area	2 square feet
	Maximum Height	4 feet
	Minimum Height	None
	Placement	5 feet from property line
	Illumination	Not Permitted
	Permit Needed	No
Wall Sign Parallel to the wall of the building to which it is attached and not extending more than 12 inches from the building.	Number Allowed	1 per lot
	Maximum Area	2 square feet
	Maximum Height	N/A
	Minimum Height	N/A
	Placement	N/A
	Illumination	Not Permitted
	Permit Needed	No
Identification Sign for Public Facilities and Places of Assembly – Examples include places of worship, schools, libraries, museums, hospitals. – Identifies location of the facility. – Must be either freestanding-ground or wall sign.	Number Allowed	1 per facility
	Maximum Area	48 square feet
	Maximum Height	N/A
	Placement	10 feet from property line
	Illumination	Indirect illumination only
	Permit Needed	Yes
Announcement Sign for Public Facilities and Places of Assembly – Examples include places of worship, schools, libraries, museums, hospitals. – Provides information about events taking place at, persons associated with, or services provided by the facility. – Must be either freestanding-ground or wall sign.	Number Allowed	1 per facility
	Maximum Area	20 square feet
	Maximum Height	12 feet
	Placement	10 feet from property line
	Illumination	Indirect illumination only
	Permit Needed	Yes

C. Permanent Signs for Non-Residential Uses in the Mixed-Use Districts

SIGN TYPE	STANDARD	REGULATION
Freestanding Sign Not wholly or partially attached to a building Supported: Attached to pole, column, frame, or brace as its means for support Ground: Erected on the ground; bottom edge is within 12 inches of	Number Allowed	1 per lot
	Maximum Area	48 square feet
	Maximum Height	16 feet
	Minimum Height	N/A
	Placement	10 feet from property line
	Illumination	Allowed

SIGN TYPE	STANDARD	REGULATION
the ground, support structure is integral part of sign	Permit Needed	Yes
Wall Sign Parallel to the wall of the building to which it is attached	Number Allowed	1 per building per business
	Maximum Area	15% of square footage of wall on which the sign is to be placed or 50 square feet whichever is less
	Maximum Height	May not extend above roof line or be placed on roof
	Minimum Height	N/A
	Placement	Not more than 12 inches from wall including supporting structure
	Illumination	Allowed
	Permit Needed	Yes
Identification Sign – Erected at entrance to a building – Identifies location of a business – Must be wall sign	Number Allowed	1 per building
	Maximum Area	15 square feet
	Maximum Height	N/A
	Placement	Same as for Wall Signs
	Illumination	Allowed
	Permit Needed	Yes
Canopy Sign A part of attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area	Number Allowed	1 per building per business
	Maximum Area	5% of square footage of surface on which the sign is to be placed
	Maximum Height	N/A
	Placement	N/A
	Illumination	From back of sign only
	Permit Needed	Yes

§ 5-05. Prohibited Signs

A. General.

- (1) Definition—A prohibited sign is one that cannot be erected or maintained.
- (2) The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Section prohibits.

B. List of Prohibited Signs.

- (1) Abandoned or Obsolete Signs—A legally erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for 6 months or more.
- (2) Animated Signs—A sign, or any part of a sign, that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
- (3) Attached to the Property of Others—A sign affixed to a structure or property such as a fence, wall, antenna, another sign, a tree or other vegetation, or any public structure, such as a utility pole, without permission of the owner.
- (4) Attached to a Vehicle—A sign affixed to a vehicle parked primarily for display purposes.
- (5) Communication-Interference Signs—A sign having any lighting or other control mechanism that causes interference with any communications system.

- (6) Flashing Signs—A sign that contains or is illuminated by flashing, revolving, intermittent lights, or lights that change intensity.
- (7) Noise-Emitting Signs—A sign that produces noise or sounds capable of being heard regardless of whether such sounds are understandable.
- (8) Obscene Signs—A sign that contains obscene statements, words, or depictions that are construed to offend public morals or decency.
- (9) Roof Signs—A sign painted on the roof of a building or structure, supported by poles, uprights, or braces extending from, or attached to, the roof of a building, or projecting above the roof of a building.
- (10) Shaped Like Humans or Animals—A sign shaped to resemble any human or animal form.
- (11) Signs emitting Odor Or Visible Smoke, Vapor, or Particles.
- (12) Signs Interfering with Traffic Safety—A sign that meets any of the following criteria:
 - (a) Is shaped like a traffic sign or signal, or uses wording similar to traffic signals, or interfere with traffic safety;
 - (b) Is placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians.
 - (c) Interferes, in any way, with placement or function of any traffic-control device;
 - (d) Makes use of the words “stop,” “look,” “drive-in,” “danger,” or any other work, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse vehicular traffic.
- (13) Signs in the Public Right-of-Way—A sign located in a public right-of-way except one that has been so placed by a governmental agency or utility company in the performance of its official public duties.
- (14) Unsafe Signs—A sign that creates a safety hazard due to structural or electrical conditions or inadequate maintenance.
- (15) Wind-Activated Signs—Any banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device that moves in the wind or is either set in motion or powered by wind.

