TOWN OF LITTLE CREEK, DELAWARE
LAND DEVELOPMENT ORDINANCE

Adopted by the Little Creek Town Council

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Prepared by

Town of Little Creek
Zoning Commission

State of Delaware
Office of State Planning Coordination

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Article 1. General Provisions

Section 1-1. Title

This ordinance shall be known as the Land Development Ordinance of the Town of Little Creek, Delaware.

Section 1-2. Authority

This Land Development Ordinance has been made in accordance with the grant of power in Title 22, Section 301 of the *Delaware Code*.

Section 1-3. Purposes

A. To guide the future growth and development of the Town of Little Creek in accordance with the comprehensive plan.
B. To promote the health, safety, and general welfare of the community.
C. To manage congestion in the streets.
D. To secure safety from fire, panic and other dangers.
E. To provide adequate light and air.
F. To prevent the overcrowding of land, to avoid undue concentration of population.
G. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
H. To conserve the value of land and buildings.
I. To encourage the most appropriate uses of land.

Section 1-4. Applicability

This Ordinance applies to all land within the incorporated boundaries of the Town of Little Creek.

Section 1-5. Components

A. This Ordinance consists of the regulations written herein and an official map depicting zoning districts in the Town of Little Creek.
B. The tables contained herein are part of this Ordinance.
C. The drawings and graphics herein are part of this Ordinance unless otherwise indicated.

Section 1-6. Compliance Required

A. No tract, parcel, lot, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, unless done in conformance with the provisions of this Ordinance. This provision also applies to land offered for sale or lease.
B. No building or land shall be used unless it is done in conformance with the provisions of this Ordinance.
C. No building or part of a building shall be demolished, demolished by neglect, erected, reconstructed, converted, enlarged, moved, or structurally altered unless it is done in conformance with the provisions of this Ordinance.
D. Yards and Open Space
    1. No structure shall be located, no existing structure shall be altered, enlarged, moved or rebuilt, and no open space surrounding any structure shall be encroached upon or reduced in any manner that does not conform with the yard, lot, area, and building location regulations designated for the zoning district in which such building or open space is located unless otherwise permitted.
    2. A yard or other open space associated with a building on one lot shall not be considered as a required yard or open space for a building on any other lot.
    3. All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.

4. All yards shall be maintained in good condition and, when required, landscaped.

E. Height of Buildings and Structures
   1. General. No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
   2. Sloping Lot. On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.

Section 1-7. Ordinance Provisions are Minimum Requirements

The provisions of this Ordinance shall be the minimum requirements for the promotion of the public health, safety, morals, convenience, order, comfort, prosperity, or general welfare.

Section 1-8. References to the *Delaware Code*

References to any part of the *Delaware Code* apply to the *Code* as existing when this Ordinance is adopted, or as amended subsequently.

Section 1-9. Interpretation of Language

A. Certain words in the singular number shall include the plural number, and certain words in the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
B. Words in the present tense shall include the past and future tenses, and words in the future tense shall include the present tense
C. The word “shall” is mandatory. The word “may” is permissive.
D. The meaning of the word “used” shall include “designed” or “intended or arranged to be used.”
E. The meaning of the word “erected” shall include “constructed,” “reconstructed,” “altered,” “placed,” or “moved.”
F. The meaning of the terms “land use” and “use of land” shall include “building use” and “use of building.”
G. The meaning of the word “adjacent” shall include “abutting” and “adjoining.”

Section 1-10. Pre-existing Permits and Lots

A. Building Permits
   1. Construction may be commenced and / or completed in accordance with any validly issued and unexpired building permit issued prior to the effective date of this ordinance.
   2. Construction is begun when excavation and the piers or footings of at least 1 or more buildings covered by the permit have been completed.
B. Lots
   1. Any lot, which was legally recorded prior to the effective date of this Ordinance, shall be considered a legal lot even if it does not meet the minimum lot size or area requirements embodied in this ordinance.
   2. This provision applies to all zones.

Section 1-11. Conflict with Other Regulations

Where this Ordinance imposes a standard that differs from a standard imposed by other statutes, resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter standard shall govern.

Section 1-12. Prior Agreements

It is not intended that this Ordinance invalidate or annul any easements, covenants, or other private written agreements between parties.

Section 1-13. Severability

Should a court decide that any section or provision of this ordinance is unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole or any part other that the part judged unconstitutional or invalid.

Section 1-14. Review Fees

The municipal governing body may adopt a fee schedule for review of all actions covered by this ordinance.

A. The fee structure may be designed to allow the town to recover the cost of consultant services directly associated with the review of each application.
B. The Municipality must be in receipt of full payment of all application and review fees at time of application. Applications received without full payment of fees are considered incomplete, and will not be scheduled for any reviews or hearings as permitted and defined by this ordinance.
C. No building or construction permits will be issued to any applicant with outstanding fees, bills, taxes, or fines due to the Town. Any outstanding fees, bills, taxes or fines must be paid in full prior to the issuance of any permit.
D. If an application is deemed unnecessary, the application and review fees will be returned to the applicant.

Article 2. Definitions

Accessory Use. See *Use, Accessory*.

Acre. A measurement of land area equivalent to approximately 43,560 square feet.

Adjacent. Physically touching or bordering upon; sharing a common boundary, but not overlapping.

Administrator. Person authorized to administer and enforce this Ordinance. See Article 3, Section 3-3.

Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Alteration, Structural. Any change in either the supporting member of a building, such as bearing walls, columns, beams, and girders, or in the dimensions or configurations of the roof or exterior walls.

Applicant. Any individual submitting a plan for development under the provisions of this ordinance.

Basement. A space partly underground and having at least half of its height above ground.

Bed & Breakfast. A lodging place with no more than 4 guest rooms, or suites of rooms, available for temporary occupancy, whose owner resides at the facility, and where meals are available only to guests at the facility.

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways, or any other barrier to the continuity of development.

Board. Board of Adjustment for the Town of Little Creek. See Article 3, Section 3-2.

Buildable Area. The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

Building. Any structure having a roof supported by columns or walls intended for the shelter, housing, or enclosure of any individual, animal, process equipment, goods, or materials of any kind.

Building, Accessory. A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use.

Building, Main or Principal. A building in which is located the principal use of the lot on which it is located.

Building Height. The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Line. A line parallel to the street line touching that part of a building closest to the street.

Building permit authority. The Kent County Division of Inspections and Enforcement.

Bulk Regulations. See *Dimensional and Density Standards.*

Caliper Dimension. The outside diameter measurement of the trunk of a tree measured at a vertical distance of three (3) feet above grade.

Cellar. See *Basement.*

CERCLA Hazardous Substances are defined in terms of either those substances specifically designated as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), otherwise known as the Superfund law, or those substances identified under other laws. In all, the Superfund law includes references to four other laws to designate more than 800 substances as hazardous, and identify many more as potentially hazardous due to their characteristics and the circumstances of their release. See: http://www.epa.gov/superfund/er/hazsubs/cercsubs.htm

Certificate of Zoning Compliance. A written document issued by the Municipal Governing Body that indicates the plan has met all requirements of this ordinance and has obtained all necessary permits and approvals from other agencies (with the exception of the building permit authority). A Certificate of Zoning Compliance is a prerequisite for obtaining a building permit from the building permit authority.

Certified Comprehensive Plan. A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92 of the *Delaware Code*.

Club. A group of people, organized for a social, educational, or recreational purpose, operating primarily neither for profit nor to render services customarily carried on by commercial businesses.

Concept Plan. An informal sketch or drawing of a site or subdivision plan of sufficient accuracy to be used for discussion only, and utilizing Table 4-1 *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review* as a guide for the information to be included.

Conditions of Approval. Conditions, placed on the final approval of an applicant's plan, that are both consistent with the Guidelines for Development Review and do not allow for the denial of a plan that is consistent with the objectives of the Guidelines for Development Review and appropriate uses and intensities of use set forth in this Ordinance.

Commission. The Town of Little Creek Planning Commission. See Article 3, Section 3-1.

Community Center. A building used for recreational, social, educational, and cultural activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

Consolidation. Removal of lot lines between parcels. See also *Subdivision*.

Convenience Store. Any retail establishment offering for sale prepackaged food products, household items, newspapers, and prepared foods usually for off-site consumption.

County. Kent County, Delaware.

Day Care Home.

Day Care Home. A building or portion of a building in which more than 3 but not more than 12 clients receive care, maintenance, and supervision, by other than their relative(s) or legal guardians(s), for less than 24 hours per day.

Family Day-Care Home. A family day-care home shall be a day-care home in which more than three, but fewer than seven, clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day, generally within a dwelling unit.

Group Day-Care Home. A group day-care home shall be a day-care home in which not less than 7, but not more than 12, clients receive care, maintenance, and supervision by other than their relative(s) or legal guardian(s) for less than 24 hours per day, generally within a dwelling unit.

Development.

(a) The division of a parcel of land into 2 or more parcels,

(b) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure,

(c) Any mining excavation, landfill, or land disturbance,

(d) Any use or extension of the use of land.

Development Plan. A plan for the development of one or more lots, parcels, tracts, or properties on which is shown the existing and proposed conditions, including, but not limited to, topography, vegetation, drainage, floodplains, wetlands, waterways, landscaping and open spaces, walkways, exits and entrances, circulation, utility services, lot lines, easements, structures and buildings, signs, lighting, parking, screening, surrounding development, and any other information that may be reasonably required so that the Municipality can make an informed decision; often called site plan.

Dimensional and Density Standards. Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which a building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements; also called bulk regulations.

Distribution Center. An establishment that distributes and stores goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

District. See *Zoning District*.

Ditch. A long, narrow excavation made in the ground by digging as for draining or irrigating land; a trench. Or, any open passage or trench, as a natural channel or waterway.

Dog Kennel. See *Kennel*.

Drive-In Use. An establishment that by design, physical facilities, service, or packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dumpster. Any container or bin capable of storing, transporting, receiving, hauling or emptying over 150 gallons of garbage, trash, refuse, waste, or materials including, but not limited to, commercially available roll-off units.

Dwelling. A building, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

Dwelling, Attached. A single-family dwelling unit that is attached to or shares a common vertical wall with 1 or more single-family dwelling units.

Dwelling, Manufactured Home. A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at a building site and bearing a label certifying that it was built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976.

Dwelling, Mobile Home. A transportable dwelling unit fabricated in an off-site manufacturing facility, designed to be a permanent residence, and built prior to June 15, 1976 on which date the Federal Home Construction and Safety Standards became effective.

Dwelling, Modular. A dwelling unit fabricated in an off-site manufacturing facility in accordance with the relevant local building code. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.

Dwelling, Multi-Family. A building containing 2 or more dwelling units, including units that are located one over the other.

Dwelling, Multi-Family Converted. A structure converted from a single family dwelling unit into a multifamily dwelling unit.

Dwelling, Single-Family Detached. A building containing 1 dwelling unit that is not attached to any other dwelling unit by any means and is surrounded by open space or yards.

Dwelling, Duplex. One of two dwelling units, located on adjoining lots, attached to the other by an unpierced wall extending from ground to roof.

Dwelling, Townhouse. A single-family dwelling unit in a row of at least 3 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical, common, fire-resistant walls.

Dwelling Unit. One or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within for the exclusive use of a single family maintaining a household.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Educational Institution. Any school, educational institution or training institution, however designated, which offers a program of college, professional, preparatory, high school, junior high school, middle school, elementary school, kindergarten, or nursery school jurisdiction, or any combination thereof, or any other program of trade, technical or artistic instruction.

Family. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Filling Station. Building, land, or premises used for the retail dispensing or sales of vehicular fuels; servicing and repair of motor vehicles; may include, as accessory uses, the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Floodplain. When used in this ordinance, the term "floodplain" refers to the area impacted by the 100 year flood as depicted on the most recent Flood Insurance Rate Maps (FIRMs) developed by the Federal Emergency Management Agency (FEMA) or a more accurate topographic survey of a parcel or group of parcels which specifically identify the area impacted by the 100 year flood using the FEMA determined flood elevation.

Floor Area.

Floor Area, Gross. The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than 7 feet.

Floor Area, Net. The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Floor Area Ratio (FAR). The gross floor area of all buildings or structures on a lot, divided by the total lot area.

Free Standing Sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.

Frontage. That side of a lot abutting on a street; the front lot line.

Garage. A deck, building, structure, or part thereof, used for the parking and storage of vehicles.

Greenhouse, Commercial. A structure in which plants, vegetables, flowers, and similar materials are grown for sale.

Gut. Narrow waterway, such as a channel or strait, that drains land.

Hazardous Substance UST System means an underground storage tank system that contains a hazardous substance defined in 101(14) of the CERCLA (but not including any substance regulated as a hazardous waste under RCRA Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

Hazardous Waste. A solid waste, or combination of solid wastes, which because of quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious, irreversible, or incapacitating illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of. Without limitation, included within this definition are those hazardous wastes described in Sections 261.31, 261.32, and 261.33 of the Delaware Regulations Governing Hazardous Waste.

Home Occupation. See "Home Based Businesses" in Article 7, Use Regulations.

Hospital. A place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than 24 hours in any week of 4 or more non-related individuals suffering from illness, disease, injury, or deformity; or a place devoted primarily to providing for not less than 24 hours in any week of obstetrical or other medical or nursing care for 2 or more non-related individuals requiring a license issued under *DE Code*, Title 16, Chapter 10, Sec. 1003; but does not include sanatoriums, rest homes, nursing homes or boarding homes.

Impervious Surfaces. The total land cover containing roads, buildings, parking lots, sidewalks and stormwater management ponds. The calculation for surface imperviousness includes all forms of constructed surface imperviousness, including roads, rooftops, parking lots, sidewalks and stormwater management ponds.

Kennel. A commercial establishment in which dogs or domestic animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

Lot. A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes and bounds description, to be separately owned, used, developed, or built upon. See also *Yard*.

Lot, Corner. A lot or parcel of land abutting upon 2 or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

Lot, Depth. The average distance measured from the front lot line to the rear lot line.

Lot, Double Frontage. A lot, other than a corner lot, that has frontage on 2 streets

Lot, Interior. A lot other than a corner lot

Lot, Legal. A lot which was created and legally recorded prior to the adoption of this ordinance, or any lot subdivided and legally recorded in full compliance with these regulations subsequent to the adoption of this ordinance.

Lot Line. A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

Lot Line, Front. The lot line separating a lot from a street right-of-way.

Lot Line, Rear. The line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line.

Lot of Record. A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the County Recorder of Deeds.

Lot, Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, i.e., the buildable width of a lot.

Major Recreational Equipment. Major Recreational Equipment includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, recreational vehicles (RVs), motorized dwellings, tent trailers, personal watercraft, snow mobiles, and similar equipment as well as cases or boxes used for transporting major recreational equipment regardless of whether the equipment is inside of the boxes.

Major Subdivision Plan. A plan for the division of any parcel or parcels of land into more than 5 parcels or any division of any parcel or parcels or land that requires the construction or extension of public utilities or streets.

Manufactured Housing. See *Dwelling, Manufactured Home*.

Manufacturing. Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

(a) Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or semi-finished as a raw material for further processing.

(b) The processing of farm products grown on a farm is not manufacturing, but rather, an accessory use to farming operations.

Medical Clinic. An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where patients are not lodged overnight.

Minor Subdivision Plan. A plan for the division of any parcel or parcels of land into no more than 5 parcels, none of which require the construction or extension of public utilities or streets, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, and Site Plan Review.*

Mobile Home. See *Dwelling, Mobile Home*.

Modular Home. See *Dwelling, Modular*.

Municipal Governing Body. The legislative body of the Town of Little Creek, Delaware, as defined in the Town Charter.

Municipality. The Town of Little Creek, Delaware.

Nonconformities. Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance. See Article 5, Nonconforming Situations.

Nursing & Similar Care Facilities. A facility that offers any of the following types of care or services and including, but not limited to, facilities regulated by the State Department of Health and Social Services:

> **Assisted Living Facility.** Residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication and may provide other services such as recreational activities, financial services, and transportation.
> **Extended Care Facility.** A long-term facility or distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.
> **Intermediate Care Facility.** A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.
> **Long-Term Care Facility.** An institution or a distinct part of an institution that is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its member by marriage, blood, or adoption.
> **Other.** Including family care homes, group homes, intermediate care facilities for persons with mental retardation, neighborhood group homes, family care homes, and rest residential facilities.

Off-Street Parking Space. An off-street parking space is a permanently-reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communications equipment.

On-Street Parking Space. An on street parking space is a temporary parking space for one motor vehicle that is located within the street right-of way.

Open Space, Active. Land set aside as a part of a development project that is intended and designed to be used for active recreational activities. Active open space must be free of wetlands or other site constraints that would restrict the use and enjoyment of the open space by the community. Active open space is often improved with playground equipment, playing fields, walkways and the like.

Open Space, Passive. Land set aside as part of a development project that is intended to be left in its natural state, and enjoyed for its aesthetic and ecological values. Any public use of the passive open space should be consistent with the preservation of ecological functions of the open space.

Permanent Sign. A permanent sign is a sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.

Place of Worship. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Pollution Control Strategy (PCS). A document that specifies actions necessary to systematically achieve pollutant load reductions specified by a Total Maximum Daily Load for a given waterbody.

Portable temporary storage units. A storage unit placed on an individual's property for the purpose of temporary storage of non-disposable items.

Premises. A lot, parcel, tract, or plot of land together with the buildings and structures on them.

Public Building. A building, owned or leased, occupied, and used by an agency or political subdivision of the federal, state, county, or municipal government.

Public Safety Facility. A building or structure used for the provision of public safety services, such as fire protection, emergency medical service, and rescue operations.

Public Utility Service. The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage and solid waste; and the provision of mass transit to the public.

Public Utility Service Facility. Any use or structure associated with the provision of utility services.

Public Utility Service Lines. The system of lines, pipes, wires, or tracks that distributes, transmits, or provides a utility service. This includes equipment that is incidental and necessary to the lines and that is located on the lines.

Public Water and Sewer System. Any system, other than an individual septic tank, tile field, or individual well, that is operated by the Municipality, a governmental agency, a public utility, or a private individual or corporation approved by the Municipality and licensed by the appropriate State agency, for the collection, treatment, and disposal of wastes and the furnishing of potable water.

Record Plat. A map depicting the layout of a minor subdivision, major subdivision, or site plan containing information as set forth in Table 4-1, *Information Required for Single Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*, and submitted for final approval.

Recorder of Deeds. The Recorder of Deeds for Kent County, Delaware.

Recreation Facility. A place designed and equipped for the conduct of sports and leisure-time activities.

Recreation Facility, Commercial. A recreation facility operated as a business and open to the public for a fee.

Recreation Facility, Personal. A recreation facility provided as an accessory use on the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

Recreation Facility, Private. A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

Recreation Facility, Public. A recreation facility open to the general public.

Restaurant. A restaurant includes the following:

(a) Establishments where food and drink are prepared, served, and sold primarily for consumption within the principal building.
(b) Establishments where food and/or beverages are sold in a form ready for consumption, where all or a significant portion of the consumption takes place or is designed to take place outside of the confines of the restaurant, and where ordering and pickup of food may take place from an automobile.

Retail Sales. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of such uses include:
(a) Usually a business place engaged in activity to attract the general public to buy.
(b) Buys and receives as well as sells merchandise.
(c) May process or manufacture some of its products—a jeweler or a bakery—but processing is secondary to principal use.
(d) Generally sells to customers for personal or household use.

Resubdivision. Any change in a map of an approved or recorded subdivision plat that affects any street layout on an area reserved for public use or any lot line or that affects any map, plan, or plat recorded prior to the adoption of any regulations controlling subdivision; includes the consolidation of parcels.

Right of Way. A pathway or road with a specific description; the right to cross property to go to and from another parcel. The right of way may be a specific grant of land or an "easement," which is a right to pass across another's land. The mere right to cross without a specific description is a "floating" easement. Some rights of way are for limited use such as repair of electric lines or for deliveries to the back door of a store.

Riparian Buffer Area (RBA). A natural area reserved along a lake, river, stream, waterway, or wetland area to preserve the bank, reduce sedimentation, filter nutrients out of stormwater, provide wildlife habitat, preserve existing natural corridors, and protect cultural and archeological resources. Riparian Buffer Areas should consist primarily of native, non-invasive natural vegetation.

Sanitary Landfill. A land site at which solid waste is deposited on or into the land as fill for the purpose of permanent disposal, except that it will not include any facility that has been approved for the disposal of hazardous waste under the Delaware Regulations Governing Hazardous Waste.

Self-Storage Facility. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on an individual basis for varying amounts of time. Mini-storage is a type of self-storage facility.

Services. Establishments primarily engaged in providing assistance, as opposed to products, to individuals, businesses, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

Services, Business. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personal supply services.

Services, Personal. Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel.

Services, Retail. Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums, and galleries.

Services, Social. Establishments providing assistance and aid to those persons requiring counseling for psychological problems, employment, learning disabilities, and physical disabilities.

Setback Line. The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed. See also *Yard*.

Sign. See Article 13, Signs.

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, and Site Plan Review.*

Site Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, and Site Plan Review.*

State. The State of Delaware.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if its ceiling is over 5 feet above the level from which the height of the building is measured or if it is used for business purposes other than storage.

Story, Half. A partial story under a gable, hip, or gambrel floor, the wallplates of which on at least 2 opposite sides are not more than 2 feet above the floor of each story.

Street. Any vehicular way that: (1) is an existing State, County or Municipal roadway; (2) is shown upon an approved plat; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the Office of the Recorder of Deeds prior to the appointment of the Planning Commission and the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved.

Street, Access. A street designed to provide vehicular access to abutting property and to discourage thru traffic.

Street, Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Street, Centerline of. The center line of any street shown on any official Municipal, County, or State records.

Street, Collector. A street that collects traffic from local streets and connects with minor and major arterials.

Street, Cul-de-Sac. A street with a single common ingress and egress with a turnaround at the end.

Street, Dead-End. A street with a single common ingress and egress.

Street Frontage. See *Frontage*.

