



**TITLE #: 79**  
**Ordinance #: 05-01-15-047**

**Date: June 1, 2015**

## **ORDINANCE**

### **To Amend the Town of Cheswold Land Use Ordinance to Create the R-5 Age-defined Community Zoning District and to Eliminate the Age-defined Residential Overlay**

**DESCRIPTION:** This Ordinance amends the Land Use Ordinance of the Town of Cheswold to create, include and define the requirements of an age-defined community zoning district. It also eliminates the current age-defined residential overlay requirements of the Land Use Ordinance.

This Ordinance shall also be known as the “R-5” Ordinance.

#### **Section 1. PURPOSE**

The purpose of this Ordinance is to provide a zoning district that will provide development requirements that will physically, environmentally and safely benefit the residents of an age defined community. In addition, it ensures that by removal of overlay requirements from the Land Use Ordinance that an equality of zoning compliance will be available to zoning applicants.

#### **Section 2. AUTHORITY TO ACT**

Section 4.2.25 of the Town Charter of the Town of Cheswold provides that the Town Council may provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants and additionally provides in Section 4.2.48 that the Town Council may make, adopt, and establish, alter and amend all such Ordinances, Regulations, Rules and By-Laws, not contrary to the laws of the State and the United States, as the Town Council may deem necessary to carry into effect any of the provisions of this Charter or any other law of the State relating generally to municipal corporations or which they may deem proper and necessary for the order, protection and good government of the Town, the protection and preservation of persons and property, and of the public health and welfare of the Town and its inhabitants.....

#### **Section 3. APPLICABILITY**

This Ordinance shall apply to any person/s submitting applications or requests of any type to the Town of Cheswold to establish, create, maintain and/or construct R-5 Zoning service, acceptance or approval.

**WHEREAS**, the Town of Cheswold seeks to amend the Land Use Ordinance to create a new zoning district entitled R-5 Age-defined Community, and at the same time, eliminate references to Age-defined Residential Overlay from the Land Use Ordinance. The code changes are collectively defined herein as the “Proposed Code Changes.”; and

**WHEREAS**, the revisions to the Proposed Code Changes have been reviewed by the Planning Commission at a public hearing noticed fifteen (15) days in advance; and

**WHEREAS**, the Planning Commission has provided its recommendations on the Proposed Code Changes to Town Council; and

**WHEREAS**, the City Council has also held a public hearing, noticed fifteen (15) days in advance, regarding the Proposed Code Changes; and

**WHEREAS**, the Town Council has reviewed the amendments to the Proposed Code Changes and finds that they are consistent with the Town's Comprehensive Development Plan; and

**NOW, THEREFORE**, making the express finding that the Proposed Code Sections outlined herein are for and enhance the health, safety, and welfare of the Town of Cheswold, the Mayor and the City Council of The Town of Cheswold hereby ordain and adopt the following Code changes and revisions.

**BE IT HEREBY ENACTED AND ORDAINED** by the Town Council of the Town of Cheswold, a majority thereof concurring in Council duly met, that the Town of Cheswold Land Use Ordinance be and hereby is amended as follows:

Section 1. Table 6-1 Zoning District Summary is hereby amended by making insertions as shown by underline and deletions as shown by ~~strike through~~ as follows:

[INTENTIONALLY LEFT BLANK; TABLE TO FOLLOW]