§ 5-06. Exempt Signs

- A. Definition—An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article but must comply with applicable provisions governing Prohibited Signs.
- B. List of Exempt Signs.
 - (1) Measuring 2-Square Feet or Fewer.
 - (a) Newspaper and Mailbox—A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.
 - (b) Warning Signs—A sign warning the public about trespass, danger, or safety considerations.
 - (2) Regardless of Size.
 - (a) Official Duties of Government or Utilities—A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.
 - (b) Required by Law—A sign whose display is required by law or regulation.
 - (c) Commemorative Sign—A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure, such as a cornerstone, memorial, plaque, or historical marker.
 - (d) Flags and insignia of any government except when displayed in connection with commercial promotion.

- (e) Part of a Dispenser—A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump.
- (f) Holidays—A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it is removed within 10 days of the end of the holiday.
- (g) Adornments and Decoration—Any adornments or seasonal decoration.
- (h) Historic Signs—A sign noting the location of a structure listed on a local, state, county, or national register of historic places.

§ 5-07. Off Premises Signs

- A. Definition—A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located, often referred to as a billboard.
- B. Where Permitted—In the MX-2 Zoning District as a special exception.

§ 5-08. Compliance, Maintenance, Nonconforming Signs, Permits

- A. Compliance—The owner and/or tenant of the premises and the owner and/or erector of the sign shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations after final approval of the sign by the Zoning Review Board.
- B. Maintenance—All signs shall be maintained in good condition and appearance.
- C. Nonconforming Signs—See § 7-07.
- D. Permits—See § 8-01.

Article 6. Nonconforming Situations

§ 6-01. Definition and Intent

- A. Definition—Nonconforming situations are existing buildings, structures, lots, signs, and uses of land that were lawful before this Land Use Code was adopted or amended but would be prohibited, regulated, or restricted under the provisions of this Land Use Code.
- B. Intent—Nonconforming situations may continue until they are removed, but their survival is not encouraged.

§ 6-02. Provisions Applying to All Nonconforming Situations

- A. Continuation Permitted—Except as otherwise provided in this Land Use Code, any nonconforming situation may continue as existing on the effective date of adoption or amendment of this Land Use Code.
- B. Effect of Ownership Change—Any change of title or right to possession shall not affect the continuation of a nonconforming situation, provided that the change in ownership does not result in changes inconsistent with any of the provisions of this Land Use Code.
- C. Proof of Legal Nonconformity—The landowner shall have the burden of establishing entitlement to the continuation of nonconforming situations or completion of nonconforming projects.

§ 6-03. Certification of Nonconforming Status

In the event of a dispute concerning non-conforming status, the Board of Adjustment shall determine the status of any nonconforming situation after public notice and hearing pursuant to Ordinance 2024-02 – Board of Adjustment.

§ 6-04. Nonconforming Lots

- A. Definition—A recorded lot, whose area and/or width were lawful before this Land Use Code was adopted, revised or amended, that does not meet the lot area and/or lot width standards of this Land Use Code.
- B. Development Standards for Unimproved, Nonconforming Lots—An unimproved, nonconforming lot may be developed without a variance under the following conditions:
 - (1) All other applicable dimensional standards are complied with except for lot area and/or lot width;
 - (2) The applicant does not own, or have control over, a sufficient amount of adjacent land to create a conforming lot without causing additional nonconforming situations unless otherwise permitted by a variance granted by the Board of Adjustment.
- C. Development Standards for Improved, Nonconforming Lots—On an improved, nonconforming lot, a building or structure may be enlarged, extended, or altered without a variance as long as all other applicable dimensional standards are complied with except for lot area and/or lot width.

§ 6-05. Nonconforming Buildings and Structures

- A. Definition—A building or structure, whose dimensional and density characteristics were lawful before this Land Use Code was adopted, revised, or amended, that does not meet the dimensional and density standards of this Land Use Code.
- B. Continued Existence.
 - (1) A nonconforming building or structure may be continued under the following conditions:
 - (a) Normal repair and maintenance is permitted;

- (b) A nonconforming building or structure may not be enlarged or altered in any way that increases its nonconformity. It may be altered in a way that decreases its nonconformity;
- (c) Nonconforming buildings or structures may not be used as grounds for addition of other structures or uses that do not conform to the standards of zoning district;
- (d) If a nonconforming building or structure is moved, it shall be located in a manner that conforms to the requirements of the zone in its new location.

C. Termination of Legal, Nonconforming Status.

- (1) When a nonconforming building or structure, as defined in this Section, is destroyed by more than 50% of its replacement cost at the time of destruction, the new or restored building or structure shall conform to current dimensional and density standards of this Land Use Code.
- (2) When a building or structure, containing a nonconforming building or structure, is destroyed by more than 50% of its replacement cost at the time of destruction, the nonconforming use may not be re-established. Any subsequent use of the land must conform to the regulations of this Land Use Code and other applicable laws.

D. Restoration When Destruction Less than 50%—Restoration of a building or structure destroyed less than 50% percent of its replacement market value, as established by an appraisal prepared by a professional appraiser qualified to do business in the State of Delaware shall be permitted, provided that the restoration commences within 12 months from the date of destruction.