Street Line. The line between a lot, tract, or parcel of land and an adjacent street.

Street, Private. A street that has not been accepted by the Municipality or the State.

Street, Service. A street running parallel to a freeway or an expressway that serves abutting properties, but restricts access to the freeway or expressway.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Subdivider. Any individual, firm, partnership association, corporation, estate, trust, or any other group or combination acting as a unit that subdivides or proposes to subdivide land as defined in this Ordinance. This also includes agents of subdividers.

Subdivision. Subdivision includes the following:

(a) The division of any tract or parcel of land into 2 or more plots, parcels, units, lots, condominiums, tracts, sites, or interests for the purpose of offer, sale, lease, development, whether immediate or future; either on an installment plan or upon any other plans, terms, or conditions; or for any other purpose;

(b) The division or partition of land or involving the opening, widening, or extension of any streets or access easements and the extension of any electrical, sewer, water, or any other utility line;

(c) The assemblage or consolidation, of tracts, parcels, lots or sites, resubdivision, and condominium creation or conversion.

Supermarket. A retail establishment primarily selling food and other convenience and household goods.

Surgical Center. A facility where outpatients come for simple surgical procedures and are not lodged overnight.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having depth of more than 30 inches designed, used, and maintained for swimming and bathing.

Total Maximum Daily Load (TMDL). The amount of a given pollutant that may be discharged to a waterbody from point, nonpoint, and natural background sources and still allows attainment or maintenance of the applicable narrative and numerical water quality standards. A TMDL is the sum of the individual Waste Load Applications (WLA's) for point sources and Load Allocations (LA's) for nonpoint sources and natural background sources of pollution. A TMDL may include a reasonable margin of safety (MOS) to account for uncertainties regarding the relationship between mass loading and resulting water quality. In simplistic terms, a TMDL matches the strength, location and timing of pollution sources within a watershed with the inherent ability of the receiving water to assimilate the pollutant without adverse impact.

Underground Storage Tank (UST). A USTis one or a combination of Tanks including underground Pipes, the volume of which is 10% or more belowground, as defined in the Delaware *Regulations Governing Underground Storage Tank Systems*, March 12, 1995 or as later revised. The following USTs are not subject to the design, construction, and maintenance requirements of the Delaware UST Regulations: Residential Heating Fuel, Agricultural, and Residential Motor Fuel USTs less than 1,100 gallons and any UST less than 110 gallons.

Use. The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Use, Accessory. A use of land or a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Use, Principal. The primary or predominant use of any lot or parcel.

Variance. Permission to depart from the literal requirements of this Ordinance.

Wall Sign. Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

Warehouse. A building used primarily for the storage of goods and materials.

Wholesale Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard. An open space that lies between the principal building or buildings and the nearest lot line. See also *Lot*.

> **Yard, Front.** A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line.
>
> **Yard, Rear.** A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.
>
> **Yard, Side.** A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Zoning District. A specifically delineated area in the Municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Article 3. Administrative Structure

Section 3-1. Planning Commission

A. Created; Name
A Planning Commission is hereby created. This Commission shall be known as the Town of Little Creek Planning Commission.

B. Organization
Membership Requirements: Members of the Planning Commission must be residents of the Town for at least two years, own real estate within the Town, be at least 18 years of age, and be a non-delinquent payer of taxes to the Town. If a member of the Planning Commission ceases to be a resident of the Town, he or she vacates the seat.
Means of Appointment: Members of the planning commission shall be appointed by the mayor and confirmed by the Municipal Governing Body.
Length of Terms: The Planning Commission shall have a minimum of five members, each serving a five-year term. When the Planning Commission is first established, its members shall be appointed for terms of such length and shall be arranged that the term of at least one member shall expire each year. Upon expiration, the Municipal Governing Body shall appoint someone to fill the seat. Members may be re-appointed to serve additional terms at the discretion of the mayor and the Municipal Governing Body; there is no limit to the number of terms that can be served.
Vacancies: If a vacancy on the Planning Commission occurs, the Municipal Governing Body shall appoint someone to that seat to serve for the duration of the term in the same manner as an original appointment.
Removal: A member of the Planning Commission can be removed by The Municipal Governing Body for cause, such as improper action or dereliction of duty. A public hearing shall be held, and a majority vote of The Municipal Governing Body is required to remove the member.
Determination of Leadership: The members of the Planning Commission will annually elect a chairperson and a secretary from its own membership and may employ experts, clerical and other assistants. It may appoint a custodian of its plan and records who may be the city engineer or town clerk.

C. Powers and Duties
1. The powers and duties of the Commission shall be as set forth in Title 22, Chapter 7 of the *Delaware Code*, as amended from time to time.
2. Review land use proposals and make recommendations to the Municipal Governing Body.

Section 3-2. Board of Adjustment

A. Created; Name
A Board of Adjustment is hereby created. This Board shall be known as the Town of Little Creek Board of Adjustment.

B. Members
The Board shall consist of a number of members with terms of office and qualifications as set forth in Title 22, Section 322 of the *Delaware Code*.

C. Powers and Duties

The Board's powers and duties shall be those set forth in Title 22, Chapter 3, Subchapter II of the Delaware Code.

D. Meetings & Hearings
The Board shall conduct meetings and hearings in accordance with Title 22, Chapter 3, Subchapter II of the Delaware Code.

Section 3-3. Administrator

A. Qualifications
An Administrator possessing the following qualifications shall be appointed by the Municipal Governing Body to administer the ordinance:
1. Sufficient training and work experience equivalent to that of a professional planner.
2. The administrator must be a member of the American Institute of Certified Planners (AICP), or be working under the direct supervision of a planner who is a member of the American Institute of Certified Planners. If the administrator is a retired planner; his or her AICP certification need not be active.
3. Familiarity with the administration and interpretation of zoning and subdivision ordinances.

B. Powers and Duties
1. The Administrator is responsible for the interpretation of and securing compliance with the provisions of this Ordinance.
2. The Administrator shall be responsible for professional technical review of land development activities regulated by this ordinance, and shall provide commentary and recommendations to the Planning Commission and Municipal Governing Body prior to their consideration of all applications.
3. The Administrator shall perform other activities that the Municipal Governing Body deems appropriate.

Section 3-4. Municipal Governing Body

A. Administrative Responsibilities
1. Appointment of an Administrator for this Ordinance.
2. Establishing fees and charges.
3. Reviewing and approving all land development activities regulated by this ordinance after considering recommendations of the planning commission.

B. Legislative Responsibilities
1. Adoption of, amendments to, updates of, revisions to, and implementation of a comprehensive plan in accordance with Title 22, Section 702 of the *Delaware Code*.
2. Taking action on changes to the text and map of this Ordinance in accordance with Title 22, Chapter 3, Subchapter I and 702 of the *Delaware Code*.

Article 4. Administrative Procedures

Section 4-1. General Provisions

A. Definitions

Building permit authority. The Kent County Division of Inspections and Enforcement.

Certificate of Zoning Compliance. A written document issued by the Municipal Governing Body that indicates the plan has met all requirements of this ordinance and has obtained all necessary permits and approvals from other agencies (with the exception of the building permit authority). A Certificate of Zoning Compliance is a prerequisite for obtaining a building permit from the building permit authority.

Certified Comprehensive Plan. A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92, *Delaware Code*.

Concept Plan. An informal sketch or drawing of a site or subdivision plan of sufficient accuracy to be used for discussion only, and utilizing Table 4-1 *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review* as a guide for the information to be included.

Conditions of approval. Conditions, placed on the final approval of an applicant's plan, that are both consistent with the Guidelines for Development Review and do not allow for the denial of a plan that is consistent with the objectives of the Guidelines for Development Review and appropriate uses and intensities of use set forth in this Ordinance.

Record Plat. A map depicting the layout of a minor subdivision, major subdivision, or site plan containing information as set forth in Table 4-1 *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review*, and submitted for final approval.

Major Subdivision Plan. A plan for the division of any parcel or parcels of land into more than 5 parcels or any division of any parcel or parcels or land that requires the construction or extension of public utilities or streets.

Minor Subdivision Plan. A plan for the division of any parcel or parcels of land into no more than 5 parcels, none of which require the construction or extension of public utilities or streets, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

Site Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling, containing information as set forth in Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

B. General Procedures
   1. Duties of the Administrator
      a. The Administrator shall establish procedures regarding the number of plan copies necessary for submission and the format of that submission.
      b. The Administrator shall refer the Plans to the Municipal Governing Body and Planning Commission in accordance with the schedule set forth in Table 4-2, *Deadlines & Duration for Single-Family Development, Minor Subdivision Site Plan, Concept Plan, Major Subdivision, Record Plan, and Historic Review*.
   2. Issuance of Building Permits
      As a prerequisite for the issuance of building permits and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Certificate of Zoning Compliance to the building permit authority.
   3. Final Recordation of Plats
      As a prerequisite for the final recordation of site plans and subdivision plats and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Record Plat approved by The Municipal Governing Body and signed by the Mayor, or designee, to the Recorder of Deeds.
   4. Consistency with Comprehensive Plan
      If the Municipal Governing Body finds any development project to be inconsistent with the policies set forth in the Municipality's most recently Certified Comprehensive Plan, then the Municipal Governing Body shall provide the applicant with documentation that details the substantive reasons why the project is not in compliance with the Comprehensive Plan and informs the applicant that the project shall not be approved until such time as it is brought into compliance with the Municipality's Comprehensive Plan.

C. Guidelines for Development Review
   Parameters guiding the review and approval of an applicant's development plan by the Planning Commission and Municipal Governing Body. These guidelines generally include the development plan's potential impact on the public health, safety and welfare, and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and, more specifically, the plan's impact on the following objectives:
   1. Maximum safety and convenience of vehicular and pedestrian traffic;
   2. Provision of adequate access to all sites for fire and police protection;
   3. Provision of adequate off-street parking;
   4. Site layouts minimizing adverse effect upon adjacent properties;
   5. Landscaping of the site in a manner in keeping with the generally prevailing character of the neighborhood;
   6. An adequate drainage system and layout.

Section 4-2. Single-Family Development Plan Approval

A. Purpose
   To ensure that Single-Family Detached Dwellings and accessory buildings to Single-Family Detached Dwellings comply with the provisions of this Ordinance prior to the issuance of building permits.
B. When Required
   1. Prior to the issuance of building permits for Single-Family Detached Dwellings on legal lots.
   2. Prior to the issuance of building permits for accessory buildings on legal lots with existing Single Family Detached Dwellings.

C. Required Information
See Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

D. Application Review Process
1. The Single-Family Development Plan shall be presented and submitted by the applicant to the Planning Commission.
2. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified comprehensive plan.
3. If the Planning Commission finds the proposed plan to be consistent with the policies set forth in the Municipality's most recently Certified Comprehensive Plan, then the Planning Commission shall review the Single-Family Development Plan or forward the Single-Family Development Plan to the Administrator at its discretion.
4. The Administrator or Planning Commission shall review the Single-Family Development Plan for compliance with the regulations of this Ordinance.
5. If a conditional use review is required, then the planning commission shall review the conditional use concurrently during the Single-Family Development Review. The conditional use review shall be conducted in accordance with Section 4-6 of this ordinance.
6. The Administrator or Planning Commission shall determine if the plan is in compliance with the regulations of this ordinance and make a recommendation to the Municipal Governing Body.
7. The Municipal Governing Body shall consider the recommendation and take one of the following actions:
   a. If the Single-Family Development Plan is determined to be in compliance with the regulations of this ordinance then the Municipal Governing Body shall issue a Certificate of Zoning Compliance to the applicant.
   b. If the conditional use review is required, then the Municipal Governing Body shall conduct that review concurrently during the Single-Family Development Review. The conditional use review shall be conducted in accordance with Section 4-6 of this ordinance.
   c. If the Single-Family Development Plan is determined to be out of compliance with the regulations of this ordinance, or if the conditional use is denied, then the Municipal Governing Body shall issue a letter to the applicant detailing those elements of the Single-Family Development Plan not in compliance with the regulations of this ordinance, and/or reasons why the conditional use was denied.

E. Duration, Revocation, & Extensions
See Table 4-2, *Deadlines & Duration of Single Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plan, and Review.*

Section 4-3. Concept Plan

A. Purpose
1. To provide the opportunity for applicants and the planning commission to review conceptual drawings in advance of a formal subdivision or site plan application.
2. To encourage creativity on the part of the applicants and the planning commission by reviewing plans early in the design process, before considerable expense on engineered drawings has been incurred by the applicants.

B. When Required
1. The concept plan stage is optional but encouraged.

2. Concept plan review is to occur prior to the formal submission of a site plan, minor subdivision, or major subdivision.
3. The applicant may re-submit revised plans for concept plan review as many times as desired in the spirit of working collaboratively with the planning commission on design changes and creative concepts for development.

C. Required Information
See Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

D. Application Review Process
1. The Concept Plan shall be presented and submitted by the applicant to the Planning Commission.
2. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified comprehensive plan.
3. If the Planning Commission finds the proposed plan to be consistent with the policies set forth in the Municipality's most recently Certified Comprehensive Plan, then the Planning Commission shall review the Concept Plan at their next regularly scheduled meeting.
4. The Planning Commission may take the following actions:
   a. The Commission may make suggestions to the developer that will improve the project and / or bring the project more into compliance with the standards, goals, and intent of this ordinance. These suggestions shall be transmitted to the applicant in writing after the meeting.
   b. The Commission may, by simple majority vote, endorse the concept plan and forward the plan to the Municipal Governing Body for consideration. The Municipal Governing Body must consider the concept plan at their next scheduled meeting, and may endorse the plan by simple majority vote. If a concept plan is endorsed by the Commission and the Municipal Governing Body, the formal site plan, minor or major subdivision plan must be developed in close conformity with the concept plan. An endorsed concept plan may not be construed to absolve any applicant or particular land development project from otherwise complying with any and all provisions of this ordinance.
   c. The Commission may choose not to make a recommendation or an endorsement of a concept plan. In this case, the applicant does not have standing to present the concept plan to the Municipal Governing Body. The next step will be to submit a formal application.
   d. The Commission may choose to forward the concept plan to the administrator for review and informal comment. The administrator's comments are to be considered by the Planning Commission when the concept plan is reviewed.

E. Duration, Revocation, & Extensions
See Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

Section 4-4. Minor Subdivision, Major Subdivision, and Site Plan Approval

A. Purposes
1. To guide the growth and development of the Municipality in accordance with the comprehensive plan.
2. To establish design standards and procedures for reviewing site plans.

3. To encourage an orderly layout of land uses.
4. To ensure that public facilities are available and of sufficient capacity to serve proposed developments.
5. To minimize and manage the impact of development on air, water, and other natural resources.

B. When Required
1. Prior to the issuance of building permits for site plans.
2. Prior to the recordation of minor or major subdivision plats.

C. Required Information
See Table 4-1, *Information required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review* for information on Major Subdivisions.

D. Application Review Process
1. The Minor Subdivision Plan, Major Subdivision Plan or Site Plan shall be presented and submitted by the applicant to the Planning Commission.
2. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified plan.
3. State Planning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code.*
4. Referrals to other agencies.
   a. The Planning Commission may request review and comments on a plan from the Municipal Engineer, pertinent State Departments such as Natural Resources and Environmental Control, Education, Transportation, State Fire Marshal, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
   b. Before taking action on a plan, the Planning Commission shall allow sufficient time for departments and agencies to respond.
5. The Planning Commission shall forward the Minor Subdivision Plan, Major Subdivision Plan or Site Plan to the Administrator.
6. The Administrator shall review the plan and issue comments of a professional and technical nature to the Municipal Governing Body that, at a minimum, address the plan's compliance with all regulations of this Ordinance and the relevant Guidelines for Development Review.
7. The Planning Commission shall review the plan and the administrator comments in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional use review is necessary it will be held concurrent with the review of the plan in accordance with Section 4-6. The Planning Commission shall develop recommendations for the Municipal Governing Body.
8. The Municipal Governing Body shall review the plan, the administrator's comments, and Planning Commission recommendations in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. If a conditional use review is necessary it will be held concurrent with review of the plan in accordance with Section 4-6. The Municipal Governing Body may approve any plan that meets the provisions of this ordinance and the Guidelines for Development Review. The Municipal Governing Body may withhold, postpone, or deny approval of any plan which is not in compliance with the provisions of this ordinance and may apply conditions of approval in accordance with the Guidelines for Development Review.

9. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for site plans, or the signature of the Mayor or designee on a Minor Subdivision Plan.
10. The Municipal Governing Body may assign responsibility for compliance with conditions of approval to the Administrator.
11. Action
    The Municipal Governing Body may by a simple majority vote approve the Minor Subdivision, Major Subdivision or Site Plan.
    a. If a Minor Subdivision, Major Subdivision, or Site Plan is approved, then the Municipal Governing Body shall direct the applicant to the process for Plat Approval as described in Section 4-5. The approval of a Minor or Major Subdivision Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.
    b. If a Minor Subdivision, Major Subdivision or Site Plan is not approved, the Municipal Governing Body shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
12. Minor and Major Subdivisions must follow the plat process as outlined in Section 4-5, Record Plat.

E. Duration, Revocation, and Extensions
See Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

Section 4-5. Record Plat

A. Definition & Purpose
1. Definition. Map depicting the layout of a major subdivision, containing information as set forth in Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*
2. Purpose. To provide an additional level of review and legal documentation of the intended design of the subdivision or site plan.

B. When Required
1. Prior to the issuance of building permits for all site plans.
2. Prior to the issuance of building permits for all minor subdivisions.
3. Prior to the issuance of building permits for all major subdivisions.

C. Requirements
1. The applicant shall prepare a Record Plat in accordance with Table 4-2 and submit the Record Plat to the Administrator.
2. As a prerequisite to obtaining the Mayor's or designee's signature on a Record Plat, the applicant is responsible for complying with Conditions of Approval imposed on the applicant's Plan and for receiving Letters of No Objection and / or required permits and approvals from applicable agencies, including, but not limited to, the Delaware State Fire Marshal, Delaware Department of Transportation, and the Kent Conservation District.
3. The Administrator shall review the Record Plat for compliance with the regulations of this Ordinance.
    a. If the Record Plat is determined to be in compliance with the regulations of this ordinance and the applicant has obtained all required outside agency letters, permits and

approvals as indicated in Section 4-5, A, 2 above, then the Administrator shall issue a letter to the Mayor addressing this compliance and the Mayor or designee shall sign the Record Plat.

b. If the Record Plat is determined to be out of compliance with the regulations of this Ordinance or if all required letters, permits and approvals have not been received or are not complete, then the Administrator shall issue a letter to the applicant detailing those elements of the Record Plat not in compliance with the regulations of this Ordinance.

4. Applicant shall be responsible for recording the Record Plat at the Recorder of Deeds. All deed restrictions, covenants, incorporation documents for homeowners associations and other legal documents related to the subdivision and / or required by the Town Solicitor shall be recorded with the Record Plat. No building permits shall be issued until the Plat is lawfully recorded.

5. After recordation site plans shall be submitted through the Administrator to the Municipal Governing Body. The Municipal Governing Body shall issue a Certificate of Zoning Compliance to the applicant, who is responsible for submitting the same to the building permit authority to obtain a building permit. Minor and major subdivisions must follow the procedures outlined in Section 4-2 to obtain building permits.

6. Duration, Revocation, and Extensions
See Table 4-2, *Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review.*

Section 4-6. Conditional Uses

A. Definition & Purpose
1. Definition. A use that is appropriate in a zoning district at a particular location only when certain criteria are met.
2. Purpose. To provide an additional level of review for these uses in order to determine their appropriateness at their proposed locations.

B. Required Findings
The Planning Commission shall review and make recommendations to the Municipal Governing Body who shall determine whether each conditional use:
1. Is in harmony with the purposes and intent of the comprehensive plan;
2. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures;
3. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties;
4. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity;
5. Will have no detrimental effect on vehicular or pedestrian traffic;
6. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area;
7. Will not, in conjunction with existing, proposed, and potential development, overburden existing public services and facilities;
8. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Ordinance.

C. Action

1. The Municipal Governing Body shall properly notice the conditional use hearing as a public hearing.
2. If the required findings of the conditional use are satisfied, then the Municipal Governing Body may, by a simple majority, vote to approve the conditional use in question with or without reasonable conditions that address the required findings of a conditional use and/or address the health, safety, and general welfare of the community.
3. If the conditional use in question is not approved, then the Municipal Governing Body shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
4. The conditional use approval shall be tied substantially to the plan presented to the Municipal Governing Body. Any change in use or alteration of the plan shall require a new conditional use hearing.

Section 4-7. Administrative Reviews and Variances

A. Variances
   1. Definition
      Relief from the strict application of the provisions of this Ordinance when, owing to special conditions or exceptional situations, a literal interpretation of this Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property.
   2. The Board of Adjustment is responsible for considering requests for variances.
   3. Required Findings
      The Board may authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinances, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation or map.
   4. Additional Standards
      a. Use Variances Not Authorized. These provisions governing variances shall not be construed to permit the Board of Adjustment, under the guise of a variance, to authorize a use of land not otherwise permitted in this Ordinance.
      b. Non-Conforming Situations Not Grounds for Variance. Non-conforming uses, lots, structures, or signs shall not be considered grounds for granting variances.

B. Administrative Review
   1. Purpose
      To provide a mechanism for appeals where an error is alleged in any interpretation, order, requirement, decision, or determination made by the Administrator or designee in the administration of this Ordinance.
   2. Procedure
      In order for the Board of Adjustment to conduct an administrative review:
      a. The Administrator must issue a written interpretation, requirement, decision, or determination. The Administrator's written product must include information about the applicant's/property owner's situation, request, inquiry, etc. and references to pertinent sections of this Ordinance to support the interpretation, requirement, decision, or determination;

b. The Administrator must make every effort to present the written product to the applicant including, but not limited to, return receipt mailing;
c. The applicant must, by return receipt mailing or similar verifiable method, file a written request to the Municipal Governing Body for Administrative Review within 30 days after receiving written notice of the Administrator's action.

