

**AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MILLSBORO, BY REVISING THE FOLLOWING CHAPTERS AND SECTIONS THEREOF: (1) CHAPTER 210, ZONING, BY ADDING NEW DEFINITIONS FOR AS-BUILT SURVEY, IMPERVIOUS SURFACE, LOT COVERAGE, PAVERS, PERVIOUS/PERMEABLE PAVERS, PERVIOUS SURFACE, POST CONSTRUCTION VERIFICATION DOCUMENTS, PRIVATE WALKWAY, DRAINAGE CONVEYANCE SYSTEM, DRAINAGE OBSTRUCTION, AND UTILITY AND DRAINAGE EASEMENT; (2) CHAPTER 210, ZONING, BY REVISING THE DEFINITION FOR STRUCTURE; (3) CHAPTER 210, ZONING, BY ADDING NEW GENERAL REQUIREMENTS TO ARTICLE V, GENERAL PROVISIONS, REGARDING SUBMISSION OF AN AS-BUILT SURVEY FOLLOWING CONSTRUCTION, PROHIBITED AND PERMITTED ENCROACHMENTS INTO SETBACKS OR UTILITY AND DRAINAGE EASEMENTS, AND WALKWAY AND PATIO REQUIREMENTS.**

**WHEREAS**, Chapter 210, Zoning, of the Town Code of the Town of Millsboro (hereinafter “Zoning Code”) contains various provisions concerning the use and development of land in the Town of Millsboro; and

**WHEREAS**, after working for a number of months with the Town’s staff and consultants, the Town Council has determined that the Zoning Code can be improved by adding new definitions and requirements thereto regarding impervious versus pervious surfaces and materials, permitted and prohibited encroachments into setback areas or utility and drainage easements, and the “as-built” survey requirements for projects within the Town; and

**WHEREAS**, the Town Council has reviewed proposed changes to the Zoning Code that seek to accomplish the above-described improvement goals; and

**WHEREAS**, as required by 22 Del. C. § 304, the Town Council held a public hearing on Monday, June 3, 2024, regarding the above-described, proposed revisions to the Zoning Code; and

**WHEREAS**, following the public hearing, the Town Council has concluded that the above-described, proposed revisions to the Zoning Code should be made.

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Millsboro, in session met, a quorum pertaining at all times thereto, that the Town Code of the Town of Millsboro be and is hereby amended as follows:

**Item 1:**

Amend **Chapter 210, Zoning, Article II, Definitions, § 210-7. Terms Defined, Subsection B.**, by adding the following new definitions thereto, which shall be inserted alphabetically into the existing list of defined terms, as appropriate:

**AS-BUILT SURVEY**

A survey conducted and shown on a drawing prepared and sealed by a Registered Surveyor and/or Engineer indicating information such as, but not limited to, actual dimensions, elevations, and locations of any structures and their components, easements, setbacks, lot coverage from impervious surfaces, underground utilities, roads, other infrastructure and facilities after construction has been completed.

**DRAINAGE CONVEYANCE SYSTEM**

An artificial or natural waterway or low-lying stretch of land that gathers and conveys stormwater or runoff, and is generally vegetated for soil stabilization, stormwater pollutant removal, and infiltration.

**DRAINAGE OBSTRUCTION**

Any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris placed or erected in a drainage conveyance system, or within a drainage easement, that would limit or alter the functioning of the conveyance system or easement. Such obstructions shall be prohibited.

**IMPERVIOUS SURFACE**

A hard surface area which prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater than natural quantities or at an increased rate. Impervious surfaces include, but are not limited to, rooftops, walkways, patios, pavers, decks, swimming pools, driveways, parking lots, concrete or asphalt paving, or other surfaces which similarly impede the infiltration of stormwater.

**LOT COVERAGE**

That percentage of a lot area covered by the principal building, accessory buildings, similar covered structures, walkways, patios, pavers (excluding pervious/permeable pavers), driveways, concrete or asphalt paving, swimming pools, decks, and other impervious surfaces.

**PAVERS**

Hardscaping material typically made from brick, concrete, or clay that is often used outdoors to construct walkways and patios, thereby creating exterior flooring, and providing separation from the natural substrate.

**PERVIOUS/PERMEABLE PAVERS**

Porous hardscaping material that enables stormwater to percolate through its surface and to permeate into the soil, thereby reducing runoff.

