

***10/18/2021***  
***Proposed Revisions to the***

**TOWN OF LITTLE CREEK,  
DELAWARE  
LAND DEVELOPMENT  
ORDINANCE**

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*Prepared by*

*The Town of Little Creek  
University of Delaware- Institute for Public Administration*

*Funding provided by  
Delaware Sea Grant*

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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 zoning 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.
- 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 principal building on one lot shall not be considered as a required yard or open space for any other principal building on the same lot or 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 in accordance with any validly issued and unexpired building permit issued within 6 months prior to the effective date of this Ordinance, so long as it complies with the zoning regulations in effect at the time the permit was issued and as long as construction begins within 6 months of the adoption of this Ordinance.
  2. Construction is begun when excavation and the piers or footings of at least one (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, provided such agreements are in compliance with this Ordinance.

### **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 than the part judged unconstitutional or invalid.

### **Section 1-14. Annexed Lands**

Any land annexed into the Town of Little Creek shall be classified to the district that most closely resembles the most recent use of the site until changed by amendment.

### **Section 1-15. Review Fees**

The Town Council may adopt a fee schedule for review of all actions covered by this Ordinance.

- A. When the Town needs to retain outside consulting professionals to review, comment, and make recommendations on any type of application required by this Ordinance, the applicant shall be required to cover all such costs associated with the application. At the time the application is submitted, the applicant shall make a deposit to cover the estimated cost of such professionals.
- B. The Town 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.

**Adult Entertainment Establishment.** Any commercial establishment, business or service, or portion thereof, which offers sexually oriented material, devices, paraphernalia or specific sexual activities, services, performances or any combination thereof, or in any other form, whether printed, filmed, recorded or live, pursuant to 24 Del. C. § 1602.

**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.

**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.

**Certificate of Zoning Compliance.** A written document issued by the Town Council 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.

**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.

**Concept Plan.** An informal sketch or drawing of a site or subdivision plan that has sufficient detail and accuracy to be used for high level review and discussion only.

**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.** 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, Small.** A private home in which care, education, protection, supervision, and guidance is provided on a regular basis for one (1) to six (6) children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 103 of the *Delaware Code*.

**Day-Care Home, Large.** A private home in which care, education, protection, supervision and guidance is provided on a regular basis for seven (7) to 12 children, including, but not limited to, those facilities licensed by the State Department of Services for Children, Youth and Their Families pursuant to Title 9, Chapter 104 of the *Delaware Code*.

**Development.**

Any manmade change to improved or unimproved real estate, including but not limited to:

- (a) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure;
- (b) Placement of manufactured homes;

- (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 Town can make an informed decision.

**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, 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 Kent County Building Code. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.

**Dwelling, Multi-Family.** A building containing two (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 one (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 three (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. For purposes of this Ordinance, the term "family" does not include any society, club, fraternity, sorority, association, lodge, federation, long term care facilities, medical facility, drug and alcohol rehabilitation, or similar organizations, unless otherwise expressly permitted by state law.

**Farmers Market.** A temporary outdoor retail establishment providing the seasonal sales of produce, eggs, dairy, honey, meats, seafood, flowers, and other like products sold directly from the grower, harvester or producer, and including prepared foods and beverages. This may include up to 20% of the area for handcrafted items.

**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.

**Flood Compliance Certificate.** A permit issued by the Floodplain Administrator certifying the provision of the Floodplain Requirements Ordinance have been met.

**Floodplain Administrator.** The Floodplain Administrator for the Town of Little Creek is Kent County.

**Floodplain Requirements Ordinance (FRO).** The Floodplain Requirements Ordinance of the Town of Little Creek, Ordinance No. 2014-77.

**Floodproofing Certificate.** The National Flood Insurance Program, Floodproofing Certificate for Non-Residential Structures used by registered professional engineers and architects to certify dry floodproofing designs.

**Floor Area.**

**Floor Area, Gross (GFA).** The sum of the gross horizontal areas of all 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. Where not otherwise specified, "floor area" shall be interpreted as "gross floor area."

**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.

**Freeboard.** A factor of safety usually expressed in feet above a flood elevation for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrological effect of urbanization in a watershed.

**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.

**Glare.** A direct or reflected light source creating a harsh brilliance that causes the observer to squint or shield the eyes from the light.

**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 four (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 two (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 other surfaces through which rainwater cannot infiltrate.

**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 two (2) or more streets at their intersection or upon two ( ) 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, snowmobiles, 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 of 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.

**Micro Retail.** Individual retail sales and services, including food and beverage service, occupying structures with fewer than 600 square feet in area.

**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.

**Mobile Home.** See *Dwelling, Mobile Home*.

**Modular Home.** See *Dwelling, Modular*.

**Motor Vehicle Charging Station.** Building, land or premises used for the retail dispensing or sales of vehicular fuels (which may only be stored above ground in a self-contained system), including vehicular electricity. A convenience store may have a propane filling station component and/or Vehicular Charging Station on its premises as part of its business. Such facility must receive Kent County permission in order to operate. Failure to meet all applicable County, State, and Federal requirements, including pertinent floodplain restrictions, shall result in the revocation of permission to operate such business.