**Table 6-1 Zoning District Summary**

Zoning District	Designation	Typical Kinds of Uses in Zone
Residential	R-1 Old Town Residential	Single family dwellings and home based or neighborhood businesses, located in the historic center of the original Town.
	R-2 1 & 2-Family Residential	Single family, duplexes, and single-family semi-detached dwellings and institutional uses such as schools, churches, or municipal buildings.
	R-3 1, 2 & 3-Family Residential & Townhouse Residential	Uses permitted in R-2 plus age-defined communities, townhomes and multi-family dwellings, including apartments. Also clustered residential designs with associated public services.
	R-4 Manufactured Home Park & Trailer Park	For Manufactured Homes and Existing Trailer Parks
	<u>R-5 Age-Defined Community</u>	<u>Single family, carriage, two-family, triple attached, townhouses, multi-family and other complementary uses outlined in Table 7.2 to provide for the special needs of seniors, including nursing care facilities, in residential subdivisions designated as "housing for older persons" as defined in Title 42, Section 3607 of the Code of Federal Regulations.</u>
Commercial	C-1 Neighborhood Business	Small scale commercial uses that can meet setback & off-street parking requirements
	C-2 Highway Commercial	Commercial located on arterials; also for large-scale shopping centers and uses that are not appropriate in Neighborhood Business (C-1) or require substantial buffering from residential uses.
Industrial	I-1 Light Industrial	Light or small-scale industrial uses, and other uses such as Warehousing and ministorage.
	I-2 Heavy Industrial & Extraction	Heavier or larger industrial uses. Outdoor storage of materials is discouraged, however accessory uses for storage are allowed. Towers for communications

**Section 2.** Section 6-2. District Purpose and Intent is hereby amended by making insertions as shown by underline and deletions as shown by ~~strike through~~ as follows:

**Section 6-2. District Purpose and Intent**

**A. R-1 Old Town Residential**

1. To preserve the configuration and layout of the historic center of the Town, and to permit continuing residential uses where lot sizes are very small.
2. To permit small home businesses, and local neighborhood services without impacting the character and layout of the original railroad town.

**B. R-2 Single and Two-Family Residential**

1. To provide sufficient space for low and medium density residential development and the usual and customary accessory uses.
2. To provide for institutional uses commonly found in a neighborhood, such as churches, schools or municipal buildings.
3. To provide recreational uses, that may be open to the entire community, including but not limited to parks, playgrounds, basketball courts, multi-recreational fields and sidewalks and multi-purpose trails with linkages.

**C. R-3 Multi-family and Townhouse Residential**

1. To provide for uses included in the R-2 district.
2. To provide sufficient area for medium and high density uses and the usual and customary accessory uses which may include schools, residential community centers, community-specific recreation such as swimming pools and recreational facilities as in R-2, above.
3. Includes Mixed-use communities with various residential uses, with some professional/personal services-type of commercial development provided, but not to be confused with C-1.

**D. R-4 Manufactured Home Park and Trailer Park**

1. To provide sufficient area for, and to encourage well-designed neighborhoods to accommodate manufactured homes intended as single family residences.
2. To provide for accessory and personal service uses customary to well-designed, manufactured homes.
3. Recreational facilities as listed in R-1 above are encouraged.

**E. R-5 Age-Defined Community**

1. To provide for the special needs of seniors in residential developments that are specifically designated for "housing for older persons" as defined in Title 42, Section 3607 of the Code of Federal Regulations through single family, two-family, triple attached, townhouses, carriage dwellings, and multi-family dwellings.
2. To provide for senior accessory uses to serve the needs of seniors such as limited commercial uses and nursing care facilities.

**EF. C-1 Neighborhood Business**

1. To provide retail and personal services within the town limits, but outside of the Route 13 corridor area (C-2).
2. To provide a suburban character to the Town. Businesses shall primarily serve the surrounding neighborhood.

**FG. C-2 Highway Commercial**

1. Focused primarily on the Route 13 corridor, however businesses are encouraged to promote circulation and lessen congestion by making themselves available to pedestrian foot traffic via multiple entrances and facades. Shared driveways and boulevard entrances are encouraged.
2. Strip development is strongly discouraged. Businesses are encouraged to afford a suburban feel in keeping with Cheswold's character.