- (1) Commencement of restoration is contingent on the following items:
 - (a) The acquisition of an approved zoning review application from The Town of Bellefonte Zoning Review Board.
 - (b) The acquisition of a building permit from New Castle County.
 - (c) Commencement of construction within 12 months from the date of destruction.
- (2) The Town of Bellefonte Zoning Review Board may extend this time frame for circumstances beyond the control of the applicant.

§ 6-06. Nonconforming Uses

- A. Definition—A use or activity, that was lawful before this Land Use Code was adopted, revised or amended, but is not permitted under the Use Regulations of this Land Use Code.
- B. Continued Existence—A nonconforming use may be extended over such portions of the building or premises that were manifestly designed or arranged for such use as of the effective date of this Land Use Code.
- C. Termination of Legal, Nonconforming Status.
 - (1) When a nonconforming use ceases for any reason for more than 2 years, its legal, nonconforming status is terminated. Any subsequent use shall conform to the applicable regulations in this Land Use Code.
 - (2) When a building or structure, containing a nonconforming use, is destroyed by more than 50% of its replacement cost at the time of destruction, the nonconforming use may not be re-established. Any subsequent use of the land must conform to the provisions of this Land Use Code.

§ 6-07. Nonconforming Signs and Billboards

- A. Definition—A sign, whose characteristics were lawful before this Land Use Code was adopted, revised, or amended, that does not meet the current standards of this Land Use Code.
- B. Continued Existence—A nonconforming sign may be continued under the following conditions:

- (1) Normal repair and maintenance is permitted.
- (2) A nonconforming sign shall not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity.
- (3) A nonconforming sign shall not be used as grounds for permission to construct additional signs that do not conform to the standards of this Land Use Code.

C. Termination of Legal Nonconforming Status.

- (1) When a nonconforming sign is destroyed, by any means to the extent of 50% of its replacement value, or is removed, its legal, nonconforming status is terminated.
- (2) Any subsequent sign shall conform to provisions of this Land Use Code.

Article 7. Administration

§ 7-01. Zoning Review Board

The Planning Commission of the Town of Bellefonte pursuant to Ordinance 2016-03 shall assume the additional role of a Zoning Review Board and shall be responsible for the administration of, and securing compliance with, the provisions of this Land Use Code and other applicable laws.

§ 7-02. Code Compliance Necessary to Obtain Building Permit

- A. No building permit shall be issued unless the Zoning Review Board, has determined that the proposed buildings, uses of land, including signs, comply with all provisions of this Land Use Code.
- B. Prior to requesting a Building Permit from New Castle County, the applicant shall provide the Zoning Review Board with the applicant's proposal so that the Bellefonte Zoning Review Board may review the applicant's proposal for compliance with this Land Use Code, other applicable laws, and assure that all appropriate fees are paid.
- C. The Zoning Review Board shall determine the procedure and information required to conduct such review for compliance with this Land Use Code.
- D. To the extent practical, the review of proposals by the Zoning Review Board shall be coordinated with and/or made simultaneous with the applications and procedures of other development-related approvals.

§ 7-03. Building Inspector or Building Inspections

All other Articles of this Land Use Code referencing the Building Inspector or Building Inspection are amended to delete any such reference and to substitute the Zoning Review Board with those powers and duties set forth in this Ordinance.

Article 8. Zoning Appeals

§ 8-01. Appeal Ruling by Zoning Review Board

A. Appeals.

- (1) The Board of Adjustment is authorized to hear and decide appeals from any decision or act of any administrative officer **relating to zoning review and enforcement** under the Bellefonte Land Use Code pursuant to Title 22, § 327 of the Delaware Code, except as relating to property maintenance, which is under the jurisdiction of the County pursuant to Ordinance 2005-3 **and**

except as relating to the New Castle County Building Code, which is under the jurisdiction of the County pursuant to Ordinance 2016-03.

- (2) Please refer to the Board of Adjustment section of the Town of Bellefonte's website – <http://TownofBellefonte.com> for all zoning appeals.

Article 9. Amendment

§ 9-01. Text and Map Amendments

A. Types of Amendments.

- (1) Text Amendment—Addition, supplement, change, or modification to the text of this Land Use Code.
- (2) Zoning Map Amendment—Addition, supplement, change, or modification to the Zoning map
 - (a) Comprehensive Rezoning—Rezoning of the entire municipality following the adoption of a comprehensive plan pursuant to Title 22 Section 702(c) of the *Delaware Code* or amendments thereto.
 - (b) Local Rezoning—Change(s) in zoning district(s) for one or more parcels outside of the comprehensive rezoning process.

B. Initiation.

- (1) By Town Commissioners—The Town Commissioners may amend, supplement, change, or modify the number, shape, area, boundaries of the zoning districts (Rezoning or Zoning map Amendment), or may amend, supplement, change, or modify the text of the regulations (Text Amendment) contained in this Land Use Code by subsequent ordinance.
- (2) By Property Owner—A petition for change or amendment by a property owner shall be submitted to the Town Commissioners and contain the following information.
 - (a) For an Amendment to the Zoning Map (Local Rezoning).
 - [1] A metes and bounds description of the property.
 - [2] A recent survey plot of the property.
 - [3] A statement of the change requested and grounds to support it.
 - [4] A petition fee payable to The Town of Bellefonte in the amount of \$1,000.
 - [5] A certified list of all property owners and their addresses within 100 feet of the property which is the subject matter of the petition.
 - [6] Property owner's name, signature, address, telephone number, and other contact information.
 - (b) For an Amendment to the Text of this Land Use Code—A description of the proposed changes.