**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.

**Places 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.

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

**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.

**Projecting Sign.** Building-mounted signs with sign faces that are perpendicular to the building wall.

**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 Town, a governmental agency, a public utility, or a private individual or corporation approved by the Town 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 and details of a minor subdivision, major subdivision, or site plan that is submitted for final approval and recordation with the Recorder of Deeds. .

**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.

**Restaurant.** An establishment where food and drink are prepared, served, and sold primarily for consumption within the principal building.

**Restaurant, Take Out.** 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.

**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.

**Services, Personal.** An establishment that provides a service oriented to personal needs of the general public and which does not involve primarily retail or wholesale sales or services to businesses. Personal services include barber and beauty shops, photography studios, shoe repair

shops, household appliance repair shops and other similar establishments, but not including an Adult Entertainment Establishment or Tattoo parlor.

**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*.

**Sidewalk Sign.** A type of freestanding, portable, temporary sign consisting of two faces connected and hinged at the top and whose message is best seen by pedestrians.

**Sign.** An object, devise, display or structure or part thereof situated outdoors or indoors that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illuminations, or projected images.

**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.

**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.

**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 two (2) opposite sides are not more than two (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 and Zoning 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 Town 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.

**Structure, Accessory.** A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

**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 two (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.

**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.

**Tattoo parlor.** Any establishment where the nonmedical indelible marking of a person's skin for ornamental purposes is performed for a fee.

**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.

**Town.** The Town of Little Creek, Delaware.

**Underground Storage Tank (UST).** A UST is 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/Cooking 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.

**Water Dependent Uses.** A facility or use that by its nature is required to be on or adjacent to the Little Creek; without such adjacency the use could not exist.

**Water Enhanced Facility or Use.** Recreation, entertainment, or restaurant facilities or similar uses that achieve greater value or beauty as a result of a location on or near Little Creek.

**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 Town 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 and Zoning Commission

- A. A Planning and Zoning Commission is hereby created. It shall be known as the Town of Little Creek Planning and Zoning Commission.
- B. Organization
  - 1. Members: The Planning and Zoning Commission shall consist of a minimum of 5 members.
  - 2. Appointment: Members of the Planning and Zoning Commission shall be appointed by the mayor and confirmed by Town Council by majority vote.
  - 3. Length of Terms: Members shall each serve a five-year term. Terms shall be staggered so that generally one member is appointed or reappointed each year. There is no limit to the number of terms that can be served.
  - 4. Vacancies: If a vacancy on the Planning and Zoning Commission occurs, the Town Council shall appoint someone to that seat to serve for the duration of the term in the same manner as an original appointment.
  - 5. Removal: A member of the Planning and Zoning Commission can be removed by Town Council for cause, such as improper action or dereliction of duty. A public hearing shall be held, and a majority vote of the Town Council is required to remove the member.
  - 6. Determination of Leadership: The members of the Planning and Zoning 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

The powers and duties of the Planning and Zoning Commission shall be as set forth in Title 22, Chapter 7 of the *Delaware Code*, as amended from time to time.

### Section 3-2. Board of Adjustment

- A. 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*. See Appendix 3 herein.
- 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. See Appendix 3, herein.

### Section 3-3. Administrator

An Administrator shall be appointed by the Town Council to administer this Ordinance. The Administrator need not be a Town resident, and also may be a Town Council Member.

### Section 3-4. Building Permit Authority

Anyone seeking a building permit for property within the Town of Little Creek shall first receive a Certificate of Zoning Compliance from the Town Planning and Zoning Commission.

### Section 3-5. Floodplain Administrator

The Floodplain Administrator for the Town of Little Creek is Kent County.

## **Article 4. Administrative Procedures**

### **Section 4-1. Certificate of Zoning Compliance**

- A. A Certificate of Zoning Compliance shall be required to ensure that every application complies with all regulations of this Ordinance. A Certificate of Zoning Compliance shall be required before:
  - 1. Any building, structure, or sign is erected, moved, expanded or structurally altered;
  - 2. Any change of use; and
  - 3. The issuance of a building permit by the Kent County Division of Inspections and Enforcement.
- B. Applicant shall submit a plan to the Planning and Zoning Commission for compliance review. Upon receipt of the Certificate from the Planning and Zoning Commission, the applicant shall be responsible for submitting the Certificate to the Kent County Division of Inspections and Enforcement.
- C. Application Requirements.
  - 1. The Planning and Zoning Commission shall determine the procedure and information required for obtaining a certificate of Zoning Compliance.
  - 2. To the extent practicable, the procedure and information shall be coordinated with the applications and procedures of other development related activity.
- D. Application submission.
  - 1. Applications shall be submitted to the Planning and Zoning Commission.
  - 2. The Town Council shall establish a fee schedule in an amount significant enough to cover all administrative costs.
  - 3. Incomplete applications may be rejected.
- E. Application review and approval.
  - 1. The Planning and Zoning Commission shall review each application as soon as is feasible following receipt of a complete application.
  - 2. The Planning and Zoning Commission may attach conditions to approval for a Certificate of Zoning Compliance, temporary use permit, or sign permit.