**GH. I-1 Light Industrial**

1. To provide sufficient space in appropriate locations for certain types of manufacturing, warehousing, and business uses, all of which shall be conducted inside of a building or structure.
2. To protect surrounding areas from adverse effects of industrial uses such as glare, noise, dust, smoke and odor. All lighting shall be shielded and no glare shall go off-lot.
3. To place suitable uses along the Town's Main Street, and adjacent to heavy industrial activities such as petroleum refining, asphalt, aggregate, cement mixing, mining, commercial composting and fertilizer processing (see I-2).

**HI. I-2 Heavy Industrial and Extraction**

1. To provide sufficient space in appropriate locations for certain types of uses not suited to light industrial or other district uses.
2. To promote utilization of appropriate transportation networks. The district is intended to utilize major arterial roadways, and limit the need for transit through the Town. Rail access should be available to the district.
3. To accommodate uses that will most likely produce smoke, dust or other types of air pollution, as well as glare and noise.

**Section 3.** Section 6-3 Overlay Zones is hereby amended by making insertions as shown by underline and deletions as shown by ~~strike through~~ as follows:

**Section 6-3. Overlay Zones**

**A. General Guidelines**

1. Overlay zones are sets of additional conditions, regulations or special density standards or construction specifications that are in addition to or that augment the base zoning district.
2. Some overlay zones are based on mapped featured that do not necessarily conform with parcel boundaries. Land use regulations are intended to apply to the areas of a parcel included within the mapped feature.
3. Some overlay zones are use-specific and provide additional conditions that permit specific density standards.
4. Overlay zones may overlap, and their additional requirements are cumulative.

**B. List of Overlay Zones**

**1. Flood Prone**

The purpose of the FP Zone is to provide land development and construction controls for flood-prone lands. Generally, the boundaries of the FP Zone shall be determined using the most recent FEMA Flood Insurance Rate Map (FIRM). See Article 12, Section 1

**2. Water Resource Protection (WRP)**

The purpose of the WRP Overlay is to provide additional land development and construction controls for lands under which are located within wellhead protection areas. Generally, the wellhead Protection Areas are delineated by DNREC or the Delaware Geological Survey and published in a Public Water Supply Source Water Assessment Report. See Article 12, Section 2.

**3. Cluster Development District (CDD) Overlay**

The purpose of the Cluster Development overlay is to provide for large-scale, unified, mixed-style residential developments that use innovative design as a means of ensuring open space and natural and cultural resource protection and preservation. See Article 7,

**Section 2.J.**

**4. ~~Age-defined Residential Overlay~~**

~~The purpose of the Age-restricted Residential Overlay is to provide for the special needs of seniors in residential subdivisions under the R-2, R-3 or R-4 zoning districts that are specifically designated for "housing for older persons" as defined in Title 42, Section 3607 of the Code of Federal Regulations. See Article 7, Section 7-2 Subsection I.~~

**Section 4.** Section 7-2. Specific Requirements by District and Overlay Zone is hereby amended by making insertions as shown by underline and deletions as shown by ~~strike through~~ as follows:

**Section 7-2. Specific Requirements by District and Overlay Zone**

**I. R-5 Age-defined Community Residential Overlay**

- ~~1. Overlay shall apply to subdivisions, townhouse or multi-family plans of a minimum of 8 residential units.~~
- ~~2. All permitted uses within the base zone are permitted with the overlay.~~
- ~~3. Overlay requirements are in addition to all requirements and regulations pertaining to the base zone.~~
- ~~4. Age-defined Residential overlay 1. This district is not intended to increase density, but to allow flexibility in the design of the number and type of dwelling units.~~
- ~~5. 2. All age-defined residential plans shall include a community center, centrally located within the community.~~
  - ~~a. Community center shall be a minimum of 800 3,000 square feet with an additional 30 square feet per each residential dwelling unit over 100 units, or 5.0 % of the total living space for all dwelling units included in the community.~~
  - ~~b. Community center shall be a fully accessible public building as required under the Americans with Disabilities Act.~~
- ~~6. 3. Off street parking requirements within the district are as follows, which parking requirements may be met by surface parking spaces, garages, carports and/or porta cheers:~~
  - ~~a. Single Family Dwellings or Single Family mobile homes – One (1) Two (2) per dwelling unit, in addition to overflow parking at the community center for guests and visitors.~~
  - ~~b. Two-Family ~~2-family, triple-attached dwelling, carriage dwelling,~~ multi-family or townhouses – Two (2) per dwelling unit, in addition to overflow parking at the community center for guests and visitors.~~
  - ~~c. All parking lots shall be painted and shall include marked cross walks and curb cuts to sidewalks.~~
  - ~~d. All other permitted uses in the base zone shall comply with requirements in Article 14.~~