**PERVIOUS SURFACE**

A porous surface that allows water to percolate and is constructed utilizing an uncompacted subgrade, base layer/fabric filter, uniformly graded stone aggregate and a porous layer to ensure adequate drainage.

**POST CONSTRUCTION VERIFICATION DOCUMENTS**

Engineering or Site plans or drawings that document the actual locations, dimensions, and elevations of the improvements, and building components, and changes made to the original design plans. Also referred to as “As-Built Plans.”

**PRIVATE WALKWAY**

A walking surface made from removable items such as pavers, cobblestone, bricks, slate, or any combination thereof, placed on a pervious base running parallel along the side of the house either from front toward back or back toward the front being a width not to exceed 3-feet and not dedicated to the public.

**UTILITY AND DRAINAGE EASEMENT**

A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes and installing or maintaining utilities across, over, or under private land, together with the right to enter thereon with machinery and vehicles if necessary for the maintenance of said utilities and stormwater management.

**Item 2:**

Amend **Chapter 210, Zoning, Article II, Definitions, § 210-7. Terms Defined, Subsection B.**, by revising the existing definition of “Structure” as follows (removed language is stricken through; new language is underlined):

**STRUCTURE**

Anything constructed, assembled or erected for occupancy, use, or ornamentation, which requires location on the ground or attachment to something having such location on the ground, including, but not limited to, buildings, walkways, patios, pavers, driveways, concrete or asphalt paving, fences, tanks, towers, signs, ~~and~~ advertising devices, decks, retaining walls, porches, swimming pools, and permanent firepits.

**Item 3:**

Amend **Chapter 210, Zoning, Article V, General Provisions**, by adding the following new sections to end of said Article V:

**§ 210-52.1. As-built survey for completed project.**

Upon completion of a project, the builder shall provide the Town of Millsboro with an as-built survey of the property showing the actual dimensions, elevations, and locations of any structures and their components, easements, setbacks, lot coverage (including impervious surfaces), underground utilities, roads, and other infrastructure and facilities. The as-built survey shall comply with the minimum standards as adopted by the ALTA / ACSM / NSPS 2021 standards.

**§ 210-52.2. Setback encroachments.**

Except as otherwise specifically permitted by this chapter, no building, structure, or impervious surface or portion thereof shall be erected closer to the property line or street right-of-way than the building setback lines shown on the plot, survey, or subdivision plan. Permitted exceptions to the foregoing include 18-inches of encroachments for bay windows and chimneys (front, side, and rear setbacks) and 5-foot for steps (front and rear setbacks).

**§ 210-52.3. Drainage obstructions prohibited.**

Obstructions of any drainage conveyance systems, or any utility and drainage easement, shall be prohibited; furthermore, no person shall place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into any drainage conveyance system, or any utility and drainage easement, that would alter the proper functioning of the conveyance system or easement. A fence installed in or passing through a utility and drainage easement is the only permitted exception.

**§ 210-52.4. Pavers, patios and private walkways.**

- A. Private walkways cannot exceed 3-feet in width.
- B. Paver patios and private walkways, including impervious and pervious surfaces, cannot encroach into any type of easement.
- C. A patio or private walkway constructed of pervious/permeable pavers (as defined by this § 210-7.B. of this chapter), may encroach 2-feet into the side and rear setbacks. A pervious/permeable paver system must include a gravel base. Construction of pervious/permeable pavers must have prior Town approval and must be inspected by the Town after the gravel base has been

completed but before pavers have been installed. A site plan and specifications must be submitted to the Town. Said site plan and specifications must include placement and dimensions of proposed patio and/or private walkway and description of the proposed pervious pavement system to be used.

**AND BE IT RESOLVED** that the Town Manager be and he is hereby authorized and directed to cause a Notice which shall consist of a true copy of this Ordinance by title to be published in a newspaper of general circulation in The Town of Millsboro.

I, Kimberley M. Kaan, Secretary of the Town Council of the Town of Millsboro, do hereby certify that the foregoing is a true and correct copy of an Ordinance passed by the Town Council at its Regular Meeting held on June 3, 2024, at which a quorum was present and voting throughout and that the same is still in full force and effect.

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Kimberley M. Kaan, Secretary