3. Stay of Proceedings
An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board of Adjustment that a stay would cause imminent peril to life or property. In such a case, proceedings shall be stayed only by a restraining order granted by the Board of Adjustment or a court having jurisdiction.

C. Application and Review Process
1. Application Filing
a. Applications for administrative review and variances shall be submitted to the Administrator. The Administrator may provide forms to facilitate application processing.
b. Applications shall be made in writing and shall provide the following information:
i. Information about the owner and applicant;
ii. Statement of the type of relief, permission, or review requested;
iii. Information about the property for which the application or review is being made;
iv. Information to support the application
(a) References to pertinent provisions of this Ordinance from which relief is being applied; or
(b) Identification of the provisions of this Ordinance, with which the application must comply, and statements as to how the application complies with those provisions.
v. Plans or drawings that support or clarify the relief or permission requested;
vi. Other information requested by the Board of Adjustment.

2. Burden of Proof on Applicant
An applicant for an administrative review or a variance shall have the burden of presenting the information needed by the Board of Adjustment to make a determination.

3. Board of Adjustment Hearing
a. Scheduling. The Board of Adjustment shall schedule a public hearing on each application to occur as soon as practicable following the receipt of the application by the Administrator.
b. Public Notice
i. Contents. The public notice shall specify the time, place, and nature of the hearing.
ii. How Given. At least 15 days prior to the public hearing, the following notices must be in place:
(a) Newspaper Publication. Legal notice in a newspaper of general circulation at least 15 days prior to a public hearing;
(b) Property Posting. For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location;
(c) Municipal Hall. Notice shall be posted at a public place in town.
c. Public Hearing
i. The hearing shall take place no less than 15 days following publication of the legal notice.
ii. The Board of Adjustment's hearing shall be conducted and applications shall be acted on as specified in Article 3 of this Ordinance.
iii. The Board of Adjustment may attach conditions to approvals of applications.

5. Relationship to Development Plan Review
   a. Approval of an application by the Board of Adjustment does not supersede or obviate the need for compliance with any other Development Plan Review standards or requirements.
   b. The Board of Adjustment may condition approvals on satisfactory compliance with applicable Development Review standards.
6. Appeals
   a. Appeals to Superior Court. Appeals of the Board of Adjustment's decisions shall be made to the Superior Court as provided in Title 22, Sections 328-332 of the *Delaware Code*.

Section 4-8. Historic District Review. RESERVED

Table 4-1. Information Required for Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review

Information Required for Development Plan Review **Blank = No requirement** **G = General information** **R = Complete data or information required**	**Single-Family Development Plan**	**Minor Subdivision**	**Site Plan**	**Concept Plan**	**Major Subdivision**	**Record Plat**	**Historic RES-ERVED**	**See also**
PLAT INFORMATION								
Name and address of owner and applicant	R	R	R	R	R	R		
Subdivision name, as approved by Kent County 911 Addressing		R		R	R	R		Art 9, Sec 2D
Name, signature, license number seal and address of engineer, land surveyor, architect, planner and/or landscape architect as applicable and a certification statement affirming that the plan complies with all requirements of this ordinance and that all survey information and other representations on the plan are correct and accurate.		R	R		R	R		
Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	R	R	R		R	R		
A vicinity map at specified scale showing location of tract with reference to surrounding properties, streets, municipal boundaries, etc. within 500 feet; date of current survey		R	R		R	R		
Data column including zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R		R	R		Art 8
North arrow and scale	R	R	R	R	R	R		
Signature blocks for Mayor and/or pertinent Municipal official, pertinent County officials, Municipal Engineer	R	R	R		R	R		
Locations and descriptions of all permanent survey monuments		R				R		Art 9, Sec 2E
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of rules border lines or other size acceptable to the municipality	R	R	R	R	R	R		
Metes and bounds description showing dimensions, bearings, curve date, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of way and centerline curves on streets		R	R			R		
Acreage of tract to nearest tenth of an acre	R	R	R	G	R	R		
Date of original and all revisions		R	R	R	R			
Size and location of existing or proposed structures with all setbacks dimensioned	R	R	R	G	R			Art 8
Proposed lot lines and areas of lots in square feet		R		R	R	R		Art 9, Sec 3
Locations and dimensions of existing and proposed streets		R	R	G	R	R		
Copy and/or delineation of any existing deed restrictions or covenants	R	R	R		R	R		

Information Required for Development Plan Review **Blank = No requirement** **G = General information** **R = Complete data or information required**	**Single-Family Development Plan**	**Minor Subdivision**	**Site Plan**	**Concept Plan**	**Major Subdivision**	**Record Plat**	**Historic RES-ERVED**	**See also**
Copies of and a summary of deed restrictions for the subdivision or site plan, including agreements for the operation and maintenance by the property owners or agency in the subdivision of common areas, open space, recreation facilities, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Municipal Governing Body		R	R		R	R		
Owners' certification, acknowledging ownership of the property and agreeing to the subdivision and/or development thereof as shown on the plat and signed by the owner(s)	R	R	R	R	R	R		
Owners' statement dedicating streets and other public ways for public use (private streets are prohibited in Town of Little Creek)						R		Art 10
Existing or proposed easement or land reserved for or dedicated to public use or to the residents of the proposed development		R	R	G	R	R		
Development or staging plans		R		G	R	R		
List of required regulatory approvals or permits. Conditional approval may be granted subject to other regulatory approvals.	R	R	R	G	R	R		
Variances requested	R	R	R	G	R	R		Art 4, Sec 6
Conditional Uses required	R	R	R	G	R	R		Art 4, Sec 5
Payment of application fees	R	R	R	R	R	R		
SETTING/ENVIRONMENTAL INFORMATION								
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map		R	R	G	R			
Land used primarily for agricultural purposes, lands in Agricultural Preservation Districts, and lands whose development rights have been sold to preserve them for farming (PDRs)		R		G	R	R		
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site		R	R	G	R	R		
Water Resource Protection Areas		R	R	G	R	R		Art 12, Sec 1
Habitat for Rare and Endangered Species		R	R		R			
Location of all wetlands and supporting documentation[1]	R	R	R	G	R	R		
Location of the 100-year floodplain based on current Flood Insurance Rate Map	R	R	R	G	R	R		

[1] The town reserves the right to request all applicants submit a United States Army Corps of Engineers (USACE) approved wetlands delineation to the Town of Little Creek as a conditional of approval for any new commercial and/or residential development.

Existing rights-of-way and/or easements on and within 200 feet of tract		R		R	R			
Existing and proposed contour intervals based on topographic survey, USGS data, or other statewide approved data source. Contours at one-foot intervals on site and extending 50'; contours must extend at least 200 feet beyond subject property but may use best available published data from 50-200'.		R	R	G	R			
Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant features		R	R	G	R			
Existing drainage system of site and of any larger tract or basin of which it is a part		R		G	R			Art 12, Sec 2
IMPROVEMENTS AND CONSTRUCTION INFORMATION								
Water supply and distribution plan	G	G	G		R			Art 11, Sec 2
Sewage collection and treatment plan	G	G	G		R			Art 11, Sec 3
Soil erosion and sediment control plan		G	G		R			Art 12, Sec 4
Grading plan					R			Art 12, Sec 4
Permanent stormwater management plan		R	R		G			Art 12, Sec 3
Detailed landscaping plan		R	R	G	R			Art 12, Art 15
Additional utility infrastructure plans including gas, telephone, electric, cable TV				G	R	R		Art 11, Sec 5
Site identification signs, traffic control signs, and directional signs		R	R	G	R			Art 13
Vehicular and pedestrian circulation patterns			G	G	R	R		Art 10
Parking and loading plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions			R					Art 14
Spot and finished elevations at all property corners; corners of all structures or dwellings, existing or proposed first floor elevations		R	R		R			
Construction details, such as cross sections and profiles, as required by applicable laws, regulations, and policies					R			Arts 10-12
Proposed street names, as approved by Kent County 911 Addressing				G	R	R		Art 10, Sec 1A
New blocks lettered consecutively, lots numbered in consecutive numerical order		R			R	R		
Other information required by the Municipality, the County, or other departments and agencies involved in approval of plan	R	R	R	G	R			Art 12

Table 4-2. Deadlines & Duration of Single-Family Development, Minor Subdivision, Site Plan, Concept Plan, Major Subdivision, Record Plat, and Historic Review

Item	Single-Family Development Plan	Minor Subdivision	Site Plan	Concept Plan	Major Subdivision	Record[1] Plat	Historic RESERVED
Deadline for submitting plan to Planning Commission before next Planning Commission meeting	15 days	15 days	15 days	15 days	15 days	N/A	
Deadline for acting on plan following Municipal Governing Body meeting	45 days if conditional use	60 days	60 days	None	60 days[2]	N/A	
Duration of plan approvals beginning at approval or recordation date	1 year	5 years	1 year	1 year	1 year	5 years	
Number and duration of extensions permitted, provided that the applicant can demonstrate that delays were beyond his/her control	One (1) extension of 6 months	One (1) extension of 6 months	One (1) extension of 6 months	None	One (1) extension of 6 months	None	

[1] Record plat is submitted directly to the Administrator for review and approval following the procedures outlined in Section 4-5 of this ordinance.
[2] Ninety (90) days if a conditional use hearing is required.

Figure 4-1. Single-Family Development Plan Approval

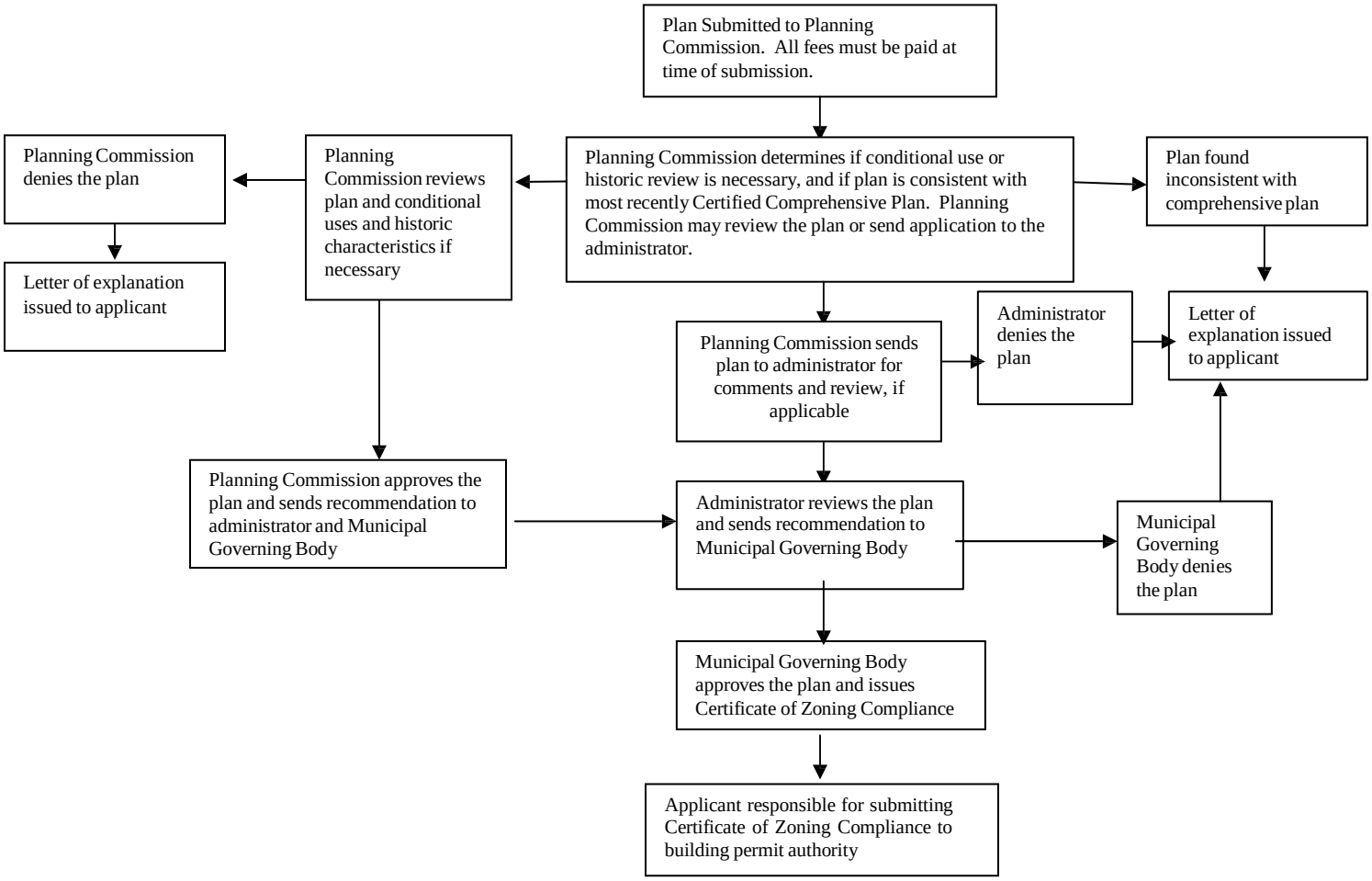
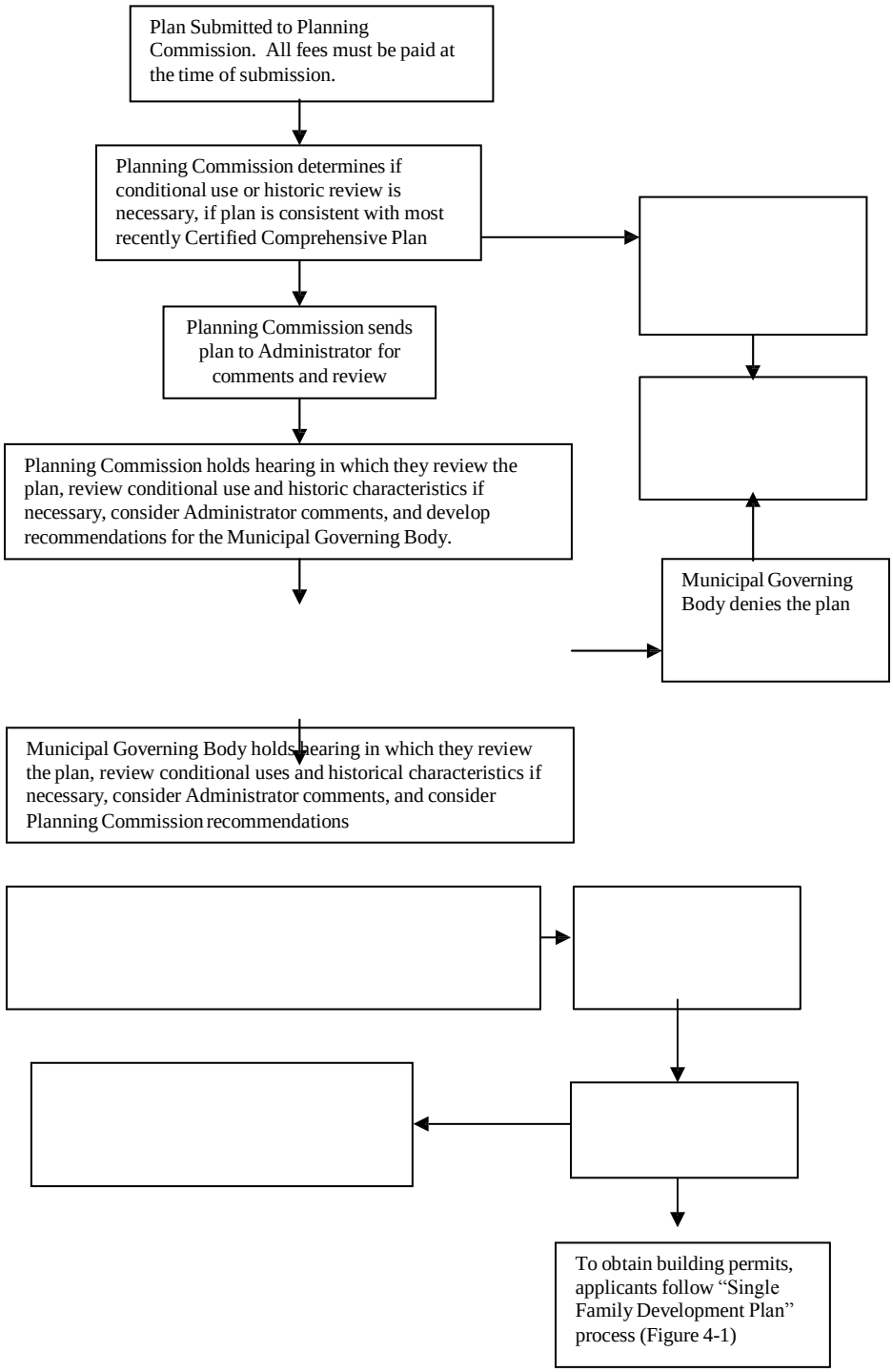


Figure 4-2. Minor Subdivision, Major Subdivision, and Site Plan Approval



Article 5. Non-Conforming Situations

Section 5-1. Definition & Intent

A. Definition
Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance.

B. Intent
Nonconforming situations may continue until they are removed, but their survival is not encouraged.

Section 5-2. Nonconforming Lots

A. Definition
A lot, whose area and/or width were lawful before this Ordinance was adopted, revised or amended, but does not meet the current lot area and/or lot width standards of this Ordinance.

B. Nonconforming Legal Lots
1. Definition. A nonconforming legal lot is a nonconforming lot of record, whose owner or ownership entity does not own or control adjacent property.
2. Applicability. Zoning districts where single-family dwellings are permitted.
3. Regulation. A nonconforming legal lot may be developed without a variance, with a single-family home, including customary accessory structures, as long as it complies with the dimensional and density standards of this Ordinance, other than lot area and/or lot width.

C. Other Situations
1. Where a property owner owns land adjacent to a single nonconforming lot, the adjacent land must be added to the nonconforming lot and re-platted so that the resulting lot conforms to the standards of this Ordinance.
2. Where a property owner owns land adjacent to a group of nonconforming lots, the lots must be re-platted to conform to the standards of this Ordinance.
3. Adjacent nonconforming lots of record owned by the same owner or ownership entity may not be sold to different purchasers in order to subvert the intent of this Ordinance.

Section 5-3. Nonconforming Structures

A. Definition
A structure, whose dimensional and density characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the dimensional and density standards of this Ordinance.

B. Continued Existence
A nonconforming structure may be continued under the following conditions:
1. Normal repair and maintenance is permitted;
2. A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity;
3. Nonconforming structures may not be used as grounds for the addition of other structures or uses that do not conform to the standards of the zoning district;
4. If a nonconforming structure is moved, it must be located in a manner that conforms to the requirements of the zone in its new location.

C. Termination of Legal Nonconforming Status
1. When a nonconforming structure or a nonconforming portion of a structure is destroyed by any means by more than 50% of its replacement cost at the time of destruction, its legal,

nonconforming status is terminated unless reconstruction of the structure commences within twelve months time of said destruction.

2. Manufactured homes removed for any reason after the effective date of this ordinance may only be replaced by homes meeting the current HUD codes and all other requirements of this ordinance.

4/3/17

Section 5-4. Nonconforming Uses

A. Definition

A use or activity, that was lawful before this Ordinance was adopted, revised, or amended, which is not permitted under the Use Regulations of this Ordinance.

B. Continued Existence

Although nonconforming uses are incompatible with permitted uses in their respective districts, a nonconforming use may continue under the following conditions:

1. The use or portions of the structures accommodating the use may not be enlarged, increased, or extended to occupy a greater area of land than was occupied on the date when this Ordinance is adopted or amended;
2. The use may not be relocated or partially relocated from its location on the date when this Ordinance is adopted or amended unless it is placed in a zoning district that allows such use.

C. Termination of Legal Nonconforming Status

1. When a nonconforming use of land ceases for any reason for a period of more than six (6) months, or if the structure housing the non-conforming use is altered or expanded, the nonconforming use shall be terminated.
2. Any subsequent use of such land shall conform to provisions of this Ordinance.

Section 5-5. Nonconforming Signs

A. Definition

A sign, whose characteristics were lawful before this Ordinance was adopted, revised, or amended, but does not meet the current standards of this Ordinance.

B. Continued Existence

A nonconforming sign may be continued under the following conditions:

1. Normal repair and maintenance is permitted;
2. A nonconforming sign may not be enlarged or altered in a way that increases its nonconformity. It may be altered in a way that decreases its nonconformity;
3. Nonconforming signs may not be used as grounds for permission to construct additional signs that do not conform to the standards of this Ordinance.

C. Termination of Legal Nonconforming Status

1. When a nonconforming sign is damaged or destroyed by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated.
2. Any subsequent sign shall conform to provisions of this Ordinance.
3. When the establishment to which a nonconforming sign is attached to ceases to operate for a period of more than six months, its legal, nonconforming status is terminated.