§ 9-02. Public Hearing

- A. Town Commissioners to Hold Hearing—Pursuant to Title 22, § 304 of the *Delaware Code*, the Town Commissioners shall hold a public hearing on each ordinance proposing an amendment to the text of this Land Use Code or a change in the zoning map.
- B. Conduct of Public Hearing.—All interested parties and citizens shall be given an opportunity to be heard, but presentation times may be limited as directed by the Town Commissioners.
- C. Review Criteria.

- (1) Text Amendment.
 - (a) The relationship of the proposed change to the general purpose and intent of this Land Use Code and the comprehensive plan and associated maps.
 - (b) Information as to why the existing zoning text should be changed.
- (2) Comprehensive Rezoning—Pursuant to Title 22, § 702(c), land shall be placed only in a zoning classification that is in accordance with the uses of land provided for in the Comprehensive plan and associated maps.
- (3) Local Map Rezoning.
 - (a) Facts existing in the vicinity of the proposed change and the relationship of the proposed change to the general purpose and intent of the comprehensive plan.
 - (b) Whether the proposed zoning classification is in accordance with the land uses provided for in the comprehensive plan.

§ 9-03. Public Notice Provisions for Comprehensive Rezoning

- A. Newspaper Notice—The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
- B. Mailed Notice—The Town shall send notice by regular mail to the last known address of all property owners whose zoning district is proposed to be changed no fewer than 15 calendar days prior to the public hearing.
- C. Town Hall Posted Notice—Notice shall be posted at Town Hall and shall contain the same information as required for the newspaper advertisement.

§ 9-04. Public Notice Provisions for Local Rezoning

- A. Newspaper Notice—The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 - (1) The type of application.
 - (2) A short description of the proposed action.
 - (3) A description of the parcel and the approximate street location or address.
 - (4) The location, date, and time of the public hearing.
 - (5) Information on where full details of the application may be obtained, including the hours of availability and phone number.
- B. Notice to Owner/Applicant—The Town shall notify by regular mail the owner and/or applicant of the time and place of the public hearing.
- C. Notice to Nearby Property Owners—The Town shall send by regular mail a copy of the public hearing notice to the last known address of all property owners within a 100-foot radius of the property measured at each property line no fewer than 15 calendar days prior to the public hearing. The notice shall contain the same information as in the newspaper notice.
- D. Property-Posted Notice—The applicant shall erect a sign giving notice of a public hearing on all subject properties at least 10 calendar days in advance of a public hearing.
 - (1) Location—The posted sign shall be placed in a conspicuous location (no greater than 7 feet from a residential or local road right-of-way, and no greater than 10 feet from a collector or arterial right-of-way); one (1) along each adjacent right-of-way and shall be perpendicular to the street so as to be clearly visible to the public. The Town shall have the discretion to require the

applicant to move the posted sign to a more acceptable location if the Town determines that the location is inappropriate for public viewing. The Town shall also have the discretion to permit only one (1) posted sign on corner lots of less than one (1) acre.

- (2) **Size**—The posted sign shall be double-faced and each side shall consist of a 4-foot by 4-foot laminated sign with a yellow background with two (2) inch black lettering in a sans serif typeface. If a posted sign already exists at the site, the notice for the public hearing may be affixed to the existing sign.
- (3) **Contents**—The sign shall display prominently the applicant’s name, type of application, tax parcel number(s) and the date, time, and location of the hearing.
- (4) **Maintenance**—The applicant shall be responsible to clean or replace any posted sign no more than once which has been defaced to the extent that the information to be conveyed is no longer legible.
- (5) **Proof of Posting**—The applicant shall provide the Town with photographic proof of posting and a signed affidavit prior to the public hearing. Failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with these standards or be grounds to challenge the validity of any decision made on the application unless the notice was removed by the applicant or at his or her direction.
- (6) **Removal**—The applicant shall remove the posted sign no later than 10 days after the public hearing being advertised has been completed. If the posted notice sign is giving notice of other public hearings concerning the property, the posted notice sign shall remain until after the hearings have taken place.

E. **Posting at Town Hall**—Notice shall be posted at Town Hall no fewer than 15 calendar days prior to the hearing and shall contain the same information as required for the newspaper notice.

§ 9-05. Approval and Adoption

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

§ 9-06. Limitation on Reapplication

Whenever a petition requesting an amendment, supplement or change has been denied by the Town Commissioners, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

Article 10. Violations and Penalties

§ 10-01. Violations Enumerated

The following actions shall be violations of this Land Use Code:

- A. Failure to secure a Zoning Review Board approval, certificate of zoning compliance, temporary-use permit, sign permit, or certificate from the Board of Adjustment, when required, **prior** to the erection, construction, extension, or demolition of, or addition to, a building.
- B. Failure to secure a certificate of occupancy or certificate of compliance.

