

CHAPTER 210, ZONING, § 210-46. SWIMMING POOLS, BY RETITLING SAID SECTION TO ALSO REFER TO SPAS; AND BY REMOVING FROM SUBPARAGRAPH A. THEREOF OUTDATED STANDARDS APPLICABLE TO PRIVATE PERMANENT RESIDENTIAL SWIMMING POOLS AND SPAS AND REPLACING THE SAME WITH NEW, UPDATED INFORMATION THAT ALIGNS WITH THE INTERNATIONAL SWIMMING POOL AND SPA CODE.

WHEREAS, the Charter and Code Review Committee (“Committee”) has been reviewing and studying the Town Code of the Town of Millsboro (“Town Code”) to determine where and how the Town Code may be amended to remove outdated provisions that are not being enforced, provide clarification where necessary, more accurately reflect the practices and processes of the Town, or otherwise improve the Town Code; and

WHEREAS, to aid the Committee in its efforts, the Town’s Building & Code Official has presented the Committee with proposed revisions of § 210-46 of the zoning chapter of the Town Code that are necessary to update the standards applicable to private permanent residential swimming pools and spas so that they align with the International Swimming Pool and Spa Code; and

WHEREAS, the Committee has accepted the Building & Code Official’s above-described, proposed revisions, provided they only apply to private permanent residential swimming pools and spas constructed in the future, and has recommended that the Town Council amend the Town Code accordingly; and

WHEREAS, the Town Council finds that the Building & Code Official’s above-described, proposed revisions of § 210-46 of the Town Code and the Committee’s recommendation of said revisions is reasonable; and

WHEREAS, 22 Del. C. § 304 provides that any amendment to any zoning ordinance shall only be after a public hearing following fifteen (15) days notice thereof by publication in an official paper or a paper of general circulation within the municipality.

NOW THEREFORE BE IT RESOLVED that a Public Hearing shall be held on **Monday, February 2, 2026**, at 7:00PM, in Millsboro Town Center, 322 Wilson Highway, Millsboro, Sussex County, Delaware, to consider amending Chapter 210, Zoning, of the Town Code of the Town of Millsboro, as follows:

Item 1:

Amend § 210-46. **Swimming pools**, by retitling said section so that the title shall now read as follows: **§ 210-46. Swimming pools and spas.**

Item 2:

Amend § 210-46. **Swimming pools, subparagraph A.**, as follows (removed language is stricken through; new language is underlined):

- A. Private permanent residential swimming pools and spas shall adhere to the following standards:
- (1) All pools and spas shall be located in rear yard areas. Pools shall occupy no more than 25% of the rear yard area or a maximum of 800 square feet as measured along the surface of the water, whichever is smaller.
 - (2) No edge of any pool or spa shall be closer to any lot line than 10 feet.
 - (3) In case of a corner lot, a permanent private swimming pool or spa shall not be constructed, erected, installed or maintained closer to the side street line than the prevailing setback line on that street.
 - (4) The pool or spa may be lighted by underwater or exterior lights, or both, provided that all exterior lights are located so that the light is neither directed nor reflected upon adjacent properties in such a manner as to be a nuisance or an annoyance to neighboring properties. Underwater lighting shall be in compliance with the applicable National Electrical Code.
 - (5) The pool or spa shall be completely surrounded by a protective fencing barrier, a minimum of five four feet in height above grade on the side that faces away from the pool or spa.
 - (6) No sound-amplifying system shall be used with a private swimming pool or spa.
 - (7) Doors and gates in barriers shall be equipped to accommodate a locking device, all pedestrian access doors and gates shall open outward away from the pool or spa, shall be self-closing, and have a self-latching device.
 - (8) Where a wall of a dwelling or structure serves as part of the barrier and where doors, gates or windows provide direct access to the pool or spa through that wall, all operable windows having a sill height of less than 48 inches above the indoor finished floor, doors, and gates shall have an alarm that produces an audible warning when the window, door, or gate are opened.

- (9) In lieu of having an audible alarm installed on operable windows, doors, and gates, a safety cover for the pool or spa that is listed and labeled in accordance with ASTM F1346 may be installed.

Item 3:

For the sake of clarity, all new standards and requirements imposed by Item 2 above shall only apply to private permanent residential swimming pools and spas constructed after the date of this Ordinance.

AND BE IT FURTHER 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 Resolution by title to be published in a newspaper of general circulation in the Town of Millsboro, at least fifteen (15) days prior to the date set forth in this Resolution for the Public Hearing.

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 a Resolution passed by the Town Council at its Regular Meeting held on January 5, 2026, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Mary J. D'Silva, Secretary