AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MILLSBORO, CHAPTER 210, ZONING, BY: (1) ADDING A NEW DEFINITION FOR PRIVATE WALKWAY TO SECTION 210-7, (2) ADDING A NEW SECTION 210-52.1. SETBACK ENCROACHMENTS TO ARTICLE V, (3) ADDING A NEW SECTION 210-52.2. DRAINAGE OBSTRUCTIONS PROHIBITED TO ARTICLE V, AND (4) ADDING A NEW SECTION 210-52.3. PAVERS, PATIOS AND PRIVATE WALKWAYS TO ARTICLE V.

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, the issue of private walkways, setback encroachments and drainage easements has been the subject of review and discussion among the members of the Town Council, Town staff, Town consultants and the general public for many months; and

WHEREAS, the Town Council previously considered proposed amendments to the Zoning Code that would address a number of different issues, including, but not limited to, private walkways, setback encroachments and drainage easements; and

WHEREAS, before taking any action, the Town Council referred the proposed amendments to the Zoning Code to the Charter and Code Review Committee ("Committee") for further study and review; and

WHEREAS, the Committee has reviewed the proposed amendments and, while the Committee continues to study and review various provisions of the proposed amendment previously considered by the Town Council, the Committee has recommended that the Town Council take action now by adding a new definition of "private walkway" to Section 210-7 of the Zoning Code and by adding several new provisions to Article V of the Zoning Code to address the issues of setback encroachments, prohibited drainage obstructions, and the requirements for pavers, patios and private walkways; and

WHEREAS, as required by 22 Del. C. § 304, the Town Council held a public hearing on Monday, October 7, 2024, regarding the Committee's above-described, proposed revisions to the Zoning Code; and

WHEREAS, following the public hearing, the Town Council has concluded that the Committee's 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:

<u>Item 1</u>:

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

PRIVATE WALKWAY

A walking surface made from items such as pavers, cobblestone, brick, 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.

<u>Item 2</u>:

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

§ 210-52.1. 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 encroachment for bay windows and chimneys (front, side, and rear yard setbacks), 5-feet for steps (front and rear yard setbacks), and 3-feet for private walkways (side yard setbacks).

§ 210-52.2. 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 private walkway or fence installed in or passing through a utility and drainage easement are the only permitted exceptions.

§ 210-52.3. Pavers, patios and private walkways.

A. Private walkways cannot exceed 3-feet in width.
B. Paver patios, sitting walls, and fireplaces cannot encroach into any type of setback or easement.
C. A private walkway may encroach 3-feet into the side yard setback and/or side yard easement. A site plan must be submitted to the Town and must include

the placement and dimensions of the proposed private walkway.

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, Mary J. D'Silva, 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 October 7, 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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Mary J. D'Silva, Secretary