### **Section 4-2. Flood Compliance Certificate**

A Flood Compliance Certificate shall be obtained from Kent County prior to any construction of development activity on land wholly or partially within the floodplain as defined in the Town of Little Creek Floodplain Ordinance.

### **Section 4-3. Temporary Use Permit**

- A. The Administrator may issue a temporary use permit for any temporary use defined in Section 7.5.
- B. Applications requirements and submission: See Sections 4.2 C and D.
- C. Application review and approval: Section 4.2E.
- D. Duration.
  - 1. Where no time limitation is set forth in Section 7.5, the Administrator shall set a limitation based on the nature of the use.
  - 2. The Administrator may grant up to three (3) extensions per year.
  - 3. A temporary use may not exceed 180 days in the appropriate year.

### **Section 4-4. Conditional Use**

- 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 the plan and 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
- The Planning and Zoning Commission shall properly notice the Conditional Use hearing as a public hearing.
1. If the required findings of the Conditional Use are satisfied, then the Planning and Zoning Commission 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.
  2. If the Conditional Use in question is not approved, then the Planning and Zoning Commission shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
  3. The Conditional Use approval shall be tied substantially to the plan presented to the Planning and Zoning Commission. Any change in use or alteration of the plan shall require a new Conditional Use hearing.
  4. Term of approval.
    - a. An applicant must establish the approved Conditional Use within one year following the Planning and Zoning Commission's approval date.
    - b. If after a period of one year the Conditional Use has not been established, the approval shall become null and void.
    - c. The Planning and Zoning Commission may grant up to (2) extension periods, not to exceed one year each time.

#### **Section 4-5. Appeal of Administrative Decisions; 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 this Ordinance that will not be contrary to the public interest, where, 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 so that the spirit of this Ordinance 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 this Ordinance.
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. Appeal of Administrative Decisions
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 review an appeal of an administrative decision:
    - 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 Town Council 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 appeals 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 sections of this Ordinance from which relief is being applied; or

- (b) Identification of the sections of this Ordinance, with which the application must comply, and statements as to how the application complies with those sections.
  - 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) Town 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.
- 4. 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.
- 5. 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*.

**Table 4-1. Information Required for Development Plan Review**

	Single-Family Development Plan	Minor Subdivision	Site Plan	Concept Plan	Major Subdivision	Record Plat
<b>Blank= No requirement</b>						
<b>G = General information</b>						
<b>R= Complete data or information required</b>						
<b>PLAT INFORMATION</b>						
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
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	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	R
Data column including zoning district requirements for lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R		R	R
North arrow and scale	R	R	R	R	R	R
Signature blocks for Mayor and/or pertinent Municipal official, county officials, municipal engineer	R	R	R		R	R
Locations and descriptions of all permanent monuments		R				R
Plan sheets no larger than 24" x 36" including a ½" margin outside of rules border lines or other size acceptable to the municipality	R	R	R	R	R	R
Metes and bounds description showing dimension, bearing, 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	

**Table 4-1. Information Required for Development Plan Review (Continued- pg 2 of 4)**

<b>Blank = No requirement G = General information R = Complete data or information required</b>	<b>Single-Family Development Plan</b>	<b>Minor Subdivision</b>	<b>Site Plan</b>	<b>Concept Plan</b>	<b>Major Subdivision</b>	<b>Record Plat</b>
Proposed lot lines and areas of lots in square feet		R		R	R	R
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
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 fields, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council		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 the Town of Little Creek)						R
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
Conditional Uses required	R	R	R	G	R	R
Payment of application fees	R	R	R	R	R	R
<b>SETTING/ ENVIRONMENTAL INFORMATION</b>						
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map		R	R	G	R	

**Table 4-1. Information Required for Development Plan Review (Continued- pg 3 of 4)**

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
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 water courses, floodplains, wetlands or other environmentally sensitive areas within 200 feet of the site		R	R	G	R	R
Water Resource Protection Areas		R	R	G	R	R
Habitat for Rare and Endangered Species		R	R		R	
Location of all wetlands and supporting documentation <sup>1</sup>	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
Existing rights-of-way and/or easements on and within 200 feet of the 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	

**Notes:**

1. The Town reserves the right to request that all applicants submit a United States Army Corps of Engineers (USACE) approved wetlands delineation to the Town of Little Creek as a part of the application process for any new development.