7. 4. Utilities and Maintenance Responsibility

- a. Residential and other acceptable uses shall be served by public sewer and public water systems.
- b. In the case of individual home ownership, a homeowners association shall be required in which every owner shall be a member, for the purpose of providing operation and maintenance of common elements, including but not limited to landscaping, community center, stormwater management facilities and grounds.
- c. In the case of single ownership that may lease lots or dwelling units, the owner of the land shall have the responsibility for operation and maintenance of common elements including but not limited to landscaping, community center, stormwater management facilities and grounds.

5. Private streets may remain privately owned and privately maintained streets or may be dedicated as public streets.

- a. Privately owned and maintained minor or local streets shall be a minimum of 24 feet wide from back of rolled curb to back of rolled curb, with a twenty (20) foot cartway. Collector or boulevard streets shall be a minimum of 28 feet wide from back of rolled curb to back of rolled curb, with a twenty-four (24) foot wide cartway.
- b. Publically dedicated streets shall be designed in accordance with all specifications for public streets.

6. Modular dwellings may be used for any of the residential uses permitted in this zoning district (single family, two family, multi-family, etc.).

7. Property may be held in single ownership with portions of the property being leased to individuals for any purpose permitted in this zoning district.

**Section 5.** Article 2 “Definitions” is hereby amended by inserting immediately after the definition of “Administrator” the following definition:

**Adult Day Care Center.** A facility that provides care, protection, and supervision for individuals who are 18 years of age or older with special needs as a result of age or disability and who are dropped off and picked up each day and which, except in emergency situations, does not provide overnight accommodations on a regular and continuing basis.

**Section 6.** Article 2 “Definitions” is hereby amended by inserting immediately after the definition of “Dwelling, Attached” the following definition:

**Dwelling, Carriage.** A building containing one (1) dwelling unit that may be connected to an adjacent dwelling unit through non-structural components such as a common accessed wall, arbor, fence or some similar structure.

**Section 7.** Table 7-2 Permitted Uses and Structures is hereby amended by inserting into Table 7-2 a new column “Zone R-5” and new land use categories Adult Day Care Center, Carriage Dwelling, and Triple-Attached Dwelling as follows:

[INTENTIONALLY LEFT BLANK; TABLE TO FOLLOW]