Article 6. Zoning Districts & Map

Section 6-1. Establishment of Zoning Districts

A. Base Zones

Comp Plan Land Uses	Zoning District	Purpose	Typical Kinds of Uses in Zone
Residential	R-1 Town Residential	To accommodate existing residential lots in town. To maintain the community's small-town character.	Single-family homes
Agricultural-Residential	AR-1 Agricultural-Residential	To allow traditional agricultural activities to continue with the exception of poultry, livestock, and other animal husbandry operations. To allow low-density residential uses.	Agriculture; single-family homes
Commercial,	C-1 Commercial	To accommodate commercial business and service uses in appropriate locations throughout the town. To provide employment and to meet the needs of the residents in the town and surrounding areas.	Retail stores; offices; wholesale and service establishments
Institutional,	I Institutional	To provide sufficient space for utilities, public facilities, and institutions.	Churches, civic and government buildings, public facilities and infrastructure

B. Historic District Overlay Zone RESERVED

Section 6-2. Specific Requirements, by Zone

A. R-1 Town Residential

1. Permitted Uses. For permitted uses see Table 7-1, *Permitted Uses and Structures.*
2. Accessory Uses. For accessory uses see Section 7-3, *Accessory Uses.*
3. General Requirements.
   a. Manufactured homes are permitted on any legal lot.
      i. No more than one manufactured home may be installed on any lot subject to the regulations of this Ordinance.
      ii. Each manufactured home shall have a minimum body-width of 24 feet.
      iii. Every manufactured home shall be installed on a permanent foundation prior to its occupation or use, such that the following requirements are fulfilled:
         (a). The manufactured home is supported on a properly designed and constructed foundation system that is adequate to support all loads;
         (b) The manufactured home is anchored adequately to resist all loads;
         (c) The towing hitch and all running gear have been removed;
         (d) There is a properly enclosed crawl space or basement with permanent foundation type construction;
         (e) The manufactured home shall be less than 5 years old at date of placement.
      iv. Anchoring. Each manufactured home shall be anchored to resist flotation, collapse or lateral movement.
      v. Anchoring Methods. Each manufactured home shall be anchored according to the home manufacturer's instructions for a permanent –foundation installation.
      vi. Wind Resistance. In addition to applicable state and local anchoring requirements for resisting wind forces, all components of a manufactured home anchoring system shall be capable of carrying a force of 4,800 pounds.
      vii. Replacement. Manufactured homes removed for any reason after the effective date of this ordinance may only be replaced by homes meeting the current HUD codes and all other requirements of this ordinance.
      viii. Mobile homes are not permitted.
   b. Portable temporary outdoor storage units

i. Portable temporary outdoor storage units are permitted on any lot in this zone for a period not to exceed one month or for the duration of an active building permit governing construction activities on the same lot.
ii. Portable temporary outdoor storage units must be placed at least five (5) feet from the side and rear lot lines, and must comply with the required front yard setback in this zone.
iii. Portable temporary outdoor storage units shall not be placed on public streets or right-of-ways, and shall not obstruct visibility at corners.

c. Dumpsters
i. Dumpsters are permitted on any lot in this zone provided that they are associated with construction activities occurring on the lot. Dumpsters may remain on the lot for the duration of an active building permit governing construction activities on the same lot.
ii. Dumpsters must be placed at least five (5) feet from the side and rear lot lines, and must comply with the required front yard setback in this zone.
iii. Dumpsters shall not be placed on public streets or right-of-ways, and shall not obstruct visibility for motorists, pedestrians, or bicyclists.

B. AR-1 Agricultural-Residential
1. Permitted Uses. For permitted uses see Table 7-1, *Permitted Uses and Structures.*
2. Accessory Uses. For accessory uses see Section 7-3, *Accessory Uses.*
3. General Requirements.
a. Manufactured homes are permitted on any legal lot.
i. No more than one manufactured home may be installed on any lot subject to the regulations of this Ordinance.
ii. Each manufactured home shall have a minimum body-width of 24 feet.
iii. Every manufactured home shall be installed on a permanent foundation prior to its occupation or use, such that the following requirements are fulfilled:
(a). The manufactured home is supported on a properly designed and constructed foundation system that is adequate to support all loads;
(b) The manufactured home is anchored adequately to resist all loads;
(c) The towing hitch and all running gear have been removed;
(d) There is a properly enclosed crawl space or basement with permanent foundation type construction;
(e) The manufactured home shall be less than 5 years old at date of placement.
iv. Anchoring. Each manufactured home shall be anchored to resist flotation, collapse or lateral movement.
v. Anchoring Methods. Each manufactured home shall be anchored according to the home manufacturer's instructions for a permanent –foundation installation.
viii. Wind Resistance. In addition to applicable state and local anchoring requirements for resisting wind forces, all components of a manufactured home anchoring system shall be capable of carrying a force of 4,800 pounds.
ix. Replacement. Manufactured homes removed for any reason after the effective date of this ordinance may only be replaced by homes meeting the current HUD codes and all other requirements of this ordinance.
viii. Mobile homes are not permitted.

b. Portable temporary outdoor storage units
i. Portable temporary outdoor storage units are permitted on any lot in this zone for a period not to exceed one month or for the duration of an active building permit governing construction activities on the same lot.

ii. Portable temporary outdoor storage units must be placed at least five (5) feet from the side and rear lot lines, and must comply with the required front yard setback in this zone.
iii. Portable temporary outdoor storage units shall not be placed on public streets or right-of-ways, and shall not obstruct visibility at corners.

c. Dumpsters
i. Dumpsters are permitted on any lot in this zone provided that they are associated with construction activities occurring on the lot. Dumpsters may remain on the lot for the duration of an active building permit governing construction activities on the same lot.
ii. Dumpsters must be placed at least five (5) feet from the side and rear lot lines, and must comply with the required front yard setback in this zone.
iii. Dumpsters shall not be placed on public streets or right-of-ways, and shall not obstruct visibility for motorists, pedestrians, or bicyclists.

C. C-1 Commercial
1. Permitted Uses. For permitted uses see Table 7-1, *Permitted Uses and Structures.*
2. Accessory Uses. For accessory uses see Section 7-3, *Accessory Uses.*
3. General Requirements. RESERVED

D. I Institutional
1. Permitted Uses. For permitted uses see Table 7-1, *Permitted Uses and Structures.*
2. Accessory Uses. For accessory uses see Section 7-3, *Accessory Uses.*
3. General Requirements. RESERVED

E. H Historic District Overlay Zone. RESERVED

Section 6-3. Zoning Map

A. Interpretation of Zoning Map
The incorporated area of the Municipality is divided into the zoning districts shown on the official zoning map. This map and its accompanying notations are adopted by reference and are declared to be a part of this Ordinance.

B. Uncertainty as to Boundaries
Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:
1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following Municipal or County limits shall be construed as following Municipal or County limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines. If the shore line changes, the boundary shall be construed as moving with the actual shore line;
6. Boundaries indicated as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines;
7. Boundaries indicated as parallel to or extensions of features described in this subsection shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map;

8. Where physical or cultural features existing on the ground differ from those shown on the official zoning map, or in other circumstances not covered by this subsection, the Board of Adjustment shall interpret the zone boundaries.

C. Errors or Omissions
If because of error or omission the Zoning District Map does not show a property as being in a zoning district, such property shall be classified in the least intense zoning district until changed by amendment.

D. Parcels Split by Zoning Districts
Where a zoning district boundary divides a lot tract, parcel or property, the location of the district boundary, unless the zoning map indicates its dimensions, shall be determined by applying the map scale shown on the zoning map scaled to the nearest foot.

Article 7. Use Regulations

Section 7-1. Permitted Uses and Structures

Permitted uses and structures for all zoning districts can be found in Table 7-1, *Permitted Uses and Structures.*

Section 7-2. Interpretation of Uses

A. General
A use not specifically listed as permitted in a zoning district is prohibited unless determined similar in accordance with Subsection B below.

B. Determination of Similar Uses
   1. Determination of Similar Uses
      a. A determination as to whether a use is similar to a use permitted by right shall be considered an expansion of the use regulations of the zone and not as a variance applying to a particular situation. Any use found similar shall be included in the list of uses permitted by right.
      b. Application
         i. All applications for permits involving uses not specifically listed among the uses permitted by right in any zone shall be submitted to the Administrator.
         ii. The Administrator shall have the authority to determine that a use is similar to a use permitted by right.
         iii. The Municipal Governing Body may on a case-by-case basis refer to the Administrator the authority to determine that a use is similar to a use permitted by right.
      c. Standards Governing the Determination of Similar Use
         i. That the use closely resembles and contains the same characteristics as the classification to which it is to be added.
         ii. That the use does not create dangers to health and safety, and does not create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
         iii. That the use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.
      d. The determination of similar uses shall not be construed to exempt applicants from complying with the regulation of off-street parking and signs set forth in this ordinance.

Section 7-3. Accessory Uses

A. Definition
A use is an accessory use if it meets all of the following criteria:
   1. Is incidental and subordinate to the principal use;
   2. Is customary to the principal use;
   3. Is operated and maintained under the same ownership and on the same lot as the principal use;
   4. Does not include structures or structural features inconsistent with the principal use; and
   5. Does not include overnight lodging for anyone other than members of the household in which the accessory use is conducted.

B. Where Permitted
Except as otherwise provided, accessory uses are permitted in all zones.

Section 7-4. Home-Based Businesses

Any business, occupation, or activity undertaken for gain within a residential structure that is incidental and secondary to the use of that structure as a dwelling unit.

A. Permitted Home-Based Businesses
   1. Offices for professionals including architects, brokers, counselors, clergy, dentists, doctors, draftspersons and cartographers, engineers, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, psychologists, contract management, graphic design, construction contractors, landscape design, surveyors, cleaning services, salespersons and manufactures' representatives, travel agents.
   2. Personal services including barbershops, beauty parlors, manicure and pedicure shops, pet grooming, catering and chauffeuring services.
   3. Instructional services including music, dance, art and craft classes, tutoring.
   4. Babysitting services defined as the occasional care of children.
   5. Studios for artists, sculptors, musicians, photographers, and authors.
   6. Workrooms for tailors, dressmakers, milliners, and craft persons including weaving, lapidary, jewelry making, cabinetry, and woodworking.
   7. Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines.
   8. Garage and yard sales (limited to four (4) times per year)
   9. Direct sales parties
   10. Produce sales
   11. Individual watermen selling catch out of their homes, with appropriate state approvals

B. Prohibited Home-Based Businesses
   1. Kennels, veterinary clinics and hospitals.
   2. Medical clinics, dental clinics, hospitals.
   3. Restaurants, bars, and night clubs.
   4. Funeral homes and undertaking establishments.

C. Operational Standards
   1. Operating Hours
      a. General Standard. Customer and client visits to the home-based business are limited to the hours from 8:00 A.M. to 8:00 P.M.
      b. Additional Provisions
         i. These operational standards recognize that some home-based businesses occasionally rely on client/customer visits that begin before 8 A.M. and last beyond 8:00 P.M. Examples of such home-based businesses include babysitting services, instructional services, "Tupperware parties," and party planning businesses.
         ii. Businesses such as those listed in the previous subsection shall be considered as operating within the home-based business standards as long as they do not cause undue traffic congestion, and comply with the standards governing equipment used or operated by home-based businesses.
   2. Employees
      a. On-Premise Employees. A home-based business shall have not more than 2 non-resident employees on the premises at any one time.
      b. Off-Premise Employees. The number of non-resident employees working at locations other than at the home-based business is not limited.
   3. Equipment. Equipment used in, and the operation of a home-based business, shall not:
      a. Create any vibrations, heat, glare, dust, odors, or smoke discernible at the property lines;
      b. Generate noise that violates any Municipal ordinance or regulation pertaining to noise;
      c. Create any electrical, magnetic or other interference off the premises;

d. Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties;
e. Use and/or store hazardous materials in excess of quantities permitted in residential structures.

4. Signs. See Article 13, Signs, in this Ordinance.

D. Conditional Use Approvals for Home-Based Businesses

1. Home-based businesses that have no outside employees, generate no customer traffic and utilize less than 30% of the floor area of the principal dwelling are permitted uses and do not require a conditional use approval.
2. Home-based businesses that have outside employees or generate customer traffic require a conditional use, which is subject to annual review by the Municipal Governing Body.

E. Intensity and Parking Requirements

1. Home-based businesses may not constitute more than 30% of the floor area of the principal structure.
2. The home-based business may be located in a principal or accessory structure.
3. Home-based businesses must provide, in excess of any residential parking requirements, a minimum of one (1) parking space per non-resident employee in addition to requirements for resident parking. Home-based businesses shall not generate excessive traffic.

Table 7-1. Permitted Uses & Structures

Blank =Not permitted **P =Permitted use** **SP =Site plan review required, see Sec. 4-2** **CU =Conditional use, see Sec. 4-6** **D =See definition in Art. 2**		**Zone AR-1**	**Zone R-1**	**Zone C-1**	**Zone I**
Agriculture-Related Uses					
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	CU	
Farms, housing or raising of livestock for commercial or non-commercial purposes					
Greenhouse, commercial	D			P	
Residential Uses					
Apartment above commercial or office uses				CU	
Bed & Breakfast	D	CU	CU	CU	
Dwelling, Two-Family	D				
Dwelling, Manufactured Home	D		P		
Dwelling, Multi-family	D				
Dwelling, Single Family, including modular homes	D	P	P		
Dwelling, Townhouse					
Home-based business with no outside employees or customer traffic, and utilizing less than 30% of floor space of principal dwelling		P	P		
Home-based business, other	D	CU	CU		
Hotel, motel	D				
Sales & Rental of Goods, Merchandise, and Equipment					
Convenience store under 3,000 square feet	D			P	
Convenience store 3,000 square feet and over				CU	
Retail food establishments under 3,000 square feet				P	
Retail food establishments 3,000 square feet and over				CU	
Retail sales establishments under 3,000 square feet	D			P	CU
Retail sales establishments 3,000 square feet and over				CU	CU
Supermarket under 3,000 square feet	D			P	
Supermarket 3,000 square feet and over				CU	
Restaurant under 3,000 square feet	D			P	
Restaurant 3,000 square feet and over				CU	
Wholesale trade establishment under 3,000 square feet	D			P	
Wholesale trade establishment 3,000 square feet and over				CU	
Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods and Services					
Business service establishments	D			P	
Offices	D			P	P
Miscellaneous service establishments	D			CU	
Personal service establishments	D			CU	
Retail service establishments	D			CU	
Social service establishments	D			CU	P
Manufacturing, Assembling, Processing					
Manufacturing establishments	D				

Blank =Not permitted **P =Permitted use** **SP =Site plan review required, see Sec. 4-2** **CU =Conditional use, see Sec. 4-6** **D =See definition in Art. 2**		**Zone AR-1**	**Zone R-1**	**Zone C-1**	**Zone I**
Educational, Cultural, Religious, Philanthropic, Social, Fraternal					
Club, private such as golf, swimming, and tennis clubs, lodges, and other annual membership clubs	D				P
Educational institutions, public and private	D	CU	CU	CU	P
Places of worship	D	CU	CU	CU	P
Institutional, Residence, Care, Confinement & Medical Facilities					
Day care home	D	CU	CU	CU	P
Day care home, family (4-6 clients)	D	P	P		
Day care home, Group (7-12 clients)	D	CU	CU		
Hospital	D			CU	CU
Medical clinic	D			CU	P
Nursing and care facilities	D			CU	P
Surgical center	D			CU	P
Fitness / wellness center				P	P
Transportation-Related Sales & Service					
Motor vehicle filling stations				P	
Motor vehicle sales, repair, service and storage				CU	
Storage & Parking					
Distribution center	D			CU	
Garage, public or commercial parking				CU	
Self-storage facility	D			CU	
Portable temporary outdoor storage units		P[1]	P[1]		
Dumpsters		P[2]	P[2]		
Warehouse	D			CU	
Public, Semi-Public, Emergency					
Government facilities and services, local	D	CU	CU	P	P
Government facilities and services, non-local	D	CU	CU	P	P
Parks & open space		P	P	P	P
Public safety facilities including, ambulance, fire, po lice, rescue, and national security	D	CU	CU	CU	P
Public utility service facilities	D	CU	CU	CU	P
Recreation facility	D	CU	CU	CU	P
Not Grouped Elsewhere					
Cemeteries					P
Funeral home				P	P
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 residential				P	

[1]Portable temporary outdoor storage units are a permissible use in the R-1 and AR-1 zones for a period not to exceed one month or for the duration of an active building permit. See. Article 6-1, A, 3, b and Article 6-1, B, 3, b.

[2] Dumpsters are permissible in the R-1 and AR-1 zones only if they are associated with construction activities occurring on the same lot, and may only be located on the lot for the duration of the active building permit governing said construction activities. See Article 6-1, A, 3, c and Article 6-1, B, 3, c.

Article 8. Dimensional & Density Standards

Section 8-1. Basic Dimensional & Density Standards

A. Residential Zones. See Table 8-1, *Basic Development Standards.*

1. No proposed one-family dwelling need have a setback greater than the average setback of the 2 existing dwellings with the greatest setbacks within 200 feet on each side of the said proposed dwelling, on the same side of the street and within the same block and the same zone.

B. Non-Residential Zones. See Table 8-1, *Basic Development Standards*

C. Accessory Buildings & Structures. See Table 8-2, *Dimensional & Density Standards for Accessory Buildings and Structures.*

D. Projections into Required Yards. See Table 8-3, *Permitted Projections into Required Yards.*

Section 8-2. Supplemental Dimensional & Density Standards

A. Structures to Have Access

1. Lots on which new structures are built or to which a structure is relocated must be adjacent to, or have access to, a public street.
2. Structures shall be placed on lots in a manner that provides safe and convenient access for utility servicing, fire protection, and required off-street parking.

B. Fences, Walls, Hedges & Shrubbery

1. Setbacks. Fences, walls, hedges, and shrubbery may be placed anywhere on a residential lot as long as they comply with the height limitations stated in this subsection.
2. Height limitations for fences and walls
   a. Front property line. Fences shall not exceed 4 feet in height.
   b. Side property line. Maximum height shall be a maximum of 4 feet in height up to the front façade of the principal structure on the lot; thereafter the maximum height shall be 6½ feet.
   c. Corner side property line. Maximum height shall be 6 ½ feet and shall meet visibility requirements as set forth in Section 8-2, C.
   d. Rear Property Line. Shall be 6½ feet.
3. Non-Residential Uses. The Planning Commission may allow or require fences, walls, hedges, or shrubbery that are higher than the limitations stated in this subsection. In making such a determination, the Planning Commission must find that exceeding the height limitations is necessary due to the type of use, security concerns, or the protection of adjacent properties. The Planning Commission may refer these requests to the Administrator at their discretion.

C. Visibility at Intersections within "Sight Triangle"

At street intersections, nothing shall be built, placed, planted, or allowed to grow higher than 3 feet within the "sight triangle" measured along the right-of-way line above the curb level of the intersecting streets for a distance of 20 feet from the intersection and formed by connecting the respective 20-foot distances. Obstructions existing at the time this ordinance is adopted may remain.

D. Height Limit Exemptions

The height limitations of this Ordinance do not apply to appurtenances usually required to be placed above the roof level and not intended for human occupancy. Such appurtenances include, but are not limited to belfries, chimneys, cupolas, flag poles, ornamental towers, public monuments, radio and television antennas for residential use, smoke stacks, spires, and water towers.

E. Existing Setback

No proposed structure need have a front yard setback greater than the average setback of the two existing structures with the greatest setbacks within two hundred (200) feet on each side of the said proposed structure on the same side of the street.

Table 8-1. Basic Development Standards

	R-1	**AR-1**	**C-1**	**I**
Standard	**Single Family**	**Agricultural -Residential**	**Commercial**	**Institutional**
Tract Area[1] (SF[2])	5,000	21780	10,850	10,850
Lot Standards				
Lot Area[3] Per DU[4] (SF)	5,000	21780	N/A	N/A
Lot Width at Front Bldg. Line (feet)	50	100	50	50
Minimum Lot Depth (feet)	100	150	100	100
Setbacks (feet)				
Front Yard	10	20	15	15
Side Yard[5]	5 each	20 each	20 each	20 each
Rear Yard[5]	15	30	30	30
Maximum Building Height				
Stories	2 ½	2 ½	2 ½	2 ½
Feet[6]	35	35	35	35
Maximum Building Coverage (Percentage of Lot)	60%	20%	50%	50%
Green Area (Percentage of Lot)	15%	80%	15%	15%

Notes:

1. Tract Area is the minimum acreage (in square feet) needed to develop land in each zone.
2. SF means square feet.
3. Lot Area is the minimum lot size for each dwelling unit type.
4. DU means dwelling unit.
5. There is a required 10' clearance between a new structure and an existing structure on an adjacent lot.
6. Refer to definition of Building Height in Article 2.