**Table 4-1. Information Required for Development Plan Review (Continued- pg 4 of 4)**

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
<b>IMPROVEMENTS AND CONSTRUCTION INFORMATION</b>						
Water supply and distribution plan	G	G	G		R	
Sewage collection and treatment plan	G	G	G		R	
Soil erosion and sediment control plan		G	G		R	
Grading plan					R	
Permanent stormwater management plan		R	R		G	
Detailed landscaping plan		R	R	G	R	
Additional utility infrastructure plans including gas, telephone, electric, cable tv				G	R	R
Site identification signs, traffic control signs, and directional signs		R	R	G	R	
Vehicular and pedestrian circulation patterns			G	G	R	R
Parking and loading plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions			R			
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	
Proposed street names, as approved by Kent County 911,				G	R	R
Addressing new blocks lettered consecutively, lots numbered in consecutive numerical order		R			R	R
Other information required by the Town, the County, or other departments and agencies involved in approval of the plan	R	R	R	G	R	

## 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 or previous Ordinances no longer comply with the provisions of this Ordinance.
- B. Intent. The provisions of this Ordinance control the future use of land by encouraging appropriate groupings of compatible uses. While this Article permits nonconformities, it restricts future investments that would tend to extend the timeframe of a nonconforming situation.

### 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. Applicability  
This Article shall apply to any legal structure that became nonconforming following the adoption of this Chapter. This Article shall also apply to nonconforming situations that were legal nonconformities under any previously applicable ordinances or resolutions and that remain nonconforming under this Chapter.
- C. Continued Existence  
A nonconforming structure may be continued under the following conditions:
  - 1. Normal repair and maintenance, such as painting, and replacing windows, doors, or siding, is permitted and encouraged;

2. A nonconforming structure may not be enlarged or expanded 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.
- D. 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 shall only be replaced by homes meeting the current HUD codes and all other requirements of this Ordinance.

#### **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. Applicability.  
This Article shall apply to legal land uses that became nonconforming following the adoption of this Chapter. This Article shall also apply to nonconforming situations that were legal nonconformities under any previously applicable ordinances or resolutions and that remain nonconforming under this Chapter.
- C. 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 the lot on which it is located; and
  2. The use may not be relocated or partially relocated to another area of the lot on which it is located.
  3. The nonconforming use shall not be changed to another use unless such use is in conformance with this Ordinance.
- D. Termination of Legal Nonconforming Status
1. When a nonconforming use of land ceases for any reason for a period of more than 6 months, or if the structure housing the nonconforming use is altered or expanded in any way, its legal, nonconforming status is terminated.
  2. Any subsequent use of such land shall conform to the provisions of this Ordinance.
  3. The nonconforming uses specified below are deemed sufficiently objectionable, undesirable, and out of character in the district in which such use is located as to depreciate the value of nearby properties and uses permitted in the district and restrict the orderly development and general welfare of such district. The following nonconforming uses situated in a residential zone shall be terminated on or before the expiration of three (3) years after the effective date of this ordinance, which period of time is provided for the purpose of permitting the amortization of the remaining value, if any, of such use:
    - a. A junkyard,
    - b. An open storage yard used for materials and/or equipment;



- c. A nonconforming use, no part of which is enclosed within a structure.

### **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 or replaced 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

**Table 6-1. Zoning Districts & Purposes**

Comp Plan Land Uses	Zoning District	Purpose	Typical Kinds of Uses in Zone
Residential	R-1 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 a complimentary mix of commercial business and service uses, particularly waterfront related development that relates to and maintains the town's maritime heritage as specified in the Town's Comprehensive Plan. To allow for low impact and resilient small business development that anticipates projected impacts of sea level rise while promoting viable use of property along the Little River. To encourage development that is compatible with the existing character of the Town of Little Creek. To promote a walkable main street, including public access to Little Creek.	Retail sales and services; offices; Service establishments related to waterfront development; Recreation; Restaurants; Micro-retail; Farmers market; Waterfront related uses: boat ramp, fishing pier
Institutional	Institutional	To provide sufficient space for utilities, public facilities, and institutions.	Churches, civic and government buildings, public facilities and infrastructure

### 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 provisions of this Ordinance and the Town Floodplain 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 it meets the Town's Floodplain Ordinance, and 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 rights-of-way 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 rights-of-way, 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 provisions 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 rights-of-way, 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 rights-of-way, 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 7-2, *Accessory Uses*.
  - 3. General Requirements.
    - a. Office uses within the C-1 district shall be limited to a maximum of 10% of the gross floor area of the ground floor. There are no limitations to upper story occupation.
    - b. Outdoor dining shall be permitted in accordance with the following:

- i. Where outdoor dining is located along a public walkway, a minimum clearance of 48 inches shall be maintained for pedestrian passage.
      - ii. Where dining is located along a public street or parking area, a physical barrier shall be maintained and shall not exceed 4 feet tall.
      - iii. Outdoor dining shall be located a minimum of 10 feet from any property line abutting a residential use and shall be screened from such use.
      - iv. Tables, chairs, umbrellas, and other amenities included in the outdoor dining shall be maintained in good condition and shall be secured during non-business hours.
    - c. Structures elevated to meet floodplain requirements with freeboard shall have an additional setback from the street in accordance with Table 8-1, *Basic Development Standards*.
    - d. Within each site, pedestrian connections shall be provided between the building entrances, parking areas, and the sidewalk along Main Street.
    - e. Dumpsters shall be located to the rear of buildings and enclosed or screened from view. For sites with multiple uses, one consolidated dumpster/trash disposal area shall be provided.
    - f. Ground level utilities and HVAC shall be screened with fencing and/or landscaping.
    - g. Onsite utility wiring and cables shall be run along the ground or other manner which minimizes the visual impact to the greatest extent feasible.
    - h. Site plan review and approval in accordance with Article 4 of this Ordinance shall be required for all principal uses permitted within the C-1 district.
  4. Design Standards.
    - a. In order to best complement the historic character of existing buildings in town, new buildings shall have a gabled roof with a minimum pitch of 9/12 and a maximum pitch of 11/12. The preferred pitch is 11/12.
    - b. Window and door openings
      - i. Building facades facing a public street shall have window and door openings that account for a minimum of 50% of the area of the wall.
      - ii. The design of windows and door openings shall be in accordance with the Pattern Book contained in Appendix 5.
    - c. Lighting style, fencing, landscape plantings, hardscaping materials, building materials, and building colors shall be in accordance with the Micro Retail Pattern Book contained in Appendix 5.
    - d. Lighting:
      - i. The light source in all fixtures, except for pathway lighting, shall be hidden from view of the passing pedestrians and drivers.
      - ii. All lighting, except pathway lighting, shall be full-cutoff in order to reduce glare and avoid sending unnecessary light into the night sky.
      - iii. Building wall lighting should be directed back toward the building or downward toward the pedestrian walkway.
      - iv. The color temperature of any LED lighting shall be a maximum of 3000 degrees kelvin.
  5. Public Access Easements
    - a. The Town Planning and Zoning Commission encourages applicants to provide a public access easement as part of any application adjacent to Little Creek. Such public access easement is intended to be used for a planned trail along Little Creek as shown in the 2020 Town Resilience Plan, designed by the University of Delaware's Coastal Resilience Design Studio.
- 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*.

### **Section 6-3. Zoning Map**

#### **A. Interpretation of Zoning Map**

The incorporated area of the Town 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 shorelines shall be construed to follow such shore lines. If the shoreline 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 district 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 provisions 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.
- 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 for off-street parking and signs set forth in this ordinance.

### Section 7-3. Accessory Uses and Structures

#### A. 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.

- C. Dimensional standards for accessory structures are found in Table 8-2.
- D. Specific provisions for certain accessory uses and structures
  - 1. Each residential lot may have up to one detached garage or pole barn and one shed. Sheds shall be less than 200 square feet. Such structures shall be designed specifically for residential use. The combined square footage of the accessory structures shall be less than the total ground floor area of the principal dwelling.
  - 2. Accessory structures shall count towards the overall maximum impervious coverage of each lot.

#### **Section 7-4. Home-Based Businesses**

- 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, and catering services
  - 3. Instructional services including music, dance, art and craft classes, tutoring
  - 4. Family child care home
  - 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, and electronic devices
  - 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
  - 5. Automotive repairs, automotive sales, automotive service(s), automotive storage
  - 6. Lawnmower/small engine repairs, sales, service(s), storage
  - 7. Manufacturing or sale of any and all cannabis or similar type products
- C. Operational Standards
  - 1. Operating Hours
    - a. General Standard. Customer and client visits to the home-based business are limited to the hours from 7:00 A.M. to 8:00 P.M.
  - 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 line.
  - b. Generate noise that violates any Town 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 typically 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 gross floor area of the principal dwelling are permitted as-of-right and do not require a Conditional Use approval.
  2. Home-based businesses that have outside employees or generate customer traffic shall apply for Conditional Use approval, which is subject to annual review by the Town Council.
- E. Intensity and Parking Requirements
1. Home-based businesses may not constitute more than 30% of the gross floor area of the principal structure.
  2. The home-based business may be located in a principal or accessory structure.
  3. Home-based businesses shall provide a minimum of one (1) off-street parking space per non-resident employee. Such parking shall be in addition to required off-street parking for the dwelling. Proof of availability of such parking shall be demonstrated to Town Council as part of the application. Home-based businesses shall not generate excessive traffic.
  4. There shall be no employee parking in front of the business, except for pick-up/drop offs and deliveries.
  5. The home-based business shall not change the essential residential character of the property.

### **Section 7-5. Temporary Uses**

- A. Purpose: This section allows for the review and approval of short-term activities and structures.
- B. The following temporary uses are permitted and shall require a temporary use permit in accordance with Section 4.4:
1. Food trucks shall be permitted in all nonresidential districts, provided that the sale shall be entirely on private property, with written permission from the property owner and for a maximum of 3 days per week from April through October.
  2. Sales of seasonal and holiday items, such as cut trees, pumpkins, and flowers so long as such items are displayed for not more than 30 days preceding and including the holiday and must be removed immediately following the holiday.
  3. Special events, such as fairs or festivals, for a maximum of 3 days.
  4. Roadside stand for sale of agricultural products produced on that site.
  5. Hours of operation shall be agreed upon by the Planning and Zoning Commission or Administrator as part of the permit approval process.
  6. Farmers Market
    - a. The market shall designate a market manager authorized to direct operation of all vendors participating during all hours of operation and to be the contact person to the mayor's designee.
    - b. Hours of operation shall be limited to between 8AM and 6PM.