Table 7-2 Permitted Uses & Structures

	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Blank Not Permitted									
P Permitted Use									
SP Site Plan Review required. See Sec. 4-2.									
CU Conditional Use. See Sec.4-7.									
0 Overlay Zone Applies (See Sec. 6-2)									
See definitions in Art. 2.									
<b>Agriculture-Related Uses</b>									
Farms, Customary and conventional farming operations including the raising of vegetables, flowers, and horticultural materials not to be construed to include commercial poultry and swine production, cattle feeder lots, and fur bearing animal farms.		P	P		P	P	P		
Greenhouse, Commercial			CU, SP		CU, SP		P, SP		
<b>Residential Uses</b>									
Apartment above commercial or office uses			CU, SP		CU, SP	P, SP			
Bed & breakfast	CU	CU	CU		CU, SP	CU			
Dwelling, Two Family		P, SP	P, SP		P, SP				
Dwelling, Manufactured Home				P, SP					
Dwelling, Multi-family			P, SP		P, SP				
Dwelling, Single Family including modular homes	P, SP								
Dwelling, Single Family Manufactured homes				P, SP					
Dwelling, Townhouse			P, SP		P, SP				
Dwelling, Triple-attached		P, SP	P, SP		P, SP				
Dwelling, Carriage					P, SP				
Home Based Businesses - See Section 7-47-5	CU	CU	CU	CU	CU				
<b>Sales &amp; Rental of Goods, Merchandise, and Equipment</b>									
Convenience Store					CU, SP	P, SP	P, SP		
Retail Food Establishments			P, SP		CU, SP	P, SP	P, SP		
Retail Sales Establishments			P, SP			P, SP	P, SP		
Retail Sales Establishments with drive-through						CU, SP	P, SP		
Supermarket			CU, SP			CU, SP	P, SP		
Restaurant			CU, SP		CU, SP	P, SP	P, SP		
Restaurant with drive through						CU, SP	P, SP		
Wholesale trade establishments							P, SP	P, SP	
Shopping Center						CU, SP	P, SP		
<b>Office, Clerical, Research, Personal Service and Similar</b>									
Business Service Establishments						P, SP	P, SP		
Offices			CU		CU,	P, SP	P, SP	P, SP	P, SP
Office complex of multiple buildings						CU, SP	P, SP	CU, SP	
Miscellaneous Service Establishments						CU, SP	P, SP		
Personal Service Establishments			CU, SP		CU, SP	P, SP	P, SP		

Table 7-2 Permitted Uses & Structures

	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Blank	Not Permitted								
P	Permitted Use								
SP	Site Plan Review required. See Sec. 4-2.								
CU	Conditional Use. See Sec.4-7.								
O	Overlay Zone Applies (See Sec. 6-2)								
See definitions in Art. 2.									
<b>Public Semi-Public, Emergency</b>									
Government facilities and services, local	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP
Government facilities and services, non-local	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP
Parks & open space	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP	P, SP		
Private utility facilities					CU, SP				
Public safety facilities including, ambulance, fire, police, rescue, and national security			CU, SP		CU, SP	CU, SP	P, SP		P, SP
Public utility service facilities					CU, SP	P, SP	P, SP	P, SP	P, SP
Recreation facility		CU, SP	CU, SP		CU, SP	CU, SP	P, SP	P, SP	P, SP
<b>Not Grouped Elsewhere</b>									
Accessory Uses, generally	P	P	P	P	P	P	P	P, SP	P, SP
Cemeteries			CU, SP		CU, SP		CU, SP	P, SP	
Funeral home, without crematorium			CU, SP		CU, SP	CU, SP	P, SP	P, SP	
Mixed use developments (See also Overlay Districts)		CU, SP	CU, SP		CU, SP	P, SP	CU, SP		
Veterinary clinics, animal hospitals, or commercial kennels, provided that no open pens, runs, kennels or cages are located within 100 feet of land that is used or zoned						CU, SP	P, SP	CU, SP	
Community Center, Private	SP	SP		SP	SP	SP	CU, SP		
<b>Institutional or Residential Care, Confinement &amp; Medical Facilities</b>									
Day Care Center			CU, SP			P, SP	P, SP		
Day Care, Family (1-6 children)			CU, SP						
Day Care, Large Family (7-12 children)						P, SP	P, SP		
Adult Day Care Center					P, SP				
Hospital						CU, SP	P, SP	CU, SP	
Medical Clinic, no overnight facilities			CU, SP		CU, SP	CU, SP	P, SP	P, SP	
Nursing and care facilities			CU, SP		P, SP	CU, SP	P, SP	P, SP	
Surgical Center, no overnight facilities					CU, SP	CU, SP	P, SP	P, SP	
<b>Transportation-Related Sales &amp; Service</b>									
Motor vehicle filling stations						P, SP	P, SP		
Motor vehicle sales, repair, service and storage						P	P, SP		
<b>Storage &amp; Parking</b>									
Distribution center								P, SP	P, SP
Garage, public or commercial parking			CU, SP		CU,	CU,	P, SP	P, SP	
Self-storage facility					CU, SP			P, SP	
Warehouse								P, SP	P, SP