Table 8-2. Dimensional & Density Standards for Accessory Buildings and Structures

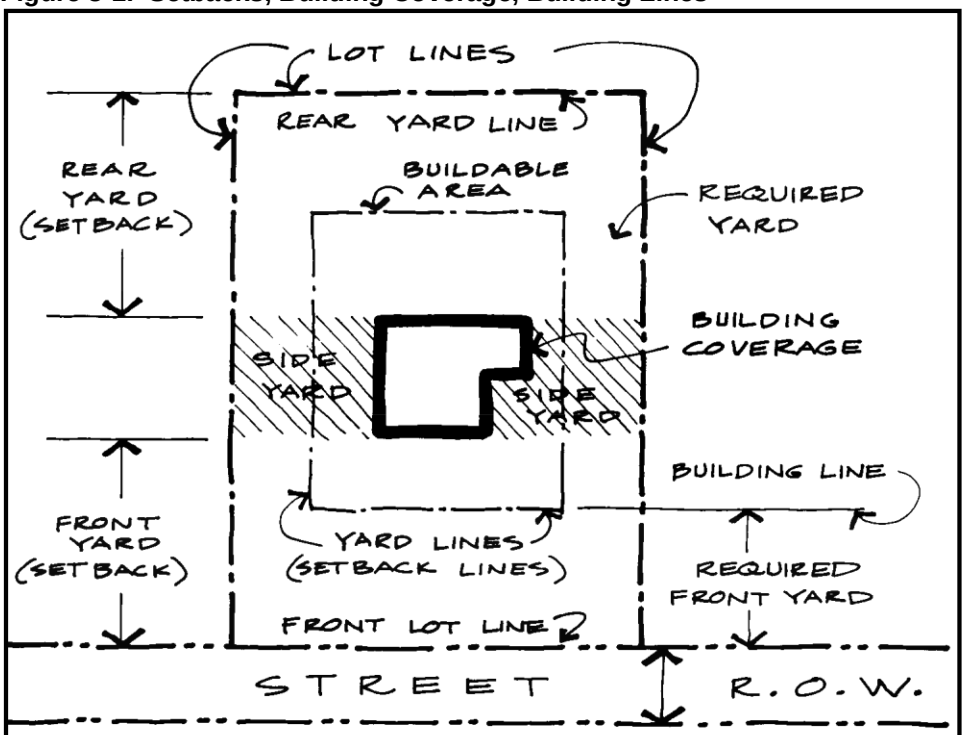
Standard	Detached Garage	Other Detached Accessory Buildings
Location	Rear yard	Rear yard
Setbacks		
Side-interior	5 feet	5 feet
Side-corner	5 feet	5 feet
Rear	5 feet	5 feet
Distance from main building	10 feet	10 feet
Distance from dwelling on adjacent Residential Lot	20 feet	20 feet
Maximum Height	2 ½ stories or 35 feet	2 ½ stories or 35 feet
Maximum Lot Coverage	Must be included in calculation of coverage for principal building	Must be included in calculation of coverage for principal building

Table 8-3. Permitted Projections[1] into Required Yards

Type of Projection	Front Yard	Interior Side Yard	Corner Side Yard	Rear Yard
Balconies, bay windows, entrances, oriels, and vestibules less than 10 feet wide	3 feet	3 feet	3 feet	3 feet
Chimneys	2 feet	2 feet	2 feet	2 feet
Cornices and eaves	2 feet	2 feet	2 feet	2 feet
Decks, platforms, or similar raised structures	Not permitted	Not permitted	Not permitted	6 feet
Outside stairways	Not permitted	Not permitted	Not permitted	6 feet
Porches, steps, stoops, terraces, and similar features				
Open	9 feet	3 feet	3 feet	9 feet
Roof covering porches, steps, stoops, terraces	4 feet	Not permitted	Not permitted	4 feet
Enclosed, including screened-in porches	Not permitted	Not permitted	Not permitted	Not permitted

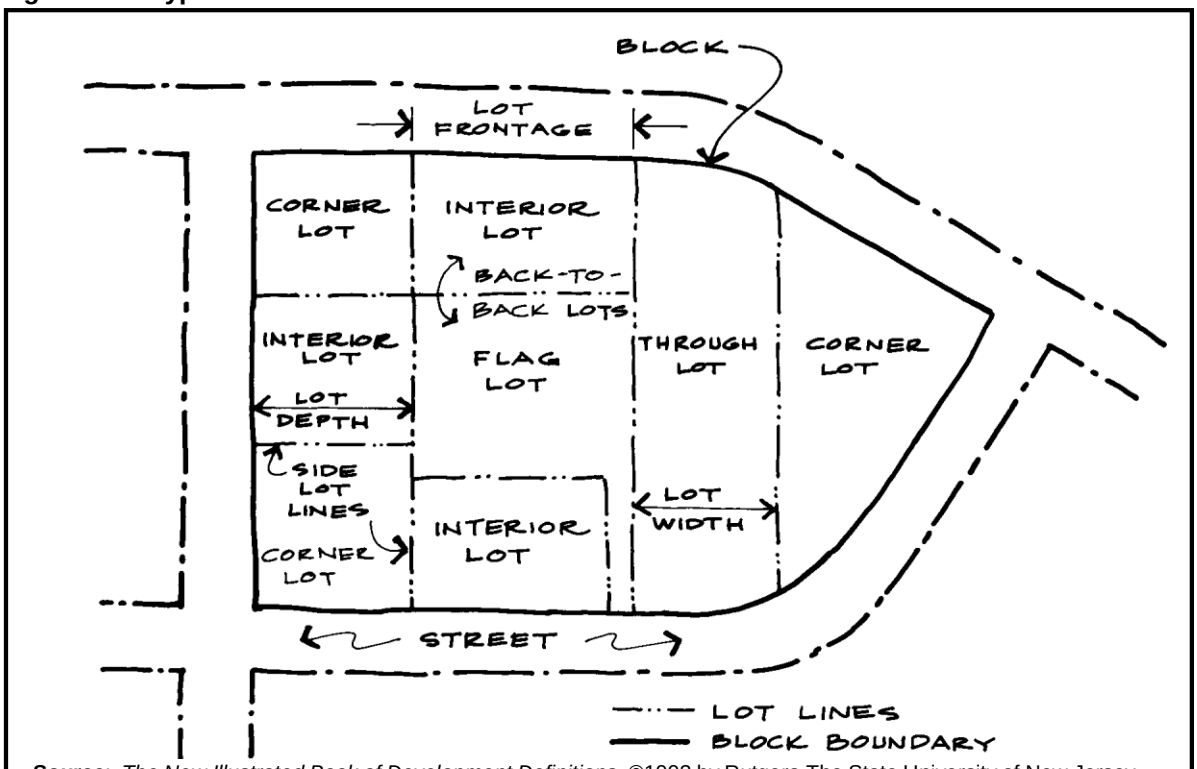
1. Projections into required yards refers to structural features and elements that are permitted, without a variance, to extend into the setbacks otherwise specified by this ordinance. These structural features and elements may be constructed *within* the required setbacks as otherwise permitted. This table provides some latitude for additional projections.

Figure 8-1. Setbacks, Building Coverage, Building Lines



Source: *The New Illustrated Book of Development Definitions*, ©1993 by Rutgers-The State University of New Jersey.

Figure 8-2. Types of Lots



Source: *The New Illustrated Book of Development Definitions*, ©1993 by Rutgers-The State University of New Jersey.

Article 9. Subdivision & Land Development

Section 9.1- Applicability

The provisions of this Article govern the preparation of all development plans regardless of whether they result in the subdivision of land.

Section 9-2. General Requirements

A. Conformance to Applicable Rules and Regulations

In addition to the requirements established in this Ordinance, all subdivisions shall comply with the following laws, rules, and regulations. If a subdivision plan does not comply with these laws, rules, and regulations, it may be disapproved and building permits may be withheld.

1. All applicable statutory provisions.
2. The provisions of this Ordinance, building and housing codes, and all other applicable laws of the County and State.
3. The Municipal Comprehensive Plan.
4. Standards and regulations adopted by any Municipal boards, committees, or commissions.
5. Rules, regulations, and standards of applicable County or State agencies.

B. Subdivision Name

KENT County 911 Addressing shall approve the proposed name of the subdivision.

C. Reference Monuments

1. Permanent reference markers shall be at such locations as approved by a registered land surveyor and represent common surveying practices.
2. Monuments shall be located on street right-of-way lines, at street intersections, angle points of curves and block corners. They shall be spaced so as to be within sight of each other, the site lines being wholly contained within the street lines.
3. The external boundaries of a subdivision should be monumented in the field. These monuments should be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius and at all angle points in any line.

D. Character of Land

Land which the Municipal Governing Body finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features, which will be harmful to the safety, health, and general welfare of the current or future inhabitants of and/or its surrounding areas, shall not be subdivided or developed unless acceptable methods are determined by the developer and approved by the Municipal Governing Body upon recommendation of the Administrator, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses that mitigate the characteristics that make the land unsuitable for development.

Section 9-3. Lot & Block Design

A. Block Design

1. Spacing. Streets shall be spaced so that blocks meet the dimensional requirements of this Ordinance and to minimize the number of intersections with existing or proposed State-maintained roads.
2. Shape. The lengths, widths, and shapes of blocks shall be appropriate for the character of the Municipality, the surrounding neighborhood, and the proposed development.
3. Easements. The subdivision plan shall provide for the reservation of easements through a

block to accommodate utilities, drainage facilities, or pedestrian traffic.

B. Lot Design
   1. General Requirement. Lots shall be arranged so that there will be no foreseeable difficulties, because of topography or other conditions, in securing building permits.
   2. No lot lines shall be platted in any floodplain, wetland, riparian buffer, or designated open space.
   3. Lot Access. Every lot shall abut and have access to a public street.
   4. Lot Dimensions
      a. General. Lot dimensions shall comply with the minimum size, width, depth, and other applicable dimensional and density standards of the zone in which they are located.
      b. Side Lot Lines. In general, side lot lines shall be at right angles to street lines or radial to curving street lines unless a deviation from this rule will produce a better street or lot plan.
      c. Corner Lots. Corner lots shall have sufficient extra width to permit the building setback from both streets required in this Ordinance.
      d. Depth and Width. Excessive lot depth in relation to lot width shall be avoided.
      e. Lot Area. The area of all lots shall be the minimum required for the zone in which the subdivision is located.
      f. Lots Used for Single-Family Homes. The size and shape of lots intended for single-family use shall be sufficient to permit the construction of garage for a single automobile.
      g. Non-Residential. The depth and width of properties proposed for non-residential uses shall be sufficient to provide parking, loading, landscaping, and other facilities specified in this Ordinance, and other applicable requirements.
      h. Double the Minimum Area. Where lots are more than double the required minimum area, the Municipality may require that these lots be arranged to permit further subdivision and the opening of future streets.
      i. Drainage
         i. Lots shall be laid out so as to provide positive drainage away from all buildings.
         ii. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area in which the subdivision is located.
         iii. Drainage systems shall be designed to avoid concentration of storm water runoff from adjacent lots on to any single lot.
         iv. Drainage plans must be approved and constructed according to the requirements of the Kent Conservation District and Delaware stormwater regulations.
   5. Lot Orientation
      a. The lot line common to the street right-of-way shall be the front lot line.
      b. All lots shall face the front line and a similar line across the street.
      c. Wherever feasible, lots shall be arranged so that the rear line does not abut the side line on an adjacent lot.
   6. Lot Frontage
      a. Street frontage of any lot shall be as specified in the Dimensional and Density Standards of this Ordinance measured along the right-of-way line. Where street frontage is not specified in the Dimensional and Density Standards, it shall be 30 feet.
      b. Double Frontage and Reversed Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

Section 9-4. Easements

A. Applicability

The requirements of this section shall only be construed to apply to the subdivision of land occurring after the adoption of this Ordinance.

B. Required to Accommodate Public Utilities

1. General Requirement. Easements shall be provided where necessary to meet public utility requirements.
2. Along Lot Lines. All subdivision lots shall have five-foot-wide easements along all lot lines for a total easement width of at least 10 feet along a lot line common to two lots. Easements of greater width may be required along lot lines or across lots, where necessary.
3. Along Perimeter Boundaries. Easements along perimeter boundaries of the subdivision shall be no less than 10 feet in width on the interior side of the boundary.

C. Required to Accommodate Waterways and Drainageways

Where a proposed subdivision is traversed by any stream, waterway or drainageway, the subdivider shall make adequate provision for the proper drainage of surface water, including the provision of a 25 foot easement along such waterways and drainageways which will allow for future maintenance of the waterway or drainageway.

D. Permanent Obstructions Prohibited

No building, structure or other permanent obstruction shall be placed on any easement.

Section 9-5. Plans & Profiles

A. Approval Required Prior to Start of Construction

Plans, profiles and specifications for the required improvements shall be prepared by the subdivider and submitted for approval by the Administrator and by the appropriate public authorities prior to construction.

B. Required Information

The plans and profiles to be submitted for all new construction shall include the following:

1. Plans and profiles of each street showing proposed grades and street intersection elevations;
2. A typical cross section of proposed streets showing the width of roadways. Such cross section shall extend laterally to the point where the proposed grade intersects the existing grade, except that in no case shall less than the full width of the street right-of-way be shown;
3. Construction and specification plans of proposed sanitary sewers and storm drains shall be approved by the County, the Kent Conservation District, the Delaware Department of Natural Resources and Environmental Control or the Delaware Department of Transportation where each has jurisdiction;
4. Construction and specification plans of the proposed water distribution system, showing pipe sizes and the locations of all valves and fire hydrants, shall be in accordance with the standards of the relevant state and public utility agencies and the State Fire Marshal;
5. Plans and specifications for any forested buffer strips, if required.

Section 9-6. Inspections & Fees

A. Inspections, As-Built Drawings Required

All construction work on improvements required herein shall be subject to inspection and approval by the Municipal Engineer and/or other authorized individuals during and upon completion of such construction work. Upon the completion of each improvement, the subdivider shall furnish the appropriate official with an accurate and detailed description of

location and the completion date of the improvement as it was actually constructed.

B. Fees for Inspections

The Municipal Governing Body shall establish a schedule of fees to be paid by the subdivider in order to reimburse the Municipality for the cost of inspecting all construction work on improvements required herein.

Section 9-7. Bonds & Guaranties

A. Performance Bond or Guarantee Required

As a condition of approval of improvement plans, the Municipal Governing Body shall require the subdivider to post a performance bond or other guaranty for any improvements required by the application of this Ordinance in an amount sufficient to construct the improvements and in a form acceptable to the Municipal Attorney. The amount of such bond shall be no less than 125% of the cost of improvements. Bonding and guaranties may be required for street and road improvements, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, open space and parks, or other improvements deemed necessary by the Municipality.

B. Additional Bonds or Guarantees Authorized

Where a public agency other than the Municipality has the authority to require performance guaranties, but in the determination of the Municipal Governing Body those guaranties are not adequate to ensure completion of improvements, the Municipal Governing Body may require additional bonds or guaranties in accordance with the provisions of Subsection A of this section.

Article 10. Streets, Sidewalks, Curbs & Gutters

Section 10-1. Roads & Streets

A. General Requirements
   1. Private Streets. Private streets are prohibited.
   2. Service from Public Streets. Every subdivision shall be served by a dedicated public street. There shall be no private streets platted in any subdivision.
   3. Street Names
      a. All new streets shall be named.
      b. Street names shall be selected so as not to duplicate or closely resemble existing names within the Municipality, the same hundred, or postal district and shall be approved by Kent County 911 Addressing.
      c. The continuation of any street shall have the same name.
      d. The developer shall be responsible for the placement of all new street name signs.
   4. Grading and Improvement Plan. Roads shall be graded and improved in conformance with the construction standards of the Delaware Department of Transportation. The Delaware Department of Transportation shall approve design specifications prior to final plat approval.
   5. Classification. Each road shall be classified as either a State-maintained road or a municipal street.
   6. Access to State-Maintained Roads. Where a subdivision borders on, or contains an existing or proposed State-maintained road, the State shall determine how access shall be provided from the subdivision to the State-maintained road.

B. Design Standards
   1. Generally. Streets shall be laid out to create desirable building sites while respecting existing topography, minimizing street grades, avoiding excessive cuts and fills, and preserving trees.
   2. Access streets, intended primarily for access to individual properties, shall be arranged to discourage their use by through traffic.
   3. No curvilinear or suburban style streets shall be permitted unless it can be demonstrated that they are necessary because of exterior lot configurations, or because of topographic conditions. Streets should be constructed in a grid pattern which mimics the historic portions of the town.
   4. Streets shall interconnect within a development, with adjoining development, and with existing streets. Cul-de-sacs are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Cul-de-sac streets shall not exceed 300 feet in length.
   5. Fire department access and fire lane layout shall be provided in accordance with the Delaware State Fire Prevention Regulations.
   6. Collector Streets
      a. Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Municipality determines:
         i. That topography or other physical condition prevents continuation;
         ii. That coordination between the two subdivisions is unnecessary; or
         iii. That access between the two adjacent subdivisions should be restricted.
      b. Access to Undeveloped Adjacent Tracts. Collector streets shall be extended to the boundary lines of adjacent subdivisions. Temporary turnarounds shall be provided within the subdivision at the ends of the collector streets via temporary easements or other means approved by the Commission.

C. Construction Standards
   1. Streets shall be constructed to applicable State standards.

D. General Standards for Rear Access
   1. Rear access is a desirable feature which has many benefits related to community design, off-street parking, emergency service and utility access, and convenience to the homeowners. Rear access is encouraged in all residential developments, including those in the R-1 and AR-1 zones.
   2. The preferred form of rear access is a paved alley designed for vehicular access. Paved walkways are permitted in other types of residential developments when proposed as part of a comprehensive pedestrian and bikeway plan for the community or where they can be shown to benefit property owner's access to the rear of their properties.
   3. Parking shall be prohibited within the right-of-way of any alley. All parking must be located on individual lots on parking pads, in driveways, or in garages. It shall be permissible and encouraged to access parking pads, driveways, and garages from alleys where they are provided.

E. Design Standards for Rear Access
   1. An alley designed for vehicular use shall have a paved surface with a minimum width of 12 feet. The turning radii shall be designed to allow for the safe passage of passenger vehicles, service vehicles such as trash trucks, and emergency vehicles such as fire trucks.
   2. If the alley is to be dedicated to the Town it shall be located in a right-of-way at least 12 feet in width. The town may require additional right-of-way not to exceed 16 feet when utilities are proposed in alleys. If the alley is not to be dedicated to the Town the alley must be common open space that is transferred to the homeowners or condominium association, which will be responsible for maintenance.
   3. All walkways and pathways shall be considered common open space, and transferred to the homeowners or condominium association for maintenance. Deed restrictions shall be enacted to ensure that no fences, sheds, or other obstructions are placed in the walkway easements.
   5. Any fence installed in the rear yard of a residential unit with rear access shall have a gate allowing access to the alley or rear access walkway or pathway.

Section 10-2. Sidewalks

A. Requirement
   Sidewalks are required in all subdivisions on both sides of the street. Sidewalks shall be dedicated as part of the right-of-way of all streets.

B. Design
   Sidewalks shall be 5' wide and separated from the curb by a 3' grass strip, which may contain trees. The Planning Commission may alter this if necessary if it is demonstrated that topographic conditions make this standard unworkable.

C. Construction Standards
   Sidewalks shall be constructed according to applicable State standards.

Section 10-3. Emergency Access

A. General
   1. New developments shall be designed to provide emergency access to the units in accordance with Delaware State Fire Prevention Regulations.
   2. Parking in new developments shall be designed in accordance with Article 14 and in a manner which will minimize the chance that parked vehicles will block rear access points,

cul-de-sacs or other approved turn around areas.

Section 10-4. Curbs & Gutters

A. Requirement
Curbs and gutters may be required for the purposes of drainage, safety, and the delineation or protection of pavement edges.

B. Design
Curb and gutter design shall be governed by the type of street on which they border.

C. Construction Standards
Unless otherwise specified by the Town, curb and gutter shall be integral Portland cement concrete curb and gutter consisting of vertical curb with an integral gutter pan conforming to the dimensions of Type 3 curb and gutter in the Delaware Department of Transportation's Standard Construction Details.

Article 11. Utilities

Section 11-1. General Requirements

A. General
   1. New developments in the R-1 and AR-1 zones shall be designed to the maximum extent possible to consolidate and coordinate utility placement and access for trash collection and other services.
   2. The purpose of this section is to enable utilities and services to be provided in an efficient manner which is also aesthetically pleasing.

B. Connections Required
   1. Provision shall be made for each lot and principal use in the Municipality to be connected to those utility services available in the Municipality at the time of development or subdivision.
   2. Developers/subdividers shall provide required utilities at their expense and dedicate them to the Municipal, County, or other entity as applicable.

C. Location
   1. Connections. The subdivider shall install underground service connections to the street property line of each platted lot at his/her expense.

D. Easements
   1. Easements shall be provided for public and private utilities.
   2. Easements shall be at least 10 feet wide.
   3. The subdivider or developer and the applicable utility companies shall coordinate the establishment of utility easements established in adjoining properties.

Section 11-2. Public Utilities

A. Requirements
   1. In new dwelling units constructed with alley access, public utility equipment (such as gas meters, electric meters, telephone boxes etc.) shall be installed in the rear of the units.
   2. The Planning Commission may require additional right-of-way in alleys to facilitate utility locations to the rear of units. In no case may the commission require right of way in excess of 16 feet. Utility easements may also be used in lieu of additional right-of-way.
   3. In new dwelling units without rear access, public utility equipment located on the front of units shall be screened from public view by landscaping, fencing, or some other method.
   4. Attached and multi-family dwelling units under common ownership or condominium ownership are required to consolidate public utility equipment in a centralized location on the structure. This equipment shall be screened from public view by landscaping, fencing, or some other method.

Section 11-3. Water Facilities

A. Requirements
   1. Connection to municipal water system is required, if available.

Section 11-4. Wastewater Facilities

A. Requirements
   Each lot and each principal use in the Municipality shall be provided with a connection to wastewater facilities according to the following guidelines:
   1. Connection to a sanitary sewer collection and transmission system shall be required.

B. Design and Construction Standards
   1. Subdivisions connected to a sanitary sewer collection and transmission system shall be designed and constructed in accordance with the requirements of the County.

Section 11-5. Lighting

A. Requirement
   Any lighting shall not shine avoidable amounts of light on adjacent properties or create conditions of glare for adjacent properties.

Section 11-6. Trash Collection

A. Requirements
   1. Developers are required to submit information to the Planning Commission detailing how trash collection will be accomplished in new developments in the R-1 and AR-1 zones.
   2. Individual trash receptacles may not be stored outside in the front of attached or multi-family dwelling units. It is acceptable to store trash receptacles inside of front loaded garages.
   3. If alleys are provided, trash collection from the rear of the units is encouraged.
   4. In attached dwelling units without alley access, provisions should be made to enable trash collection from locations easily accessible to rear access walkways or pathways. Provisions should also be made to allow the residents of interior units to store their trash containers in their rear yards.

Section 11-7. Other Utilities

A. General Requirement
   Provision shall be made for each lot and principal use in the Municipality to be connected to utility services, including but not limited to, gas, electricity, telephone, fiber optic, and cable television.

B. Electric and Telecommunications
   1. Electrical and telephone wires and cables, both main and service lines, shall be placed underground in accord with the rules and specifications of the Public Service Commission laws on utility service in developments and any applicable ordinances of the County.
   2. All main underground cables that are within the right-of-way of a street shall be located as specified by the Municipality or the Delaware Department of Transportation, where they have jurisdiction. Underground electric and telephone lines may be located in front yards. Where alleys are used, the utilities should, if possible, be located in the alleys.

C. Gas or Other Underground Utilities
   Gas or other underground utilities should be planned in coordination with other utilities and easements for all utility locations.

Article 12. Environmental Protection Standards

Section 12-1. Water Resource Protection Areas RESERVED

Section 12-2. Drainage

A. Natural Drainage System Utilized to Maximum Extent Feasible
   1. To the extent practicable, all development shall conform to the natural contours of the land. Natural and preexisting man-made drainage ways shall remain undisturbed.
   2. To the extent practicable, lot boundaries shall be made to coincide with the natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways.
   3. Natural and preexisting drainage ways should be analyzed for function and obstructions removed as needed. Mechanized maintenance of the drainage way is permissible. Existing non-invasive vegetation must be preserved where practical. The area must be replanted in accordance with Section 12-7 after maintenance is complete.