**C. Requirements.**

1. Parking: Adequate parking shall be located within 300 feet of the temporary use. Where parking is located on another site, proof of permission of the property owner is required.
2. Site layout
  - a. No obstruction to sidewalks or other pedestrian pathways or the clear sight triangle is permitted.
  - b. No outside storage is permitted.
  - c. Structures shall meet minimum setbacks for the district in which they are located.
3. The applicant must provide security and adequate traffic controls in coordination with the Town.
4. All permit applications shall include a plan for the cleanup of litter. Exterior trash receptacles shall be provided for all outdoor markets. Trash generated shall be disposed of as soon as possible following the close of operation each day.
5. The applicant shall disclose all plans for lighting and utilities.
6. The Administrator may apply other conditions of approval to ensure that the temporary use or structure will be compatible with adjoining uses and not create a nuisance or hazard to public safety and welfare.
7. Temporary signage shall be permitted in accordance with Article 13.

**Section 7-6. Micro retail**

- A. Definition: Retail sales and services, including food and beverage service, occupying structures with less than 600 square feet in area.
- B. Micro retail shall be permitted as a Conditional Use in the C-1 District, subject to the following conditions:
  1. Micro-retail shall only include retail sales and services, including food service. Other uses considered to be water-dependent uses or water-enhanced uses may be considered by Town Council as part of the Conditional Use approval.
  2. Maximum impervious coverage: Micro retail uses shall cover a maximum of 10% of the site, not including parking and walkways.
  3. Parking and loading shall be provided in accordance with Article 14.
  4. Where three or more Micro Retail structures are proposed, the following shall apply:
    - a. A variety of building sizes and orientations shall be provided. Not more than 2 shall be the same size, shape, and orientation.
    - b. Buildings located along the street frontage shall be located behind and within 5 feet of the front setback line for principal buildings.
    - c. Interior buildings shall be oriented towards a central green or walkway.
    - d. Internal walkways shall connect to each building entrance, the public sidewalk and to the parking area.
  5. Micro retail structures, and associated on site street furniture, lighting standards, signs, and other accessory items shall be consistent with the Micro Retail Pattern Book in Appendix 5.
  6. Signs and lighting shall be reviewed as part of the Conditional Use approval.
  7. Trash receptacles shall be provided outside and adjacent to the front door of any establishment with takeout food service or convenience shopping.

8. One centralized trash disposal area shall be provided for the micro retail. Such disposal area shall be screened from view by fencing and/or landscaping.
9. To the greatest extent feasible, electrical wiring of individual retail units shall be run underground or at ground level.
10. HVAC and other utilities for individual retail units shall be screened from view.

**Table 7-1. Permitted Uses and Standards**

		Zone AR-1	Zone R-1	Zone C-1	Zone I
<b>Blank = Not permitted</b> <b>P = Permitted use</b> <b>SP = Site plan review required, see Sec. 15-4</b> <b>CU = Conditional use, see Sec. 4-4</b> <b>D = See definition in Art. 2</b>					
<b>Agriculture-Related Uses</b>					
Farms, customary and conventional farming operations including the raising of vegetables, flowers, and horticultural materials; not to be construed to include commercial poultry and swine production, cattle feeder lots, and fur bearing animal farms		P	P		
Farms, housing or raising of livestock for commercial or non-commercial purposes					
<b>Residential Uses</b>					
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				
Convenience store under 3,000 square feet				P	
Fitness/wellness center				P	
Farmers Market				P	
Micro Retail	D			CU	
Retail food establishments under 3,000 square feet	D			CU	
Retail sales establishments under 3,000 square feet				P	
Restaurant/Take out restaurant under 3,000 square feet	D			CU	
Tattoo parlor	D				
Water dependent and water enhanced uses	D			CU	
Wholesale trade establishment under 3,000 square feet				P	