§ 10-02. Who Shall Be Liable

Any person or entity who knowingly commits, takes part or assists in, any violation or who maintains any buildings or premises in which a violation exists, including, but not limited to, the following:

- A. The owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and
- B. The lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and
- C. The owner, general agent, contractor, lessee or tenant of any part of a building or premises in which such violation has been committed or shall exist, and
- D. The general agent, architect, builder, contractor or any other similar person.

§ 10-03. Unlawful Construction Declared Nuisance

Any building or portion thereof or part of foundation wall hereafter erected or placed upon any lot or premises within the Town in violation of the provisions of this Land Use Code is hereby declared to be a common and public nuisance and may be abated in the same manner provided by the Charter or any other ordinance of The Town of Bellefonte for the abatement of any other nuisance in addition to the provisions of this Land Use Code.

§ 10-04. Violation Abatement

In addition to any other remedy provided by law, an appropriate action or proceeding, whether by legal process or otherwise, may be instituted to accomplish any of the following.

- A. Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
- B. Restrain, correct, abate such violation.
- C. Prevent the occupancy of such building, structure or land.
- D. Prevent any illegal act, conduct, business or use in and about such premises.

§ 10-05. Violation Notices

A. Whenever the Zoning Review Board determines that activity on any premises is being done in violation of this Land Use Code, the Zoning Review Board may issue a violation notice that shall:

- (1) Be in writing.
- (2) Contain the address of the property or a description of the property sufficient for identification.
- (3) State that the activity done in violation of this Land Use Code be immediately stopped.
- (4) Include a clear statement of the reason or reasons why the order is being issued.
- (5) State the conditions under which the activity will be permitted to resume.
- (6) Be given to the owner, or the person or entity responsible for the property.
- (7) Be physically posted upon the property.

B. Effect of Issuance.

- (1) Upon issuance of a violation notice, all activity done in violation of this Land Use Code shall immediately cease.
- (2) Any person, who shall continue any activity in violation of this Land Use Code after having been served with a violation notice, except such work as that person or entity has been directed to perform in the violation notice or that is required to remove a violation of an unsafe condition under other provisions of this Code, shall be considered to be in violation of this Land Use Code and the Zoning Review Board may institute a fine for the maximum amount permitted.

§ 10-06. Fines

Any person or entity found in violation of this Land Use Code, or that violates the conditions of a violation notice issued by the Zoning Review Board, shall be subject to a fine of up to \$500.00 per day.

§ 10-07. Each Day a Separate Offense

Whenever the Zoning Review Board shall have notified a person by service of a notice in a prosecution or in any other way that he/she is committing such violation of this Land Use Code, each day that such violation continues shall be deemed a separate offense punishable by like fine or penalty.

§ 10-08. Injunctive Relief

The Town Solicitor or counsel hired by the Town may apply to the Court of Chancery for injunctive relief against any person or entity to prevent, abate, or enjoin any continuing violation of the provisions of this Land Use Code. If the Town obtains a temporary restraining order, or preliminary or permanent injunctive relief, the violator shall be responsible for any costs or expenses incurred (including attorneys' fees incurred by the Town or the Zoning Review Board) in preventing, abating, or enjoining any violations.

§ 10-09. Effect of Outstanding Violations

The Zoning Review Board may refuse to grant any further reviews for zoning compliance to any corporation, partnership, joint venture, or other legal entity with which the violator has a controlling interest, or to any business entity formed by the violator in an attempt to circumvent the effect of any penalty. The Zoning Review Board is authorized to withhold additional reviews and permits only until the permit, license, or certificate holder remedies outstanding violations outlined in the violation notice or cease and desist order is rectified and the applicable fines and associated financial obligations to the Town are paid.

§ 10-10. Collection of Fines

If the violator fails to reimburse the Town for any fines, costs or attorneys' fees imposed for any violation of this Land Use Code, the Town may initiate any of the following actions.

- A. Place a lien against the property upon which enforcement was sought.
- B. Institute a civil action for the recovery of such fines and charges, together and with any penalty and/or interest, against the person or entity responsible for the violation. The Town shall be awarded reasonable attorney fees and costs in any civil action to collect fines, fees and/or costs incurred by the Town.

§ 10-11. Appeal

Any fine or violation notice issued by the Zoning Review Board may be appealed to the Board of Adjustment as authorized by Ordinance 2024-02 – Board of Adjustment.

Article 11. Definitions

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

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

APARTMENT. A dwelling unit located in a building containing at least one (1) other dwelling unit or a commercial use permitted in the zoning district. See Dwelling Unit.

APPLICANT—Any individual, firm, partnership association, corporation, estate, trust, or any other group or combination acting as a unit that has filed an application for development; also includes agents of applicants.

ARCHITECT—An individual licensed to practice the profession of architecture by the State of Delaware.

ATTIC—That part of a building that is immediately below and wholly or partly within the roof framing.

AUTOMOBILE—A self-propelled, free-moving vehicle, with not more than 2 axles, usually used to transport passengers and licensed by the state as a passenger vehicle

BASEMENT—A story in a building having a floor partly below the finished grade but having more than 1/2 of its height (measured from the finished ceiling) above the average level of the finished grade where such grade abuts the exterior walls of the building. A basement shall be considered as one story in determining the permissible number of stories.