**Section 8.** Amend Table 8-1. “Basic Development Standards in Residential Zones” by inserting a new section pertaining to development in the R-5 zone as indicated in the following continuation of Table 8-1:

**Table 8-1. Basic Development Standards in Residential Zones (continued)**

	R-5						
	Single Family	Carriage	Two Family	Triple Attached	Town House	Multi -Family	Nursing Care Facility
Minimum living Space (SF)	1,200	1,000	1,000 per unit	1,000 per unit	1,000 per unit	600 per unit	400 per independent unit
<b>Tract Standards</b>							
Tract Area	7,000 SF	4,500 SF	4,500 SF	6,000 SF	8,000 SF	40,000 SF	80,000 SF
Maximum DUs Per Acre	6.2	12.4	12.4	16.3	8.0	14.0	18.0
<b>Lot Standards</b>							
Lot Area PerDU(SF)	7,000	2,900	2,900	2,000	2,000	3,000	N/A
Street Frontage (feet)	30	30	30	Interior 20 End 30	Interior 20 End 30	125	200
Lot Width at Front Bldg. Line (feet)	60	40	40	Interior 20 End 30	Interior 20 End 30	N/A	N/A
<b>Setbacks (feet)</b>							
Front Yard	15	15	15	15	15	25	25
Side Yard One Sum of Both	5 10	5 10	0 10	10 N/A	10 N/A	20 40	20 40
Rear Yard	10	10	10	10	30	40	40
<b>Maximum Building Height</b>							
Stories	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	4	4
Feet	35	35	35	35	35	64	64
Maximum Building Coverage (% of Lot)	70%	75%	75%	75%	75%	70%	70%
Minimum Lot Depth	90	85	85	85	90	90	90

**Section 9 - EFFECTIVE DATE**

This Ordinance and the rules, regulations, provisions, requirements, orders, administration, management and matters established and adopted hereby shall take effect and be in full force and effect from and after the date of its final passage and adoption.

**Whereas,** Resolution #04-21-15-070 was approved for proper posting at the Town Council Workshop, held on Tuesday, April 21, 2015, at 6:30 p.m., at the Cheswold Town Hall; and

Whereas, the Town Council of the Town of Cheswold, properly posted and held a Public Hearing on May 18, 2015, at 6:00 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, to receive public comment on this Ordinance; and

Whereas, there were no public attendees, thus no negative or adverse public comments were made against the said Ordinance, at the above mentioned Public Hearing; and

Whereas, the Town Council at their regularly scheduled Town Council meeting, on June 1, 2015, held at 6:00 p.m., in the Cheswold Town Hall, at 691 Main Street, Cheswold, DE 19936, voted unanimously to approve this Ordinance; and

Now Therefore Be It Resolved, that the Town Council of the Town of Cheswold hereby authorizes the immediate implementation of this Ordinance # 04-22-15-047.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by an affirmative majority vote of Town Council members of the Town of Cheswold, at which a quorum was present and voting throughout, and that the same is still in force and effect.

Certified: Donald F. Tinari  
Mayor

Date: June 1, 2015

ATTEST: Heidi Calver  
Secretary/Treasurer

Date: June 1, 2015

Agreed: Bobt WSS  
Vice-Mayor

Date: June 1, 2015

Agreed: Sherry Lambertson  
Councilperson

Date: June 1, 2015

Agreed: Position Vacant  
Councilperson

Date: June 1, 2015

Agreed: Position Vacant  
Councilperson

Date: June 1, 2015

NOTARIZED: James  
Town Clerk

Date: June 2, 2015