**Table 7-1. Permitted Uses and Standards (continued)**

Blank P SP CU D	=Not permitted =Permitted use =Site plan review required, see Sec.15-4 =Conditional use, see Sec. 4-4 =See definition in Art. 2		Zone AR-1	Zone R-1	Zone C-1	Zone I
	Offices				p <sup>1</sup>	P
	Personal service establishments				CU	
	Retail service establishments				CU	
	<b>Industrial, Manufacturing, Assembling, Processing</b>					
	Tow Yard					
	Manufacturing establishments					
	<b>Educational, Cultural, Religious, Philanthropic, Social, Fraternal</b>					
D	Club, private such as golf, swimming, and tennis clubs, lodges, and other annual membership clubs				CU	P
D	Educational institutions, public and private	CU	CU	-		P
D	Places of worship	CU	CU			P
	<b>Institutional, Residence, Care, Confinement &amp; Medical Facilities</b>					
D	Day care home, family (1-6 clients)	CU	CU			
D	Day care home, Group (7-12 clients)	CU	CU			
D	Nursing and care facilities		CU			P
	<b>Transportation-Related Sales &amp; Service</b>					
	Motor vehicle filling stations				P	
D	Motor Vehicle Charging Station				P	
	<b>Storage &amp; Parking</b>					
	Public or commercial parking				CU	P
D	Self-storage facility					
	Portable temporary outdoor storage units		p <sup>2</sup>	p <sup>2</sup>		
	Dumpsters		p <sup>3</sup>	p <sup>3</sup>		
	<b>Public, Semi-Public, Emergency</b>					
D	Government facilities and services, local	CU	CU	P		P
D	Government facilities and services, non-local	CU	CU	P		P
	Parks & open space		P	P	P	P
D	Public safety facilities including, ambulance, fire, police, rescue, and national security	CU	CU	CU		P
D	Public utility service facilities	CU	CU	CU		P
D	Recreation facility	CU	CU	CU		P
	<b>Not Grouped Elsewhere</b>					
	Cemeteries					P

**Notes:**

1. Offices shall comprise a maximum of 10% of the lot area of the lot on which they are located.
2. 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.
3. Dumpsters are permissible in the R-1 and AR-1 zones only if they are temporarily 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 single-family dwelling need have a setback greater than the average setbacks 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 within the setback 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 between the front property line and 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. Maximum height shall be 6½ feet.
  - 3. Non-Residential Uses. The Planning and Zoning 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 and Zoning 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 and Zoning 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.

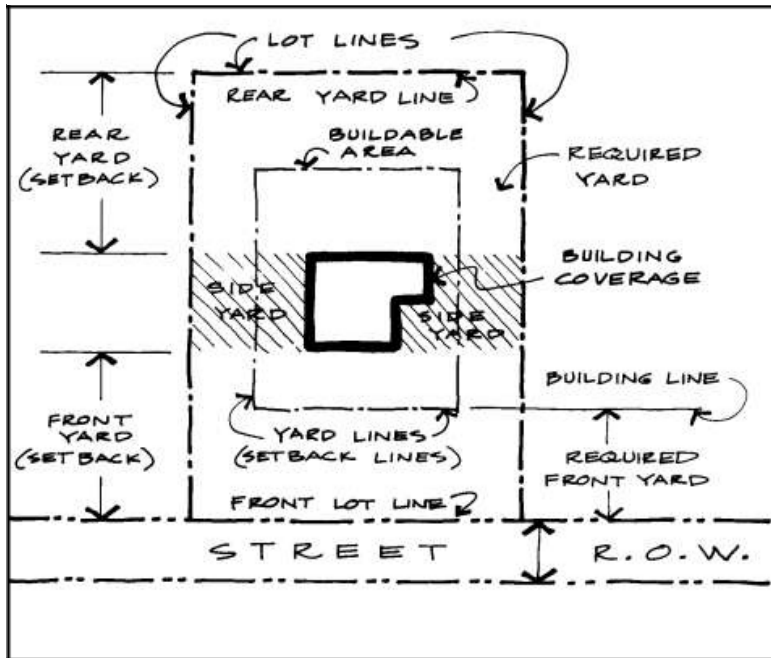
**Table 8-1. Basic Development Standards**

Standard	R-1 Single Family	AR-1 Agricultural -Residential	C-1 Commercial	I-1 Institutional
Tract Area <sup>1</sup> (SF <sup>2</sup> )	5,000	21,780	10,850	10,850
<b>Lot Standards</b>				
Lot Area <sup>3</sup> Per DU <sup>4</sup> (SF)	5,000	21,780	N/A	N/A
Lot Width at Front Bldg. Line (feet)	50	100	50	50
Minimum Lot Depth (feet)	100	150	100	100
<b>Setbacks (feet)</b>				
Front Yard (feet) <sup>7</sup>	10	20	15	15
Side Yard (feet) <sup>5</sup>	5 each and a minimum of 10' between dwellings on adjacent lots	20 each	15 each	20 each
Rear Yard (feet) <sup>5</sup>	15	30	30 <sup>8</sup>	30
<b>Maximum Building Height</b>				
Stories	2 ½	2 ½	2 ½	2 ½
Feet <sup>6</sup>	35	35	35	35
Maximum Building Coverage (Percentage of Lot)	60%	20%	50%	50%
Green Area (Percentage of Lot)	30%	80%	25%	15%