BED AND BREAKFAST—Overnight accommodations and a morning meal in a dwelling unit provided to transients for compensation.

BUILDABLE AREA—The area of a lot remaining after the minimum yard and open space requirements of this Land Use Code have been met.

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

BUILDING, ACCESSORY—A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use. See Figure 3.

BUILDING, PRINCIPAL—A structure in which is located the primary use of the lot on which it is located. See Figure 3.

BUILDING CODE—**The New Castle County Building Code**, as amended from time to time.

BUILDING FOOTPRINT--The floor area of the ground floor of the building.

CEMETERY—Property used for the internment of the dead.

COMMISSIONERS OF BELLEFONTE OR TOWN COMMISSIONERS—The governing body of the Town of Bellefonte elected pursuant to Section 4 of the *Bellefonte Town Charter* as existing or amended subsequently.

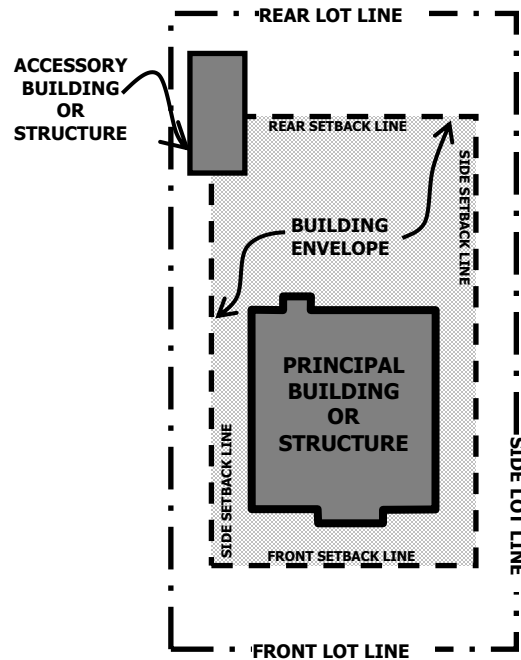
CLUB—A group of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render services customarily carried on by commercial businesses.

COMMUNITY CENTER—A facility used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public.

COMMUNITY FACILITY—A building or structure owned and operated by a governmental agency to provide a governmental service to the public.

CONDOMINIUM—A legal form of real estate ownership—not a type of dwelling unit or building style—where a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Figure 3. Principal and Accessory Buildings and Structures



CONVENIENCE STORE—Any retail sales establishment consisting of 5,000 square feet or fewer selling primarily food products, household items, newspapers, magazines, snacks, beverages, and a limited amount of freshly prepared foods, such as sandwiches and salads, for off-premises consumption.

COUNTRY CLUB—A recreational facility, usually restricted to members and their guests, which generally includes a clubhouse, dining and eating establishments, and recreational facilities such as golf courses, tennis courts, and swimming pools.

COUNTY—New Castle County, Delaware.

DAY CARE CENTER—An establishment providing for the care, supervision, and protection of persons away from their homes.

DAY CARE CENTER, ADULT—An establishment providing health, social, and related support services for the elderly and/or functionally impaired adults in a protective setting for part of a day, including, but not limited to, those centers licensed and regulated by the State Department of Health and Social Services pursuant to Title 16, Section 4402 of the *Delaware Administrative Code*.

DAY CARE, CHILD—Child day care includes the following types of facilities.

FAMILY CHILD CARE HOME - SMALL—A private home in which care, education, protection, supervision, and guidance is provided on a regular basis for 1 to 6 children, including, but not limited to, those facilities licensed by the State.

FAMILY CHILD CARE HOME - LARGE —A private home in which care, education, protection, supervision and guidance is provided on a regular basis for 7 to 12 children, including, but not limited to, those facilities licensed by the State.

CHILD DAY CARE CENTER—A place that provides care, protection, supervision and guidance for 13 or more children, including, but not limited to, those facilities licensed by the State.

DEVELOPMENT—Development means any of the following:

- A. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure;
- B. Any mining excavation, landfill, or land disturbance;
- C. Any use, or extension of the use, of land.

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

DWELLING, COMMERCIAL APARTMENT—A dwelling unit located in the same building and on the same lot as a building or structure containing office, retail, or other non-residential uses.

DWELLING, 1-FAMILY—A building containing 1 dwelling unit that is not attached to any other dwelling by any means, is surrounded by open space or yards, and does not have any roof, wall, or floor in common with any other dwelling unit.

DWELLING, 2-FAMILY—A building containing 2 dwelling units arranged side-by-side or one over the other.

DWELLING, MULTI-FAMILY—A building containing 3 or more dwelling units which may or may not share a single common entry and are located one over another, often called apartment buildings.

DWELLING UNIT—One (1) or more rooms, designed occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family, as defined in this Code, maintaining a household. See Apartment.

EASEMENT—Authorization by a property owner for another to use that owner’s property for a specified purpose.

ENGINEER—An individual licensed to practice the profession of engineering by the State of Delaware.