B. Proper Drainage Required
   1. All developments, lots, and properties shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the site.
   2. Surface water may not be channeled or directed into a sanitary sewer.
   3. Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets.

Section 12-3. Permanent Stormwater Management

A. Requirement

   Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development.
   1. No development, lot or property may be constructed or maintained in a way that such development, lot or property unreasonably hampers the natural flow of water from adjacent properties across the development, lot or property thereby unreasonably causing substantial damage to the adjacent property.
   2. No development or property may be constructed or maintained so that surface waters from such development or property are unreasonably collected and channeled onto lower adjacent properties at such locations at such volumes as to cause substantial damage to the lower properties.
   3. All stormwater management systems shall be approved by the Kent Conservation District, as delegated by the Sediment and Stormwater Program, and constructed in accordance with Delaware Sediment and Stormwater Reglations.

B. Design and Construction
   1. Stormwater drainage systems shall be separate from and independent of sanitary sewage systems.
   2. Stormwater drainage systems shall be designed and constructed in accordance with standards and specifications of the Delaware Sediment and Stormwater Regulations.
   3. Off-Site Runoff
      a. Where subdivision and/or development results in increased quantities of stormwater runoff leaving the area to be developed, the subdivider shall demonstrate that off-site drainage improvements are adequate to handle the additional water and that all new or expanded swales, pipes or other off-site improvements are located in dedicated

easements which permit efficient access for maintenance purposes.

b. Standards for assessing the adequacy of off-site drainage systems shall be those established by the Kent Conservation District, the DNREC Drainage Program, or the State Department of Transportation where it has jurisdiction.

Section 12-4. Erosion & Sediment Control

A. Requirement

Development plans shall include adequate provision for controlling temporary flooding, soil erosion, and sediment during construction and after construction is completed.

B. Design and Construction

1. All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook.
2. Top Soil. No top soil shall be removed from a site or used as spoil. Top soil moved during the course of construction shall be redistributed so as to provide at least 6 inches of cover to all areas of the subdivision and shall be stabilized by seeding and planting.

Section 12-5. Screening

The Municipal Governing Body may, through the development review process, require the reasonable provision of screening in order to shield neighboring properties from the adverse effects of a development.

Section 12-6. Landscaping & Tree Preservation

A. Trees Along Dedicated Streets

1. Municipal Streets. The developer shall plant or retain sufficient trees between the paved portion of the street and the sidewalk.
   a. One (1) deciduous tree, whose trunk will be at least 12 inches in diameter when fully mature, shall be placed every 40 feet.
   b. The trees to be planted shall be those that can generally be expected to thrive in the area and shall not have a root system that will damage adjacent sidewalks, underground infrastructure or the streets themselves. Street trees shall be selected from the list found in Appendix 1.

B. Tree Planting on Lots

1. The developer shall plant at least two trees on each new lot.
2. These trees shall be in place before the time that a certificate of occupancy is issued for the structure on that lot.
3. The trees shall be selected from the list found in Appendix 1, and shall not be invasive or nuisance species.

C. Tree Planting in Open Space

1. The developer shall plant at least one tree per 3,000 square feet of land area in all active open space areas.
2. These trees shall be in place before the time that the Town accepts the public improvements (streets and utility infrastructure) for dedication.
3. The trees shall be selected from the list found in Appendix 1, and shall not be invasive or nuisance species.
4. Tree planting and reforestation is encouraged in passive open space areas.

Section 12-7. Riparian Buffer Areas (RBA)

A. Minimum Riparian Buffer Area Requirement
   1. RBAs are to be established and permanently protected within all new development via dedication to the town, deed restriction or conservation easement.
   2. The RBA shall extend a minimum of 100 feet past each top of bank of a lake, river, stream or waterway and/or 50 feet beyond any wetland, whichever is greater. Note that there is also a 30 foot building setback from any floodplain as required in Section 12-8 below.
   3. The RBA shall contain no lot lines, structures or infrastructure such as stormwater maintenance ponds. However, as appropriate, the riparian buffer may contain non-paved walking trails and drainage easements.
   4. The riparian buffer, and other associated open space, shall be demarked with permanent markers to ensure against encroachment.
   5. The Planning Commission is authorized to consider and approve adjustments to these minimum standards and dimensions for properties designated Commercial in the Comprehensive Plan. In order to grant these adjustments the Planning Commission must determine that they will result in superior urban design or waterfront redevelopment.
   6. The Planning Commission is authorized to consider and approve adjustments to these minimum standards and dimensions to accommodate for necessary road crossings, topography, existing structures and similar conditions on a parcel.

B. Establishment and Maintenance
   1. Where native vegetation is not present, the RBA must be reforested with native species according to Table 12-1.
   2. No vegetation shall be removed from the RBA, except for removal of invasive and exotic species and hazardous trees.
   3. A transition zone, consisting of scrub/shrub vegetation or low maintenance warm or cool season grass is encouraged between forested RBA and lot lines.
   4. A maintenance plan for the RBA shall be established at the time of subdivision and a responsible party designated to implement the plan.

Section 12-8 Open Space and Recreation

A. General
   1. It is important to provide opportunities for active recreation in all communities, but particularly in town where individual units may not have very large yards.
   2. Attractive, age appropriate active recreation facilities can and do improve the quality of life and property values.

B. Active Open Space Requirements
   1. In new residential developments over five acres in size in the R-1 and AR-1 zones, active open space shall be provided at a rate of 435 square feet per unit, or one-half (.5) acres, whichever is greater.
   2. In new residential developments of less than five acres in the R-1 and AR-1 zones active open space shall be provided at a rate of 435 square feet per unit.

C. Open Space Standards
   1. In new residential developments in the R-1 and AR-1 zones, active open space shall be designed to be centrally located and accessible to all residents in a community.
   2. Active open space may be in the form of one large area, or numerous smaller areas interspersed throughout the community.
   3. The Planning Commission may require improvements (example: playground equipment) in the active open space areas which are appropriate to the intended future residents of the

community.

4. Active open space should be integrated with passive open space and natural areas when ever it is practical to do so.
5. Active open space areas shall be connected to residences and to one another by sidewalks, walking trails, and/or any pathway or walkway system designed into the community.
6. Recreational walking trails may count towards to active open space requirement at the discretion of the planning commission.

D. Passive Open Space Requirements

1. All lands in any new development project in any zone that are constrained by site limitations, environmental features, or buffers as regulated by other parts of this ordinance shall be set aside as passive open space. Passive open space areas may either be left in their natural states, or enhanced using appropriate and environmentally sustainable planting, reforestation, or stabilization methods.
2. Passive Open Space shall contain the following lands in new development projects:
   a. Riparian buffer areas;
   b. Floodplains;
   c. Wetlands;
   d. Forested areas (outside lot lines);
   e. Water resource protection areas.
3. Passive Open Space may also contain the following:
   a. Identified areas of cultural resources;
   b. Significant or important view sheds or aesthetic features.
4. Passive Open Space shall be permanently protected through deed restrictions or conservation easements.
5. Passive Open Space shall be demarked with permanent markers to ensure against encroachment.
6. No structures, lot lines, or infrastructure shall be permitted within passive open space, with the exception of walking trails.
7. No building may be constructed within 30 feet of any floodplain.

Section 12-9 Flood Plain Ordinance

A. This flood plain ordinance is establishing a flood plain area and requiring all persons, partnerships, businesses, and corporations to obtain a permit for development and the construction, substantial improvement, or relocation of any building or structure; providing for certain minimum standards for construction within the flood plain area and setting forth special procedures for submission and approval of plans; and establishing penalties for any person who fails to comply with the requirements or provision of this ordinance.

1. Intent
   a. Promote the general health, welfare, and safety of the community.
   b. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
   c. Minimize danger to public health and safety by protecting water supply, s sanitary sewage disposal, and natural drainage.
   d. Reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the unwise design and construction of development in areas subject to flooding.
2. Abrogation and Greater Restrictions: This Ordinance supersedes any ordinances currently in effect in flood prone areas. However, any ordinance shall remain in full

force and effect to the extent that its provisions are more restrictive.

3. Applicability: It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) within the Flood Plain Area, unless a permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Permit Officer prior to any development. Provisions of all other codes, ordinances, and regulations shall be applicable insofar as they are consistent with the provisions of this Ordinance and the community's need to minimize the hazards and damage resulting from flooding.

B. Definitions

1. **Base flood**. The flood which has been selected to serve as the basis upon which the flood plain management provisions of this and other ordinances have been prepared; for purposes of this Ordinance, the one-hundred (100) year flood.

2. **Basement**. Any area of the building having its floor subgrade (below ground level) on all sides

3. **Development.** Any man-made change to improved or unimproved real estate, including but no limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

4. **Flood.** A general and temporary inundation of normally dry land areas.

5. **Flood Plain.** (1) a relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; (2) an area subject to the unusual and rapid accumulation or runoff of surface waters from any source.

6. **Floodway.** The channel of a river or other watercourse and the adjacent land area that must be reserved to discharge the base flood without increasing the water surface elevation of that flood more than one foot at any point.

7. Floodproofing. Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

8. **Historic Structure.** Any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

i. By an approved state program as determined by Secretary of the Interior; or,

ii. Directly by the Secretary of the Interior in states without approved programs.

9. **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

10. **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

11. **Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

12. **New Construction.** Structures for which the Start of Construction as herein defined commenced on or after January 17, 1979 and includes any subsequent improvements to such structures.

13. **One-Hundred (100) Year Flood.** A flood that has one chance in one-hundred or a one percent chance of being equaled or exceeded in any given year.

14. **Person.** Any individual or group of individuals, corporation, partnership, association or other entity, including State and local governments and agencies.

15. **Principally Above Ground.** Where at least 51 percent of the actual cash value of a structure, less land value, is above ground.

16. **Recreational Vehicle.** A vehicle which is:

a. built on a single chassis;

b. 400 square feet or less when measured at the largest horizontal projection

c. designed to be self-propelled or permanently towable by a light duty truck; and

d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

17. **Special Flood Hazard Area.** An area having special flood hazards, and shown on a Flood Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, V1-30, VE, V, M or E.

18. **Start of Construction.** For other than new construction or substantial improvements under the Coastal Barrier Resources Act, Pub Law 97-348, includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or

not part of the main structure. For a substantial improvement, the actual start of construction means "the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building."

19. **Structure.** A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

20. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

21. **Substantial Improvement.** Any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the Start of Construction of the improvement. This term includes structures which have incurred "substantial damage", as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

C. Establishment of the Flood Plain Area

1. The identified floodplain area shall be those areas of the Town of Little Creek, which are subject to the one hundred (100) year flood, as shown on the Floodway map or Flood Insurance Rate Map (FIRM) and described in the Flood Insurance Study (FIS) prepared for the Town of Little Creek by the Federal Emergency Management Agency (FEMA) dated August 3, 1992, or the most recent revision thereof.

2. The identified floodplain area shall consist of the following three specific areas:

a. The Floodway area shall be those areas identified as such in the FIS and as shown on the Floodway map or FIRM. The term shall also include floodway areas identified in other studies for the approximated area discussed in section (c) below.

b. The Floodway Fringe area shall be those areas for which specific one hundred (100) year flood elevations have been provided in the FIS but which lie beyond the Floodway area. These areas are shown on the Floodway map or FIRM.

c. The Approximated area shall be those areas identified as an A Zone on the Floodway map or FIRM included in the FIS prepared by FEMA and for which no one hundred (100) year flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State or other acceptable source shall be used when available. Where other acceptable information is not available, the elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site. The Town of Little Creek may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted

technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Town of Little Creek.

3. Changes in Designation of Area - The delineation of the identified flood plain area may be revised by the Town of Little Creek where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, a River Basin Commission or other qualified agency or individual document the necessity for such changes. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

4. Boundary disputes: Should a dispute concerning any district boundary arise, an initial determination shall be made by the Permit Officer and any party aggrieved by this decision may appeal to the Town of Little Creek. The burden of proof shall be on the appellant.

D. Utilization of the Floodplain Area

1. In the Floodplain Area any development and/or use of land may be permitted provided that all such uses, activities, and/or development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances and regulations.

2. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in the Base Flood Elevation.

3. Whenever a developer intends to alter or relocate a watercourse within the Floodplain Area, the developer shall notify in writing by certified mail all adjacent communities and the State Coordinating Office of all such intended activities prior to any alteration or relocation of the watercourse, and shall submit copies of such notification to the Federal Insurance Administrator. The developer shall also assure Town of Little Creek in writing that the flood carrying capacity within the altered or relocated portion of the watercourse in question will be maintained.

E. Criteria for Building and Site Plan Approval

1. General - Building Permits are required in order to determine whether all new construction or substantial improvements are:

a. designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. constructed with materials and utility equipment resistant to flood damage.

c. constructed by methods and practices that minimize flood damage.

d. constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. The basic format of the Building Permit shall include the following:

a. Name and address of applicant.

b. Name and address of owner of land on which proposed construction is to occur.

c. Name and address of contractor.

d. Site location.
e. Brief description of proposed work and estimated cost.
f. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
g. Flood zone determination.

3. Elevation and Floodproofing Information - Depending on the type of structure involved, the following information shall also be included in the application for work within the Flood Plain Area:

a. For structures to be elevated to one foot above the Base Flood Elevation:
i. a plan showing the size of the proposed structure and its relation to the lot where it is to be constructed.
ii. all special flood hazard areas and base flood elevations relating to the proposed structure shall be shown on the plan.
iii. a determination of elevations of the existing ground, proposed finished ground and lowest floor, certified by a Registered Professional Engineer, Surveyor or Architect.
iv. plans showing the method of elevating the proposed structure, includes details of proposed fills, pile structures, retaining walls, foundations, erosion protection measures, etc. When required by the Permit Officer, these plans shall be prepared by a Registered Professional Engineer or Architect.
v. plans showing the methods used to protect utilities (including sewer, water, telephone, electric, gas, etc.) from flooding to the Base Flood Elevation at the building site.
b. For structures to be floodproofed to one foot above the Base Flood Elevation (nonresidential structures only):
i. plans showing details of all floodproofing measures, prepared by a Registered Profession Engineer or Architect, and showing the size of the proposed structure and its relation to the lot where it is to be constructed.
ii. all special flood hazard areas and base flood elevations relating to the proposed structure shall be shown on the plan.
iii. a determination of elevations of existing ground, proposed finished ground, lowest floor, and floodproofing limits; certified by a Registered Professional Engineer, Surveyor, or Architect.
iv. a certificate prepared by the registered Professional Engineer or Architect who prepared the plans in 1) above, that the structure in question, together with attendant utility and sanitary facilities is designed so that:
c. below the Base Flood Elevation the structure is water tight with walls substantially impermeable to the passage of water.
d. the structure will withstand the hydrostatic, hydrodynamic, buoyant, impact, and other forces resulting from the flood depths, velocities, pressures, and other factors associated with the Base Flood.

4. Site Plan Criteria - The owner or developer of any proposed subdivision, manufactured home park or subdivision or other development shall submit a site plan to the Permit Officer which includes the following information:

a. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section. \

b. A map showing the location of the proposed subdivision and/or development with respect to the municipality's flood plain areas, proposed lots and sites, fills, flood or erosion protective facilities and areas subject to special deed restriction. In addition, it is required that all subdivision proposals and other proposed new developments greater than 50 lots or five (5) acres, whichever is the lesser, shall include base flood elevation data.

c. Where the subdivision and/or development lies partially or completely in the flood plain areas, the plan map shall include detailed information giving the location and elevation of proposed roads, public utilities and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the flood plain areas.

F. Specific Requirements

1. Design and Construction Standards - In order to prevent excessive damage to buildings, structures and related utilities and facilities, the following restrictions apply to all development, subdivision proposals, manufactured home parks, new construction and to construction of substantial improvements to existing structures occurring in the Flood Plain Area.

a. Basements and Lowest Floors

i. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation.

ii. All new construction and substantial improvements of non-residential structures must have the lowest floor (including basement) elevated to or above the Base Flood Elevation; or, together with attendant utility and sanitary facilities, be designed so that below the Base Flood Elevation the structure is floodproofed in accordance with Section 5.3B.

b. For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either by certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

c. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

d. The bottom of all openings shall be no higher than one foot above grade.

e. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

2. Manufactured Home Placement - All new and replacement manufactured homes to be placed or substantially improved within any floodplain area shall:

a. be elevated on a permanent, properly reinforced foundation so that the lowest floor of the manufactured home is elevated to or above the Base

Flood Elevation and,

b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement,

3. Recreational Vehicle Placement - Recreational vehicles to be placed within any floodplain area shall either: (1) be on the site for fewer than 180 consecutive days and (2) be fully licensed and ready for highway use or meet the provisions of Section 6.1 B.1) of this Ordinance. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect utilities and security devices, and has no permanently attached additions.

4. Fill - If fill is used to raise the finished surface of the lowest floor to the Base Flood Elevation:

a. Fill shall extend beyond a structure for a sufficient distance to provide acceptable access. For residential structures, fill shall extend laterally fifteen (15) feet beyond the building line from all points. For non-residential structures, fill shall be placed to provide access acceptable for intended use. At-grade access, with fill extending laterally fifteen (15) feet beyond the building line, shall be provided to a minimum of twenty-five (25) percent of the perimeter of a non-residential structure.

b. Fill shall consist of soil or rock materials only. Sanitary land fills shall not be permitted.

c. Fill materials shall be compacted to provide the necessary stability and resistance to erosion, scouring, or settling.

d. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the Permit Officer.

e. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.

5. Placement of Buildings - All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum obstruction effect upon the flow and height of flood water.

6. Anchoring

a. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, and lateral movement, thus reducing the threat to life and property and decreasing the possibility of the blockage of bridge openings and other restricted sections of the watercourse.

b. All air ducts, large pipes and storage tanks located at or below the Base Flood Elevation shall be firmly anchored to resist flotation.

c. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the over-the-top and frame ties to ground anchors such as the following:

d. over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.

e. frame ties shall be provided at each corner of the home with five additional

ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.

f. all components of the anchoring system shall be cap able of carrying a force of 4,800 pounds.

g. any additions to a manufactured home shall be similarly anchored.

h. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

7. Storage - No materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal or plant life, shall be stored below Base Flood Elevation.

8. Utility and Facility Requirements

a. All new or replacement water systems whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems.

b. All new or replacement sanitary disposal systems, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

c. All other new or replacement public and/or private utilities and facilities shall be located and constructed to minimize or eliminate flood damage.

d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

9. Drainage - Adequate drainage shall be provided to reduce exposure to flood hazard.

G. Administration

1. Building Permits and Site Plan Approvals Required - It shall be unlawful for any person, partnership, business, or corporation to undertake or cause to be undertaken, any development or the new construction, substantial improvement, the placement or relocation of any structure (including manufactured homes) with the Flood Plain Area, unless a permit has been obtained from the Permit Officer. In addition, where land is to be subdivided, utilized for a manufactured home park or subdivision or otherwise developed, a site plan must be submitted to, and approved by, the Permit Officer prior to any development.

2. Approval of Permits and Plans

a. All permits and plans shall be approved only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of the State and all other applicable codes and ordinances.

b. The Permit Officer shall require copies of all necessary permits from those governmental agencies from which approval is required by Federal or State Law.

c. A record of all information supplied to the Permit Officer shall be kept on file by Town of Little Creek.

3. Application Procedures - Application for building permit and site plan approvals shall be made, in writing, to the Permit Officer, and shall include all information stipulated under Article V of this Ordinance.

4. Changes - After the issuance of a building permit or site plan approval by the Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Permit Officer.

5. Placards - In addition to the building permit, the Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of it issuance and be signed by the Permit Officer.

6. Start of Construction - Work on the proposed construction shall begin within six (6)months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Permit Officer.

7. Inspection and Revocation

During the construction period, the Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable laws and ordinances. In the event of Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances or that there has been a false statement or misrepresentation by any applicant, the Permit Officer shall revoke the building permit and report such fact to the Town of Little Creek for whatever action it considers necessary.

8. Fees - Application for a building permit shall be accompanied by a fee, payable to the Town of Little Creek based upon the estimated cost of the proposed construction as determined by the Permit Officer and those rates set forth in the Town Ordinances for the Town of Little Creek.

H. Appeals and Penalties

1. Appeals - Whenever any person is aggrieved by a decision of the Permit Officer with respect to the provision of this Ordinance, it is the right of that person to appeal to the Town of Little Creek which shall be known as the Appeals Authority. Such appeal must be filed, in writing, within thirty (30) days after the determination by the Permit Officer. Upon receipt of such appeal, the Appeals Authority shall set a time and place not less than (10) nor more than thirty (30) days for the purpose of hearing the appeal. Notice of the time and place of the hearing shall be given to all parties at which time they may appear and be heard. The determination by the Appeals Authority shall be final in all cases.

2. Appeal Review Criteria - All appeals contesting only the permit fee established by the Permit Officer may be handled at the discretion of the Appeals Authority. All decisions on appeals to all other provisions of this Ordinance shall adhere to the following criteria:

a. Affirmative decisions shall only be issued by the Appeals Authority upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the appeal would result in exceptional hardship to the applicant, and (3) a determination that the granting of an appeal will not result in creased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinance.

b. An affirmative decision shall be issued only upon determination that it is the minimum necessary, considering the flood hazard, to afford relief.

c. An affirmative decision may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the

historic character and design of the structure.

d. The Appeals Authority shall notify the applicant in writing over the signature of a community official that (1) the issuance of a decision to allow construction of a structure below the Base Flood Elevation will result in increased premium rates for flood insurance, (2) such construction below the Base Flood Elevation increases risk to life and property. Such notifications shall be maintained with a record of all decisions as required in paragraph (e) of this section; and

e. The Appeals Authority shall (1) maintain a record of all decisions including justification for their issuance, and (2) report such decisions issued in its biennial report submitted to the Federal Insurance Administration.

f. an affirmative decision shall not be granted for any construction, development, use or activity within any floodway area that would cause any increase in the Base Flood Elevation.

