



ORDINANCE NO. 27-03

**AN ORDINANCE TO AMEND THE TOWN CODE OF THE TOWN OF MILLVILLE
REGARDING BY-RIGHT RESIDENTIAL DEVELOPMENTS.**

WHEREAS, for the purpose of promoting health, safety, morals or the general welfare of the community, the Mayor and Council of the Town of Millville have the power to regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and

WHEREAS, the Mayor and Council of the Town of Millville have the power to zone or district the Town and make particular provisions for particular zones or districts with regard to building, and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22 of the Delaware Code; and

WHEREAS, for the aforementioned purposes, the Mayor and Town Council have previously found it necessary to enact a subdivision ordinance, codified as Chapter 125 of the Town Code, and a zoning ordinance, codified as Chapter 155 of the Town Code; and

WHEREAS, to the extent this Ordinance implicates zoning, Article XIII of Chapter 155 governs zoning amendments, including Section 155-73 providing in part, “Any such amendment may be initiated by resolution of the Town Council or by petition of any property owner addressed to the Town Council”; and

WHEREAS, the Delaware General Assembly passed, and the Governor signed, Senate Substitute No. 2 for Senate Bill No. 23, which, in pertinent part, created 29 *Del. C.* § 9223, entitled “By-right residential uses”; and

WHEREAS, the Town is required to comply with 29 *Del. C.* § 9223; and

WHEREAS, the Mayor and Town Council held a public hearing on October 13, 2026, with proper notice by publication as required by § 155-74 and 22 Del. C. § 304; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Town Council for the Town of Millville, Sussex County, Delaware, having duly met and a majority thereof concurring herein, that the Town Code is amended as follows, with deletions shown by bold and strike-through and with additions shown by bold and underline:

Section 1. Amend Subsection D of §125-14 as follows:

D. In the case of a subdivision involving the extension or creation of streets, the Town Council shall hold a public hearing at the meeting at which it considers the subdivision plan and shall give public notice of the hearing as prescribed by Delaware law, except that, pursuant to 29 Del. C. § 9223, a by-right residential development plan shall only be subject to a public meeting. The public meeting does not constitute and is not conducted as a public hearing, is limited to determining compliance with applicable objective standards and requirements, and may allow for public comment, provided all such comment is made only through written submission.

Section 2. Amend §125-19 as follows:

The purpose of this section is to clarify the requirements for the change or modification of an approved preliminary subdivision plan, or approved schematic development plan, or the ~~(resubdivision)~~ resubdivision of a final subdivision site plan or master plan of the MPC Zoning District that have been approved and intended for recordation in the Sussex County Recorder of Deeds' office.

A. After preliminary subdivision plan or schematic development plan approval has been granted by the Town, if during subsequent review by other state, county or federal agencies, changes are necessary to meet agency requirements or concerns, the following procedures shall be followed:

(1) Any deviations from the approved preliminary subdivision plan or schematic development plan to the submitted final subdivision plan or master plan which are caused by outside government agency approvals shall be reviewed and forwarded to the Planning and Zoning Commission with comments identifying such changes for their approval.

(2) The Planning and Zoning Commission receiving the comments and the changed plans can on their own decision accept the changes as

required by the outside government agencies and forward the plans to the Mayor and Town Council for final approval and recordation, ~~or.~~ Alternatively, except for a by-right residential development plan that is subject to a public meeting under 29 Del. C. § 9223, the Planning and Zoning Commission may deem it necessary to hold another public hearing to inform the community and receive comments on the changes and may require additional conditions.

(3) The Planning and Zoning Commission can not approve any application or owner requested changes to a submitted final subdivision plan or master plan that is intended to be forward to the Mayor and Town Council for approval where the original number of lots have been increased, or the number of structures increased, or the number of dwelling units increased without first holding a public hearing, recording their findings and giving a full report and recommendation, in writing, to the Mayor and Town Council. However, for a by-right residential development plan under 29 Del. C. § 9223, the Planning and Zoning Commission shall hold a public meeting. The public meeting does not constitute and is not conducted as a public hearing, is limited to determining compliance with applicable objective standards and requirements, and may allow for public comment, provided all such comment is made only through written submission.

(4) Once the Mayor and Town Council has received the Planning and Zoning Commission recommendation to the changed plans, the Town Council may accept the recommendation as is, accept with modifications or reject the plans as drawn and have the applicant modify the plans according to the Town Council's decision.

(5) Upon Mayor and Town Council approving the submitted final subdivision plat plan or master plan, the applicant will have the plan recorded with the Sussex County Recorder of Deeds within 90 days as per Article II of this chapter.

B. Amendments and additions to approved final subdivision ~~plat~~ plats.

(1) The procedure for amendments and additions to an approved final subdivision plat plan or approved master plan shall be the same as for a new application, except that minor amendments of the approved plans may be recommended by the Planning and Zoning Commission and approved by the Mayor and Town Council, provided that such change or amendment:

(a) Does not conflict with the specified requirements of this or any other ordinance.

- (b) Does not change the character or content of an approved development plan or use.
 - (c) Has no substantial affect on adjoining or surrounding properties.
 - (d) Does not result in any change of external access points.
 - (e) Does not increase the number of lots, dwelling units, commercial structures or the height of the buildings.
 - (f) Does not decrease the minimum required lot size, open space or minimum required parking and loading spaces.
 - (g) Does not remove, alter or change conditions required by the Planning and Zoning Commission or Mayor and Town Council that was established during the approval process.
- (2) Any amendments to the type of residential dwelling units will be heard by the Planning and Zoning Commission and their recommendation forwarded to the Mayor and Town Council. If the number of any given type of residential dwelling unit has increased by more than 5%, the Mayor and Town Council shall hold a public hearing prior to making their decision on the change, except a by-right residential development plan under 29 Del. C. § 9223 shall only be subject to a public meeting. The public meeting does not constitute and is not conducted as a public hearing, is limited to determining compliance with applicable objective standards and requirements, and may allow for public comment, provided all such comment is made only through written submission.

Section 3. Amend Paragraph (8) of Subsection D of §155-66 as follows:

- (8) In the case of a subdivision involving the extension or creation of streets that is not a by-right residential development plan under 29 Del. C. § 9223, the Town Council shall hold a public hearing at the meeting at which it considers the subdivision plan and shall give public notice of the hearing as prescribed by Delaware law. For a by-right residential development plan, the Town Council shall hold a public meeting under 29 Del. C. § 9223. The public meeting does not constitute and is not conducted as a public hearing, is limited to determining compliance with applicable objective standards and requirements, and may allow for public comment, provided all such comment is made only through written submission.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF MILLVILLE, SUSSEX COUNTY,
DELAWARE, ON THIS 13 DAY OF OCTOBER 2026.

SEAL:

MAYOR

ATTESTED:

SECRETARY

SYNOPSIS

This ordinance amends the Town’s subdivision and site plan processes in light of Senate Bill No. 23.