FAMILY CHILD CARE HOME—A home, registered with the state, that provides child care;

SMALL – 1 to 6 children

LARGE – More than 6 children

FLOOR AREA, GROSS (GFA)—The sum of the gross horizontal areas of all enclosed floors of a building, including basements, mezzanines, penthouses, corridors, and lobbies from the exterior face of exterior walls, or from the centerline of a common wall separating 2 buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet, 6 inches.

FLOOR AREA, NET—The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading, and all floors below the first or ground floor, except when these are used or intended to be used for human habitation or service to the public.

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

GARAGE, DETACHED—A garage that is not attached to and does not have **direct** access from the principal building. A garage that is attached to the main building by a causeway is considered a detached garage.

GARAGE, INTEGRATED—A garage that is attached to or a part of a principal building. The garage must have direct access from the main building. Direct access means the main building and garage have a shared wall in common with direct access between the two. The attached garage will have a door that opens directly into the main building.

GARAGE, PRIVATE RESIDENTIAL—A structure that is accessory to a 1- or 2-family dwelling and used for the parking and storage of vehicles utilized by the residents of the 1- or 2-family dwelling, but not used as, a commercial enterprise available to the general public.

GASOLINE STATION—Any building, land area, premises, or portion thereof, where gasoline or other petroleum products or fuels are sold. Gasoline station shall not include premises where automobile maintenance activities such as engine or drive-train maintenance, automobile painting, and body or fender work are conducted.

GASOLINE STATION AND CONVENIENCE STORE—A gasoline station (*See definition in this Article*) and convenience store (*See definition in this Article*) located on the same lot and planned, operated, and maintained as an integrated planned development.

GLARE—A direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.

HOME BASED BUSINESS –See 4-11 A.

ILLUMINATION, INDIRECT—A light source not seen directly, derived from an external artificial source so arranged that no direct rays of light are projected into a public street or adjoining property.

ILLUMINATION, INTERNAL—A light source concealed or contained within a sign which becomes visible in darkness through a translucent surface. Illumination must not shine onto adjoining property or in the eyes of motorists or pedestrians.

INSTITUTIONAL USE—A nonprofit, religious, or public use, such as a religious building, library, public or private school, hospital, or government-owned or-operated building, structure, or land used for public purpose.

LANDSCAPE ARCHITECT—An individual licensed to practice the profession of landscape architecture by the State of Delaware.

LAND SURVEYOR—An individual licensed to practice the profession of land surveying by the State of Delaware.

LOT—A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes-and-bounds description, to be separately owned, used, developed, or built upon. Figure 4 illustrates the types of lots.

LOT CHARACTERISTICS—See Figure 4.

LOT COVERAGE – The area (a percentage using square feet) covered by all buildings and any impervious surface. Impervious surfaces include driveways, patios, sunrooms, greenhouses, additions, etc.

LOT DEPTH—The average distance measured from the front lot line to the rear lot line.

LOT FRONTAGE—The length of front lot line measured at the street right-of-way line.

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

LOT LINE—A line of record bounding a lot that divides one lot from another lot, a public street, or any other public space. Figure 4 depicts lot lines.

LOT LINE, FRONT—The line separating a lot from a street right-of-way. The front lot line applies to the street address of said property.

LOT LINE, REAR—The line opposite and most distant from the front lot line.

LOT LINE, SIDE—Any lot line other than a front or rear lot line.

LOT, CORNER—A lot or parcel of land abutting upon 2 (two) or more streets at their intersection or upon 2 (two) parts of the same street forming an interior angle of less than 135 degrees.

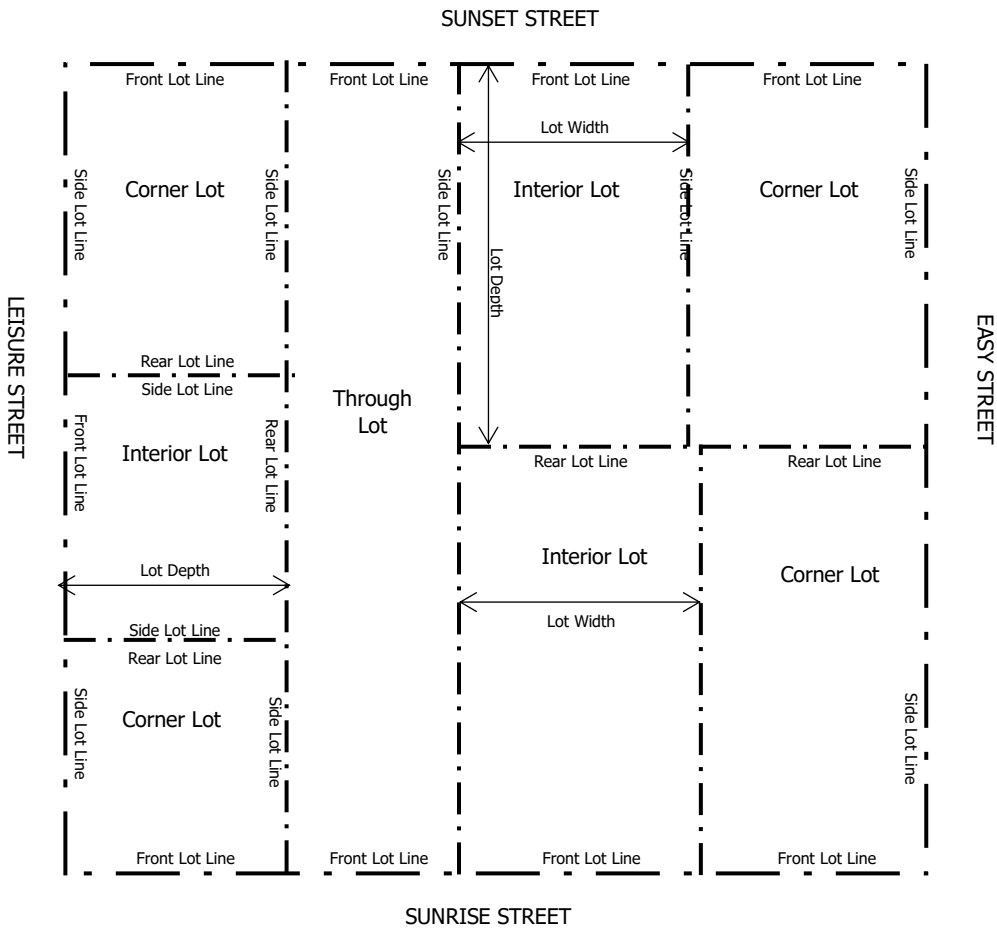
LOT, INTERIOR—A lot other than a corner lot.