3. Penalties - Any person who fails to comply with any or all of the requirements or provisions of this ordinance or direction of the Permit Officer or any other authorized employee of the community shall be guilty of an offense and, upon conviction, shall pay a fine to the Town of Little Creek of not less than fifty dollars ($50.00) or more than five hundred dollars ($500.00) plus cost of prosecution. In default of such payment such person shall be imprisoned in county prison for a period not to exceed 10 days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or non-compliance with this Ordinance or permit it to continue; and all such persons shall be required to correct or remedy such violations or non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in non-compliance with this Ordinance may be declared by the Town of Little Creek to be a public nuisance and abatable as such.

I. Severability and Municipal Liability

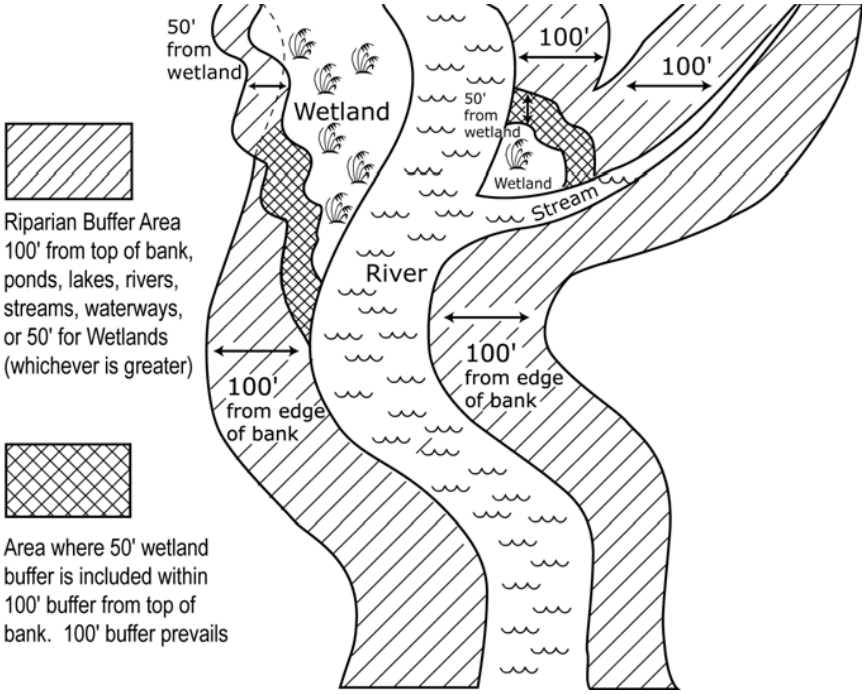
1. Severability - If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

2. Municipal Liability - The granting of a permit or approval of a subdivision or development plan in an identified floodprone area, shall not constitute a representation, guarantee, or warranty of any kind by the Town of Little Creek or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Town of Little Creek.

Table 12-1. RBA Reforestation Requirements per Acre

No. of Plants	Types of Plants
1	4" caliper canopy
4	3" caliper canopy
10	1-1/2" caliper canopy
6	1-1/2" caliper understory trees
50	6" whip canopy
30	Bare root or 1 gallon pots

Figure 12-1. Diagram, Riparian Buffer Area



Article 13. Signs

Section 13-1. Applicability and Purposes

A. Applicability

These sign regulations apply within every existing and future zoning district in the Municipality. A sign may be erected, placed, established, painted, created, or maintained in the Municipality only in conformance with this Ordinance.

B. Purposes

1. To encourage the effective use of signs as a means of communication in the Municipality.
2. To avoid visual clutter and competition among sign displays in their demand for public attention.
3. To promote the safety and convenience of pedestrians and motorists.
4. To minimize the adverse effects of signs on nearby public and private property.

Section 13-2. General

A. Sign Area Measurement

The sign area is the entire portion of the sign that can be enclosed within a single, continuous rectangle. The area includes the extreme limits of the letters, figures, designs, and illumination, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

B. Placement

1. Setbacks. Setbacks are measured from the portion of the sign nearest to the property line.
2. Height. Height is measured from the portion of the sign which is vertically the farthest from the ground.

C. Requirements. Refer to Table 13-1, *Sign Measurement Requirements* and Table 13-2, *Sign Setback and Height Requirements* for Sign measurement and placement requirements.

D. Color

1. Interference with Traffic Safety. A sign must not use color combinations that may be confused with a traffic sign or signal.

E. Illumination

1. Prevention of Glare
   a. Definition. Glare is a direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.
   b. Prevention Requirement. Any illuminated sign must be illuminated using an enclosed lamp design or indirect lighting from a shielded source in a manner that prevents glare from beyond the property line.
2. Interference with Traffic Safety. A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.
3. Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity.
4. Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must be illuminated only during the hours the entity is open for public business.

F. Structural Limitations

1. Interference with Traffic Safety. A sign must not be shaped like a traffic sign or traffic signal, or use wording similar to traffic signals, or interfere with traffic safety.
2. Wind Activated. A sign must not be set in motion or powered by wind.
3. Moving Parts. A sign must not have moving parts.

Section 13-3. Permanent Signs

A. Definitions

1. Free Standing Sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Free standing signs may be mounted directly to a base made of masonry or other materials.
2. Permanent Sign. A permanent sign is a sign constructed in a manner and of materials that will withstand long-term display and is intended to be displayed for an indefinite period of time.
3. Wall Sign. Any sign which is attached to or painted on any wall of any building and projects from the plane of the wall less than 12 inches.

Section 13-4. Real Estate, Development & Construction Signs

A. Definition

Real estate, development and construction signs are signs displayed on private property while such property is offered for sale, rental, or lease; or is being developed; or while an individual or company is engaged in construction.

B. General Requirements

1. Where Allowed. Real estate, development and construction signs may be erected in any zone.
2. Display Period. Real estate, development and construction signs may be displayed while a property is being offered for sale, while land is being developed, and while construction is taking place.
3. Removal. Real estate, development and construction signs must be removed within 30 days of the sale of a property, the completion of a land development project, or the termination of an individual's construction activity.
4. Materials. Real estate, development and construction signs must be made of materials sufficiently durable for the time that they are displayed.

C. Additional Requirements by Sign Type – RESERVED

Section 13-5. Temporary Signs

A. Definition

A temporary sign is a sign displayed on private property for less than 30 days usually made of non-permanent material such as canvas, cardboard, paper, or wood.

B. Requirements for Temporary Signs

Temporary signs shall be removed within one week (7 calendar days) after the event that they are advertising has concluded.

Section 13-6. Prohibited Signs

A. General

1. Definition. A prohibited sign is one that cannot be erected or maintained.
2. The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.

B. List of Prohibited Signs

1. Obstructive Signs. A sign must not be placed in a location that obstructs the view of traffic signs, traffic signals, oncoming traffic, pedestrians, or that interferes, in any way, with placement or function of any traffic control device.
2. Roof Signs. A sign mounted on the roof of a building or that is dependent upon a building

for support, but projects above the top wall or edge of a building with a flat roof, the eve line of a building with a gambrel gable, or hip roof, or the deck line of a building with a mansard roof.

3. Unsafe Sign. A sign which creates a safety hazard due to structural or electrical conditions, or by reason of inadequate maintenance. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 30 days of notice of the unsafe condition.
4. Moved by the Wind. A sign in the form of a banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device which will move in the wind.
5. Signs in the Public Right-of-Way. Generally, signs may not be placed in public rights-of-way. Exceptions to this regulation are signs erected by any governmental agency or utility company in the performance of its official public duties.
6. Attached to the Property of Others. A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees or other vegetation, or to any public structure such as a utility pole without permission of the owner.
7. Abandoned or Obsolete Sign. A legally-erected sign, other than a temporary sign, including structural supports and electrical connections, directing attention to a business, commodity, service, or entertainment in a building that has not been used for 6 months or more.
8. Off-Site Sign (Billboard). A sign directing attention to a business, commodity, service, or entertainment conducted, sold, ordered at a location other than the premises on which the sign is located.

Section 13-7. Exempt Signs

A. Definition

An exempt sign is a sign that is not required to comply with the size, location, and number standards of this Article, but it must comply with the applicable provisions governing Prohibited Signs.

B. List of Exempt Signs

1. Two Square Feet or Less
   a. Residential Living Sign. A sign on private property, customarily associated with residential living or decoration.
   b. Newspaper and Mailbox. A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.
   c. Warning Signs. A sign warning the public about trespass, danger, or safety considerations.
2. Regardless of Size
   a. Not Visible Outside of Property. A sign not visible beyond the property lines of the property on which the sign is located.
   b. Official Duties of Government or Utilities. A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.
   c. Required by Law. A sign whose display is required by law or regulation.
   d. Flags on Flagpoles. A flag displayed on a flagpole.
   e. Commemorative Sign. A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure like a cornerstone, memorial, plaque or historical marker.
   f. Part of a Dispenser. A sign that is an integral part of a dispensing mechanism, such as a

beverage machine, newspaper rack, or gasoline pump.

g. Holidays. A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it must be removed within 20 days following the end of the holiday.

h. Adornments and Decoration. RESERVED.

Section 13-8. Non-Conforming Signs

See Article 5, Nonconforming Situations.

Section 13-9. Administration

A. Permits Required. For permits required, see Table 13-1, *Sign Measurement Requirements and* and Table 13-2, *Sign Setback and Height Requirements.*

B. Application Procedure
Applications shall be submitted to the Planning Commission.

C. Review
Sign requests shall follow the procedures described in Section 4-2 of this ordinance.

D. Permit Fees
The Municipality may adopt fees for the processing and issuing of sign permits.

Section 13-10. Property Addressing Required.

A. Street addresses must be prominently displayed at the main entrance of all main or principal buildings on a lot. Address numbers must be clearly visible to the public and to emergency service personnel.

B. Address numbers must be Arabic numerals in a standard, highly legible font.

C. Address numbers must be of a contrasting color in order to provide maximum visibility when affixed to the structure.

D. Commercial structures or shopping centers with two or more tenants must display the suite number at both the main entrance and also at any side or rear entrance or loading dock associated with that particular commercial space or unit.

E. Address numbers must be a minimum of four (4) inches in height for single family residential dwellings, including manufactured homes.

F. Address numbers must be a minimum of six (6) inches in height for multi-family dwellings. Multi-family dwellings must also indicate each apartment number prominently at the main entrance of the apartment unit in numbers no less than four (4) inches in height.

G. Address numbers for all other land uses shall be no less than eight (8) inches in height.

Table 13-1. Sign Measurement Requirements

Location/Subject of Sign	Sign Types Allowed	Maximum Area (SF)[1]	Permit Required?
Home-based business	Free-standing, wall	16	Yes
Business or commercial use in non residential zone	Free-standing, wall	32	Yes
Subdivision entrance	Free-standing	32	Yes
Real Estate/Temporary	Free-standing	16	No
Conditional use in a residential zone	Free-standing wall	16	Yes
Institutional use	Free-standing wall	32	Yes

[1] SF means square feet

Table 13-2. Sign Setback and Height Requirements

Sign Type	Setbacks	Maximum Height
Free-standing in residential zone	Front: 10 feet from right-of-way Side: Same as principal use. No signs shall be placed within the sight triangle	5 feet
Free-standing in non residential zone	Front: 10 feet from right-of-way Side: Same as principal use. No signs shall be placed within the sight triangle	Shall be no higher than the principle structure on the lot
Wall	Shall be placed on a wall facing a public street or right-of-way, having the same setbacks as the principal use	Below the eave. On flat roofed structures, no sign shall be placed higher than the roof of the structure, or the maximum permitted building height in the zone, which ever is more restrictive.

Article 14. Parking Standards

Section 14.1 Purposes & Scope

A. Purposes
1. To relieve congestion and facilitate the movement of vehicular traffic.
2. To facilitate the movement of police, fire, and other emergency vehicles.
3. To protect adjoining residential neighborhoods from the negative effects of on-street parking.
4. To promote the general convenience, welfare, and prosperity of uses which depend upon off-street parking facilities.

B. Scope
1. When Required. Off-street parking facilities shall be provided under the following conditions:
   a. When any use is established or changed;
   b. When any building or structure is erected, altered, renovated, or expanded.
2. The parking requirements in this part of the Ordinance do not limit requirements or conditions that may be imposed on development plan approvals or other approvals.
3. Parking facilities may not be used for the sale, repair, servicing, or dismantling of any type of vehicle, equipment, material, or supplies.

Section 14-2. Parking Standards

A. Definitions

Off-Street Parking Space. A permanently-reserved, temporary storage area for one motor vehicle that is not located on, but is directly accessible to a dedicated street right-of-way which affords ingress and egress for a motor vehicle without requiring another motor vehicle to be moved.

On-Street Parking Space. A temporary parking space for one motor vehicle that is located within the street right-of way.

B. General Requirements
1. New residential developments in the R-1 zone shall be designed to have both adequate off-street parking for residents of the housing units and adequate on-street parking or overflow parking available to accommodate visitors, service delivery vehicles, and families with more than two vehicles.
2. Parking shall be arranged in a manner so as not to block the travel lanes or impede access to rear access areas and to not obstruct cul-de-sacs and other designated turning areas.

C. Computation of Required Number of Spaces
1. General. The minimum number of required off-street parking spaces shall be determined according to the Table 14-1 *Required Off-Street Parking Spaces*.
2. Fractional Spaces. Where the computation of spaces results in a fractional space, the fractional space shall be counted as 1 additional required space.
3. Number of Employees. The number of employees shall be based on the maximum number of persons employed on the premises at one time on a typical day or night, whichever is greater. Seasonal variations in employment may be considered in determining an average day or night.
4. Joint Use. Where more than one use occupies a single structure, the parking requirements shall be computed by adding together the number of required parking spaces for each use.
5. Shared Facilities. Houses of worship, auditoriums or educational institutions may make arrangements with business establishments, which normally have different days or hours of

operation, for sharing up to 100% percent of their required parking facilities. Such amendments must be approved by the Planning Commission and Municipal Governing Body through the site plan or as conditional use as described in Section 4-1, General Provisions.

6. Uses Not Specifically Listed. The required number of parking spaces for uses not specifically listed in Table 14-1, *Required Off-Street Parking Spaces*, shall be the same as for a similar listed use.
7. Modification of Required Spaces. The Municipal Governing Body may modify the parking requirements when the Governing Body determines that the requirements are clearly excessive and unreasonable.

D. Location

1. General
   a. Parking facilities shall be located on the same lot with the building or use served.
   b. Parking facilities may be located within required building setback areas.
   c. Parking spaces or zones for use by persons with disabilities shall be provided in accordance with the International Building Code as amended and adopted by the County.
2. Exception. Required parking facilities may be located within 300 feet from the building or use served when:
   a. A change in use or an enlargement of a building requires an increase in the number of parking spaces
   b. Spaces are provided collectively to serve 2 or more buildings

E. Design Standards

1. Parking Space Dimensions
   a. Vertical and Diagonal Parking. 10 feet by 20 feet.
   b. Parallel Parking. 10 feet by 22 feet off-street. 8 feet by 22 feet on-street.
2. Interior Drive Aisle Width. 25 feet.
3. Entrances and Exits
   a. The location and design of entrances and exits shall be in accord with the requirements of applicable state regulations and standards.
   b. Landscaping, curbing or approved barriers shall be provided along lot boundaries to control entrance and exit of vehicles or pedestrians.
4. Backing onto Public Road Prohibited. Off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, except for dwelling units each having an individual driveway.
5. Drainage. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
6. Surface Material. Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable Municipal specifications.
7. Separation from Walkways and Streets
   a. Off-street parking spaces shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protective device or by distance so that vehicles cannot protrude over publicly used areas.
   b. Parking within front yard setbacks shall be discouraged and subject to site plan review.
8. Marking. Parking spaces in lots of more than 4 spaces shall be marked by painted lines or curbs or other means to delineate individual spaces. Signs or markers shall be used as necessary to ensure efficient traffic operation of the lot.
9. Lighting. Adequate lighting shall be provided if off-street parking spaces are to be used at night. The lighting shall be arranged and installed to minimize glare into residential areas.

10. Maintenance. Off-street parking areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee.
11. Accessible Parking. Accessible parking spaces shall be signed in accordance with the following:
    a. Such signs shall be vertical and placed at a height of at least 5 feet from grade but no more than 7 feet when measured from the surface directly below the sign to the top of the sign for each parking space;
    b. Such signs shall comply with state and federal specifications for identification of parking spaces reserved for persons with disabilities which limit or impair the ability to walk. A sign at least 12 inches wide (horizontal) and 18 inches tall (vertical) that includes the universal handicapped (wheelchair) symbol of access shall be required for each parking space reserved for use by persons with disabilities;
    c. These requirements shall not be construed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space, or a tow-away warning sign.
12. In units with rear access alleys, the parking spaces must be located in the rear of the units off of the alley.
13. If garages are provided, one space may be counted in the garage provided that the garage is at least 12 feet in width.
14. On-street parking spaces must be situated so as not to obstruct any driveway, alley, walkway, pathway or any other curb cut.
15. Overflow parking may take the form of parking lots, curb bump outs, or other innovative design measures. Approval of overflow parking is at the discretion of the Planning Commission.
16. Driveways which are one car wide shall be either 20 feet in length or 40 or more feet in length. Driveways which are between 20 and 40 feet in length may encourage vehicles to park over sidewalks, walkways, or to park in such a way as to impede traffic on Town streets.

F. Major Recreational Equipment & Unlicensed Vehicles
1. Major Recreational Equipment
    a. Major Recreational Equipment includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, recreational vehicles (RVs), motorized dwellings, tent trailers, personal watercraft, snow mobiles, and similar equipment as well as cases or boxes used for transporting major recreational equipment regardless of whether the equipment is inside of the boxes.
    b. Regulation. On a lot in a residential zone, Major Recreational Equipment:
        i. May not be used for living, sleeping, or other housekeeping purposes;
        ii. No major recreational equipment shall be parked on townhouse or multi-family lots regardless of zone.
2. Unlicensed Vehicles and Trailers. On any residentially zoned property, a vehicle or a trailer that is not used in support of customary farming operations and does not have current license plates may be parked or stored only in a completely enclosed building.

Table 14-1. Required Off-Street Parking Spaces

Use	Parking Spaces Required
Dwellings: single-family dwellings	2 per unit
Dwelling, multi-Family	2 per unit
Home-based businesses	1 per non-resident employee in addition to requirements for resident parking
Non-residential uses on non-residential lots	1 per 300 square feet of floor area
New residential development in R-1 zone	.75 on-street or overflow[1] parking per unit.
New residential development in AR-1 zone	.75 on-street or overflow[1] parking per unit.

1. See Section 14-2, E, 17 for overflow requirements.

Article 15. Architectural Design Standards. RESERVED

Article 16. Text & Map Amendments

Section 16-1. General

The Municipal Governing Body may amend, supplement, change, or modify the number, shape, area, or boundaries of the zoning districts or the text of the regulations contained in this Ordinance.

Section 16-2. Types of Amendments and Who May Initiate

A. Text Amendment
An amendment to the text of this Ordinance may be initiated by the Municipal Governing Body.

B. Zoning Map Amendment
An amendment to the Zoning Map may be initiated by the Municipal Governing Body or by a petition from the owner of the property proposed for a zoning change.

Section 16-3. Application Submission

A. Planning Commission to Accept Applications
An application for map or text amendment shall be submitted to the Planning Commission at least 15 days prior to the Planning Commission's next regular meeting.

B. Planning Commission Recommendation
The Planning Commission shall send application to the Administrator for technical review and the Administrator shall send comments back to the Planning Commission. The Planning Commission shall review the proposed amendment based on the Municipality's Comprehensive Plan and the intent of this ordinance and shall forward recommendations and Administrator comments to the Municipal Governing Body prior to the Municipal Governing Body's public hearing.

Section 16-4. Municipal Governing Body Review

A. Municipal Governing Body to Hold Hearing
The Municipal Governing Body shall set a public hearing date.

B. Public Notice
1. Prior to the public hearing, a notice shall be published in a newspaper of general circulation in the Municipality.
2. The notice shall provide information about the nature of the proposed amendment and announce the time and the place for the Municipal Governing Body's public hearing.

C. Timing of Public Hearing
The public hearing shall be held within 15 days of publication of the notice.

D. Conduct of Public Hearing
All interested parties and citizens shall be given an opportunity to be heard.

E. Review Criteria
1. The Municipal Governing Body shall consider the Municipality's Comprehensive Plan, public testimony, and recommendations of the Administrator and Planning Commission in making decisions regarding text and map amendments.
2. Text Amendment. The Municipal Governing Body may make changes to a proposed text amendment.
3. Map Amendment (Rezoning)
   a. Land must be placed in a zoning classification that is in accordance with the uses of land provided for in the Comprehensive Plan.

b. The Municipal Governing Body may not add land to what was included in the proposed amendment.
c. Placing a single parcel of land in more than one zoning district (split zoning) should be avoided.

Section 16-5. Limitation on Reapplication

No application for an amendment, supplement, change, or modification or repeal requesting the same relief in regard to the same property shall be received by the Municipal Governing Body for a period of one year following the decision in the matter by the Municipal Governing Body.

Article 17. Violations & Penalties

Section 17-1. Municipal Governing Body Authorized to Institute Action

The Municipal Governing Body is authorized and directed to institute appropriate actions to put an end to any violations of this Ordinance.

Section 17-2. Penalties for Violations

A. Initial Violation
   1. Defined. An initial violation is the first time that any person or corporation that:
      a. Shall violate any provision of this Ordinance;
      b. Shall fail to comply with any requirements of this Ordinance;
      c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
      d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
   2. Penalty. An entity, who commits an initial violation, shall be charged with such violation and shall be liable to a fine of not more than $50.00.

B. Subsequent Violation
   1. Defined. A subsequent violation is defined as each and every day, following the initial violation, that any person or corporation that:
      a. Shall violate any provision of this Ordinance;
      b. Shall fail to comply with any requirements of this Ordinance;
      c. Shall fail to comply with the conditions of the approval of site or subdivision plans, variances, conditional uses, or other development-related permits; or
      d. Shall build, alter, or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
   2. Penalty. An entity who commits a subsequent violation shall be charged with such violation and shall be assessed for a violation in the amount of $100.00 each day without the necessity of a separate citation or summons issued by the Municipality.