LOT, THROUGH—A lot that fronts on either 2 (two) parallel streets or two streets that do not intersect at the boundaries of the lot, i.e., a corner lot; also called a double-frontage lot.

LOT, IMPROVED—A lot with buildings or structures.

LOT, MINIMUM AREA OF (MINIMUM LOT SIZE)—The smallest lot area on which a use or structure may be located in any zoning district.

Figure 4. Lot Characteristics, Lines, and Types



LOT, UNIMPROVED—A lot having no buildings or structures.

LOT OF RECORD—A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the New Castle County Recorder of Deeds.

MEZZANINE—An intermediate level between the floor and ceiling of any story and covering not more than 33% of the floor area of the room in which it is located.

MICROBREWERY—A building and business in which beer, mead, cider or wine is manufactured on the premises of the licensed establishment, limited to restaurants owned or leased by the brewery-pub applicant in accordance with Title 4 of the Delaware Code.

OFFICE—A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communications equipment.

PLACE OF WORSHIP—A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

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

RESTAURANT—(1) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building; and (2) Establishments where food and/or beverages are sold

in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

RESTAURANT, FAST-FOOD—An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in vehicles on the premises, or off the premises.

RETAIL SALES—Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods and whose characteristics include the following: (1) Usually business places engaged in activity to attract the general public to buy; (2) Buy and receive as well as sells merchandise; (3) May process or manufacture some products—a jeweler or a bakery—but processing is secondary to principal use; and (4) Generally sell to customers for personal or household use.

RIGHT-OF-WAY—Land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use.

SERVICES—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, 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, PERSONAL—Establishments primarily engaged in providing services involving the care of a person or his/her personal goods or apparel, examples of which include, but not limited to, laundry, cleaning and pressing, beauty shops, shoe repair, and tailors.

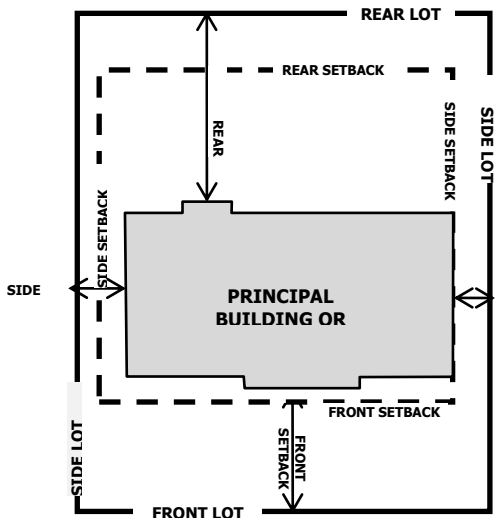
SETBACK—The distance between a building or structure and any lot line.

SETBACK LINE—The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed. See **Error! Reference source not found.**

SIGN—Any device, structure, fixture, painting, or visual image using words, graphics, symbols, numbers, or letters designed for the purpose of conveying information or attracting attention.

BUSINESS SIGN: Any sign used commercially to advertise a business, product or service.

STATE—The State of Delaware.



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

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

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

TOWN—“The Town of Bellefonte” as exists pursuant to Section 1 of the *Bellefonte Town Charter* as existing or amended subsequently.

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

USE, ACCESSORY —A use of land, or a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use, and operated and maintained under the same ownership. An accessory use does not include structures or structural features inconsistent with the principal use and does not include overnight lodging or living space.

USE, PRINCIPAL—The primary or predominant use of any lot or parcel.

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

YARD, FRONT—A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line

YARD, REAR—A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line

YARD, SIDE—A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

ZONING DISTRICT—A specifically delineated area in the Town within which uniform regulations and requirements govern the use, placement, spacing, area, height, and bulk of land and buildings.