Section 17-3. Responsible Parties

The owner or owners of any building or premises, or part of such building or premises, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection with such building or premises, and who have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined as herein before provided.

Appendix 1 – Approved Trees

The following species and varieties of trees are considered acceptable for use in the Town of Little Creek. All trees must be 1 ½" caliper dimension at time of planting. The term "caliper dimension" means an outside diameter measurement of the trunk of a tree measured at a vertical distance three (3) feet above grade.

Large trees (over 40 feet): should be planted 40 feet on center.

Acer rubrum "Red Sunset"	Red Maple
Acer saccharum "Green Mountain"	Sugar Maple
Celtis occidentalis	Common Hackberry
Gleditsia triacanthos "inermis"	Thornless Honey Locust
Platanus acerifolia	London Plane Tree (Liberty or Columbia varieties)
Quercus coccinea	Scarlet Oak
Quercus macrocarpa	Willow Oak
Quercus palustric	Pin Oak
Quercus rubra	Northern Red Oak
Quercus shumardii	Shumard Oak
Tilia cordata	Littleleaf Linden
Zelkova serrata	Japanese Zelkova

Note: maples to be planted in a minimum 8 foot wide green strip, or, behind the sidewalk.

Medium trees (30 to 40 feet): should be planted 30 feet on center.

Acer campestre	Hedge Maple
Carpinus betulus	European Hornbeam
Carpinus caroliniana	American Hornbeam
Crataegus crusgalli inermis	Thornless Cockspur Hawthorn
Koelreuteria paniculata	Goldenrain Tree
Prunus serrulata "Kwanzan"	Kwanzan Cherry
Prunus sargenti	Sargent Cherry
Pyrus calleryana	Flowering Pear (Aristocrat or Redspire varieties)
Sophora japonica	Scholar Tree
Syringa reticulate	Japanese Tree Lilac

Appendix 2 – Title 22, Chapter 7 of the Delaware Code

TITLE 22

Municipalities

CHAPTER 7. PLANNING COMMISSION

§ 701. Establishment; membership.

Any incorporated city or town may at any time establish a planning commission under this chapter. A planning commission established hereunder shall consist of not less than 5 nor more than 9 members. Such members shall in cities be appointed by the mayor, subject to confirmation by the city council, and in towns where there is not a mayor shall be elected by the town commissioners. When a planning commission is first established the members thereof shall be appointed or elected for terms of such length and shall be so arranged that the term of at least 1 member shall expire each year and their successor shall be appointed or elected for terms of 2 to 5 years each. Any member of the planning commission so established in a city may be removed for cause after a public hearing by the mayor with the approval of city council; members of the planning commission elected by town commissioners shall be removed by them for cause after a public hearing by a majority vote. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in a city in the same manner as an original appointment and in a town by the town commissioners. Such a planning commission shall elect annually a chairperson and a secretary from among its own number and may employ experts, clerical and other assistants. It may appoint a custodian of its plan and records who may be the city engineer or town clerk. (22 Del. C. 1953, § 701; 49 Del. Laws, c. 415, § 1; 59 Del. Laws, c. 463, § 1; 70 Del. Laws, c. 186, § 1.)

§ 702. Comprehensive development plan.

(a) A planning commission established by any incorporated municipality under this chapter shall prepare a comprehensive plan for the city or town or portions thereof as the commission deems appropriate. It is the purpose of this section to encourage the most appropriate uses of the physical and fiscal resources of the municipality and the coordination of municipal growth, development and infrastructure investment actions with those of other municipalities, counties and the State through a process of municipal comprehensive planning.

(b) Comprehensive plan means a document in text and maps, containing at a minimum, a municipal development strategy setting forth the jurisdiction's position on population and housing growth within the jurisdiction, expansion of its boundaries, development of adjacent areas, redevelopment potential, community character, and the general uses of land within the community, and critical community development and infrastructure issues. The comprehensive planning process shall demonstrate coordination with other municipalities, the county and the State during plan preparation. The comprehensive plan for municipalities of greater than 2,000 population shall also contain, as appropriate to the size and character of the jurisdiction, a description of the physical, demographic and economic conditions of the jurisdiction; as well as policies, statements, goals and planning components for public and private uses of land, transportation, economic development, affordable housing, community facilities, open spaces and recreation, protection of sensitive areas, community design, adequate water and wastewater systems, protection of historic and cultural resources, annexation and such other elements which

in accordance with present and future needs, in the judgment of the municipality, best promotes the health, safety, prosperity and general public welfare of the jurisdiction's residents.

(c) The comprehensive plan shall be the basis for the development of zoning regulations as permitted pursuant to Chapter 3 of this title. Should a jurisdiction exercise its authority to establish municipal zoning regulations pursuant to Chapter 3 of this title, it shall, within 18 months of the adoption of a comprehensive development plan or revision thereof, amend its official zoning map to rezone all lands within the municipality in accordance with the uses of land provided for in the comprehensive development plan.

(d) After a comprehensive plan or portion thereof has been adopted by the municipality in accordance to this chapter, the comprehensive plan shall have the force of law and no development shall be permitted except as consistent with the plan.

(e) At least every 5 years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas. The adopted comprehensive plan shall be revised, updated and amended as necessary, and re-adopted at least every 10 years.

(f) The comprehensive plan or amendments or revisions thereto shall be submitted to the Governor or designee at such time as the plan is made available for public review. The municipality shall provide sufficient copies for review by the Governor's Advisory Council on Planning Coordination. The Advisory Council, within 30 days of plan submission, shall conduct a public meeting, at which time the municipality shall make a presentation of the plan and its underlying goals and development policies, except when the Advisory Council determines that the comprehensive plan, amendments or revisions are fully consistent with statewide land development goals, policies and criteria as adopted by the Governor or Cabinet Committee on State Planning Issues. Following the public meeting the plan shall be subject to the state review and certification process set forth in § 9103 of Title 29. If the Advisory Council determines that a public meeting is not required as provided above, the plan shall be submitted directly to the Governor or the Governor's designee for certification provided in § 9103 of Title 29. Any proposed comprehensive plan that has been submitted to the Office of State Planning Coordination prior to July 13, 2001, for review shall be exempt from the requirements of this subsection.

(g) Municipalities shall provide to the Office of State Planning Coordination by December 31 of each year a report describing implementation of their comprehensive plan and identifying development issues, trends or conditions since the plan was last adopted or amended. (22 Del. C. 1953, § 702; 49 Del. Laws, c. 415, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 477, § 1; 73 Del. Laws, c. 186, §§ 7-9.)

§ 703. General studies and reports.

The planning commission shall have full power and authority to make such investigations, maps and reports of the resources, possibilities and needs of the city or town as it deems desirable, providing the total expenditures of said commission shall not exceed the appropriation for its expenses. Upon completion of any such reports the planning commission shall submit the same to the city council or town commissioners with its recommendations. It shall report annually to the city council or town commissioners on the activities of the planning commission during the preceding year. (22 Del. C. 1953, § 703; 49 Del. Laws, c. 415, § 1.)

§ 704. Adoption of official map.

Each incorporated city or town established under this title may, by action of its city council or town commissioners, adopt an official map prepared under the direction of such planning commission and showing the public ways and parks therein as theretofore laid out and established by law and the private ways then existing and used in common by more than 2 owners. Such official map is hereby declared to be established to conserve and promote the public health, safety and general welfare. Upon the adoption of such a map and upon any change therein or addition thereto made, as hereinafter provided, the city or town clerk shall forthwith file with the recorder of deeds in the respective counties a certificate of such action and a copy of such map as adopted or as changed or added to. (22 Del. C. 1953, § 704; 49 Del. Laws, c. 415, § 1.)

§ 705. Change of or addition to official map.

An incorporated city or town so adopting an official map by action of its city council or town commissioners may, whenever and as often as it may deem it for the public interest, change or add to such map, so as to place thereon lines and notations showing existing or proposed locations not theretofore mapped of new or widened public ways and new or enlarged parks and proposed discontinuances in whole or in part of existing or mapped public ways and parks. No such change or addition shall become effective until after a public hearing in relation thereto before the city council or town commissioners, at which parties in interest shall have an opportunity to be heard. At least 10 days' notice of such a public hearing shall be given by advertisement in a newspaper of general circulation in the city or town or in the county in which the city or town is located. No such change or addition which has not been previously recommended by the planning commission established by this chapter shall be adopted until after a report thereon by said commission and no variance from a plan prepared or approved by said planning commission shall be made except by a two-thirds vote of all the members of a city council or by a two-thirds vote of the town commissioners; provided, that the last mentioned requirement shall be deemed to be waived in case the matter has been referred to said commission for a report and it has failed to report within 30 days thereafter. (22 Del. C. 1953, § 705; 49 Del. Laws, c. 415, § 1.)

§ 706. Establishing or changing public ways and parks.

This chapter shall not abridge the powers of the city council or the town commissioners of any town or any other municipal officer in regard to public ways or parks in any manner except as provided herein, nor shall they authorize the taking of land or the laying out or construction of a way or a park or the alteration, relocation or discontinuance thereof, except in accordance with the laws governing the same; provided, that after an incorporated city and/or town has adopted an official map under this chapter no public way shall be laid out, altered, relocated or discontinued if such laying out, alteration, relocation or discontinuance is not in accordance with such official map as it then appears, unless the proposed laying out, alteration, relocation or discontinuance has been referred to the planning commission of such city or town established under this chapter and such planning commission has reported thereon or has allowed 45 days to elapse after such reference without submitting its report. After a city or town has adopted an official map under this chapter, no person shall open a way for public use, except as provided under the sections of this chapter, unless the location of such way is in accordance with the official map as it then appears or has been approved by the planning commission established under this chapter, and, in either case, the grading, surfacing and draining of such way have been

approved by such commission or by the city or town engineer. (22 Del. C. 1953, § 706; 49 Del. Laws, c. 415, § 1.)

§ 707. Public way or park to be shown on official map.

Upon final action by the proper authorities in laying out, altering or relocating a proper way or in discontinuing the whole or any part thereof or in establishing or enlarging a public park or closing thereof in whole or in part, the lines and notations showing such improvement, discontinuance or closing, as so established or effected, shall, without further action by the city council or town commissioners, be made a part of the official map, if any, of the incorporated city or town in which such public way or park is located. (22 Del. C. 1953, § 707; 49 Del. Laws, c. 415, § 1.)

§ 708. Reference of certain matters to planning commission.

In a city or town having a planning commission established under this chapter, but which has not adopted an official map, no public way shall be laid out, altered, relocated or discontinued unless the proposed laying out, alteration, relocation or discontinuance has been referred to the planning commission of such city or town and such commission has reported thereon or has allowed 45 days to elapse after such reference without submitting its report. Any city or town having a planning commission established under this chapter may, by ordinance, bylaw or vote, provide for the reference of any other matter or class of matters to the planning commission before final action thereon with or without provision that final action shall not be taken until the planning commission has submitted its report or has had a reasonable fixed time to submit such report. Such planning commission shall have full power to make such investigations, maps and reports and recommendations in connection therewith, relating to any of the subjects referred to under this section, as it deems desirable. (22 Del. C. 1953, § 708; 49 Del. Laws, c. 415, § 1.)

§ 709. Entry upon lands; making examinations and surveys.

Planning commissions established under this chapter, their officers and agents may, so far as they deem it necessary in carrying out this chapter, enter upon any lands and there make examinations and surveys and place and maintain monuments and marks. (22 Del. C. 1953, § 709; 49 Del. Laws, c. 415, § 1.)

§ 710. Enforcement.

The Court of Chancery shall have jurisdiction on petition of the planning commission established hereunder to enforce this chapter and any ordinance or bylaws made thereunder and may restrain by injunction violations thereof. (22 Del. C. 1953, § 710; 49 Del. Laws, c. 415, § 1.)

§ 711. Limitations on powers and liabilities.

This chapter shall not be construed to authorize the taking of land nor the authorization of a city or town to lay out or construct any way which may be indicated on any plan or plot until such way has been laid out as a public way in the manner prescribed by law, nor shall this chapter be construed to render a city or town liable for damages except as may be sustained under § 705 of this title by reason of changes in the official map. (22 Del. C. 1953, § 711; 49 Del. Laws, c. 415, § 1.)

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Appendix 3 – Title 22, Chapter 3 of the Delaware Code

C. CHAPTER 3. MUNICIPAL ZONING REGULATIONS

Subchapter I. General Provisions

§ 301. Grant of power.

For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may 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. (39 Del. Laws, c. 22, § 2; Code 1935, § 6228; 22 Del. C. 1953, § 301.)

§ 302. Division into districts; regulations.

For any or all of the purposes provided in § 301 of this title, the legislative body may divide the municipality into districts of such number, shape and area as may be deemed best suited to carry out the purposes of this chapter, and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of buildings throughout each district but the regulations in 1 district may differ from those in other districts. (39 Del. Laws, c. 22, § 3; Code 1935, § 6229; 22 Del. C. 1953, § 302.)

§ 303. Purpose of regulations.

The regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality. (39 Del. Laws, c. 22, § 4; Code 1935, § 6230; 22 Del. C. 1953, § 303.)

§ 304. Establishment and enforcement of regulations.

The legislative body of the municipality shall provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established and enforced and from time to time amended, supplemented or changed. However, no such regulations, restriction or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality. (39 Del. Laws, c. 22, § 5; Code 1935, § 6231; 22 Del. C. 1953, § 304.)

§ 305. Changes in regulations; procedure.

The regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. In case, however, of a protest against such changes signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change or of those immediately adjacent thereto extending 100 feet therefrom or of those directly opposite thereto extending 100 feet back from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three fourths of all the members of the legislative body of the municipality; provided, however, that in any municipality of this State with a population in excess of 50,000 persons, the foregoing provisions regarding a protest shall not be applicable to any such change which is proposed in connection with the construction of federally assisted multi-family housing for the elderly and handicapped, in all instances of which such change shall become effective by the favorable vote of a simple majority of all the members of the legislative body of the municipality. The provisions of § 304 of this title, relative to public hearings and official notice, shall apply equally to all changes or amendments. (39 Del. Laws, c. 22, § 6; Code 1935, § 6232; 22 Del. C. 1953, § 305; 67 Del. Laws, c. 183, § 1.)

§ 306. Zoning commission.

In order to avail itself of the powers conferred by this chapter, the mayor or the chief executive of cities or incorporated towns shall appoint a commission to be known as the zoning commission of 3 members, the appointments to be confirmed by the legislative body, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The commission shall consist of not more than 2 members from 1 party and appointments shall be made for 2, 4, and 6 years, and for 6-year terms thereafter. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The legislative body shall not hold its public hearings or take action until it has received the final report of such commission. (39 Del. Laws, c. 22, § 7; Code 1935, § 6232; 22 Del. C. 1953, § 306.)

§ 307. Conflict with other laws.

Wherever the regulations made under authority of this chapter require a greater width or size of yards or courts, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this chapter shall govern. Wherever any other statute, local ordinance or regulation requires a greater width or size of yards or courts, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or imposed other higher standards than are required by the regulations made under authority of this chapter, such statute, local ordinance or regulation shall govern. (39 Del. Laws, c. 22, § 10; Code 1935, § 6236; 22 Del. C. 1953, § 307.)

§ 308. Enforcement.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of the building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises. (39 Del. Laws, c. 22, § 9; Code 1935, § 6235; 22 Del. C. 1953, § 308.)

§ 309. Residential facilities for persons with disabilities.

(a) For purposes of all local zoning ordinances a residential facility licensed or approved by a state agency serving 10 or fewer persons with disabilities on a 24 hour-per-day basis shall be construed to be a permitted single family residential use of such property.

(b) For the purposes of this section, the term "persons with disabilities" includes any persons with a handicap or disability as those terms are defined in the Delaware Fair Housing Act Chapter 46 of Title 6. (62 Del. Laws, c. 390, § 4; 74 Del. Laws, c. 149, §§ 9-11.)

§ 310. Transfer of development rights; receiving zones.

For any or all the purposes provided in § 301 of this title, the legislative body of the municipality is expressly granted the authority to develop and adopt regulations governing the transfer of development rights from identified districts, zones or parcels from any unincorporated area in any county to districts, zones, or parcels designated to receive such development rights, and to enter into agreements with counties for such purposes. Whenever a municipality exercises its authority to provide for the receipt of development rights it shall:

(1) Have adopted a comprehensive plan as required by this chapter and conform thereto;

(2) Provide for the transfer of development rights as an option to the use and development of the subject property according to the otherwise applicable zoning requirements;

(3) Limit designation of receiving areas to locations where the municipality has determined that growth should be encouraged and where a transfer of development rights would not result in the inability of either existing or planned public facilities which serve the area to accommodate such growth;

(4) Demonstrate that the creation and regulation of receiving districts are otherwise consistent with promotion of the policies expressed by the comprehensive plans of the municipality and the statewide planning goals and objectives established pursuant to Chapter 91 of Title 29; and

(5) Provide for appropriate incentives for the transfer of development rights, including bonuses for the use of transferred development rights and intergovernmental agreements with counties which would permit the transfer and use of development rights between counties and municipalities. (72 Del. Laws, c. 122, § 5.)

Subchapter II. Boards of Adjustment

§ 321. Creation and powers.

The legislative body of cities or incorporated towns shall provide for the appointment of a board to be known as the board of adjustment and in the rules and regulations adopted pursuant to the authority of this chapter shall provide that the board may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 321.)

§ 322. Composition; terms of office.

(a) In cities or incorporated towns not having heretofore adopted a home rule charter pursuant to Chapter 8 of this title, the board of adjustment shall consist of the chief engineer of the street and sewer

department, the city solicitor and the mayor or an authorized agent of the mayor. If the city or incorporated town has no city engineer or city solicitor, then the mayor or chief executive of such city or town shall appoint 2 members, each to be appointed for a term of 3 years and removable for cause by the appointing authority upon written charges and after public hearing, who, with the presiding officer of the zoning commission, shall constitute the board of adjustment for such city or town. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(b) In cities or incorporated towns having heretofore or hereafter adopted a home rule charter pursuant to Chapter 8 of this title, the legislative body thereof may establish a board of adjustment consisting of 5 members who shall be residents of the city or incorporated town and who shall have knowledge of and experience in the problems of urban and rural development, and who, at the time of appointment, shall not be candidates-elect for or incumbents of an elective public office. The mayor or chief executive officer of such city or incorporated town, with consent of the legislative body thereof, shall appoint 4 members for terms of 4 years, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. The mayor or chief executive officer of such city or incorporated town, with the consent of the legislative body thereof, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of that appointing official. The members shall be entitled to compensation as determined by the city or incorporated town.

(c) In the event that a city or incorporated town qualifying under subsection (b) of this section fails to establish a board of adjustment as permitted in subsection (b) of this section, the board of adjustment shall consist of those persons designated in subsection (a) of this section.

(d)(1) Anything heretofore in this section to the contrary notwithstanding, any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town. The mayor or chief executive officer of such city or town shall appoint such members of the board of adjustment, and all such appointments shall be confirmed by a majority vote of the elected members of the legislative body.

(2) All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. The board of adjustment so selected shall elect from among their own number a chairperson and a secretary.

(3) Any member of the board of adjustment may be removed from office by the legislative body for cause after a hearing by a majority vote of all the elected members of the legislative body of such city or town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 322; 57 Del. Laws, c. 717; 58 Del. Laws, c. 276; 59 Del. Laws, c. 137, § 1; 64 Del. Laws, c. 284, § 1; 70 Del. Laws, c. 186, § 1.)

§ 323. Rules; meetings; administration of oaths; records.

The board of adjustment shall adopt rules in accordance with any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each

question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 323; 70 Del. Laws, c. 186, § 1.)

§ 324. Appeals to board.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 324.)

§ 325. Stay of proceedings.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with the officer that, by reason of facts stated in the certificate, a stay would in the officer's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court having jurisdiction on application on notice to the officer from whom the appeal is taken and on due cause shown. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 325; 70 Del. Laws, c. 186, § 1.)

§ 326. Notice and hearing on appeal.

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person, by agent or by attorney. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 326.)

§ 327. Determinations of board.

(a) The board of adjustment may:

(1) Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto;

(2) Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under such ordinance;

(3) Authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinances, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation or map.

(b) In exercising the powers provided in subsection (a) of this section the board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 327; 65 Del. Laws, c. 61, § 1.)

§ 328. Appeal to Superior Court from board's decision.

(a) Any person or persons, jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer or any officer, department, board or bureau of the municipality may present to the Superior Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days after the filing of the decision in the office of the board.

(b) Upon the presentation of the petition, the Court may allow a writ of certiorari directed to the board to review such decision of the board and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than 10 days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(c) The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 328.)

§ 329. Priority of proceedings.

All issues in any proceeding under this subchapter shall have preference over all other civil actions and proceedings. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 329.)

§ 330. Hearing on appeal.

If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 330; 70 Del. Laws, c. 186, § 1.)

§ 331. Record on appeal.

The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. The cost of a transcript of the hearing appealed from is the responsibility of the person appealing the decision, unless the cost is awarded against the Board as provided in § 332 of this title. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 331; 73 Del. Laws, c. 38, § 1.)

§ 332. Costs on appeal.

Costs shall not be allowed against the board of adjustment, unless it appears to the Court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from. For purposes of this section, the word "costs" includes all fees paid or owed to the Prothonotary's Office in connection with the appeal to the Superior Court and all documented out-of-pocket expenses incurred by the Board of Adjustment in preparing, filing and serving sufficient copies of the record of the proceedings appealed from, including but not limited to expenses for photocopying, copying and/or duplication of survey drawings or plots, audio tape recordings, video tape recordings, computer discs, and expenses for preparing the transcript of the hearing. (39 Del. Laws, c. 22, § 8; Code 1935, § 6234; 22 Del. C. 1953, § 332; 73 Del. Laws, c. 38, § 2.)

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