**Notes:**

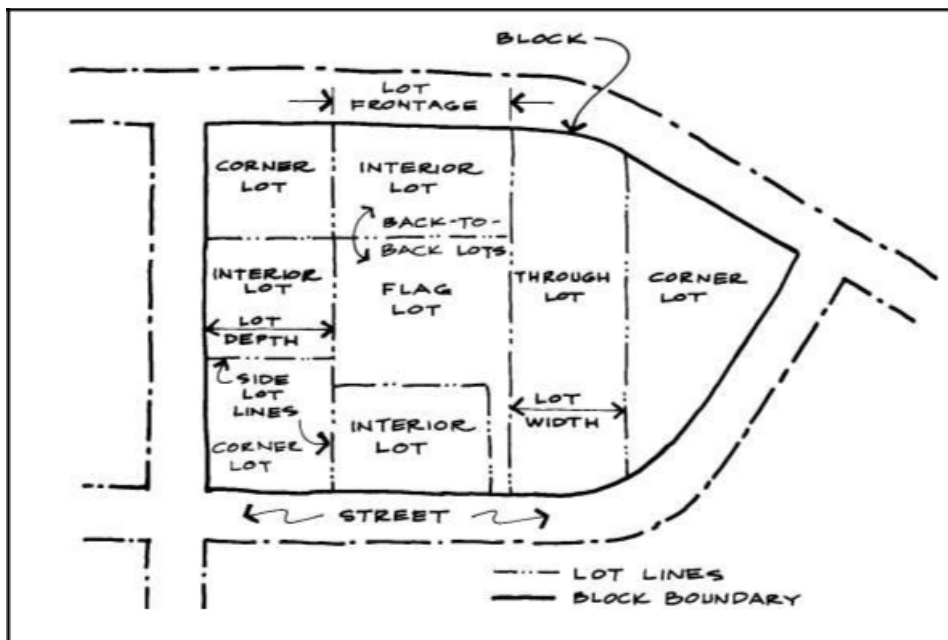
1. Tract Area is the minimum acreage (in square feet) needed to develop land in each zone.
2. SF means square feet.
3. Lot Area is the minimum lot size for each dwelling unit type.
4. DU means dwelling unit.
5. There is a required 10' clearance between a new structure and an existing structure on an adjacent lot.
6. Refer to definition of Building Height in Article 2.
7. Where structures or portions of structures are elevated to meet freeboard standards, the raised portion of the structure shall have a minimum front yard setback of 25 feet.
8. In the C-1 district, nonresidential uses on corner lots may reduce the rear yard setback to accommodate access to parking to the rear of the principal building and preserve the streetscape along Main Street.

**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.

**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 lot	20 feet	20 feet
Maximum Height	20 feet	20 feet
Maximum Lot Coverage	Must be included in coverage for principal building	Must be included in coverage for principal building

**Table 8-3. Permitted Projections into Required Yards**

Type of Projection <sup>1</sup>	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.



## 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

In addition to the requirements established in this Ordinance, all subdivisions shall comply with the following provisions. If a subdivision plan does not comply with these provisions, 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 Town Comprehensive Plan.
4. Standards and regulations adopted by any Town 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 Town Council 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 Town Council 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 Town, 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 Town 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 Town 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 Town Council shall establish a schedule of fees to be paid by the subdivider in order to reimburse the Town for the cost of inspecting all construction work on improvements required herein.

#### **Section 9-7. Bonds & Guarantees**

A. Performance Bond or Guarantee Required

As a condition of approval of improvement plans, the Planning and Zoning Commission shall require the subdivider to post a performance bond or other guarantee 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 Town 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 Town.

B. Additional Bonds or Guarantees Authorized

Where a public agency other than the Town has the authority to require performance guaranties, but in the determination of the Planning and Zoning Commission those guaranties are not adequate to ensure completion of improvements, the Planning and Zoning Commission 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 Town, 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 town 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 is connected to and 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 Town 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
- 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.
  - 4. 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
- 1. For new development, sidewalks are required on both sides of the street. Sidewalks shall be dedicated as part of the right-of-way of all streets.
  - 2. For nonresidential development, a sidewalk shall be provided between the street and the front entrance of the principal use.
- B. Design

Sidewalks shall be five (5) feet wide and separated from the curb by a three (3) foot grass strip, which may contain trees. The Planning and Zoning 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 development 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 Town to be connected to those utility services available in the Town at the time of development or subdivision.
  - 2. Developers/subdividers shall provide required utilities at their expense and dedicate them to the Town, 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. 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.
- B. The Planning and Zoning 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.
- C. 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.
- D. Attached and multifamily 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. New wells shall apply and be approved through Kent County. However, the town of Little Creek strongly encourages applicants to test and understand the water quality available at required depths and to consider installing deeper wells than are typically required.

### Section 11-4. Wastewater Facilities

- A. Requirements
  - Each lot and each principal use in the Town 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.



### Design and Construction Standards

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

The amount light trespass cast onto an adjacent parcel shall not exceed 0.1 vertical foot-candles at the property line. Lighting fixtures shall not direct glare towards any other lots and shall not cast disabling glare towards any public right-of-way.

#### B. Applicability

1. Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse; including commercial, industrial, public-recreational, and institutional uses.
2. The glare-control requirements apply to lighting in all above-mentioned uses as well as, but not limited to, signs, architectural, landscaping, and residential lighting.

#### C. Control of Nuisance and Glare

1. Fixtures shall be of a type and design appropriate to the lighting application and aesthetically acceptable to the Town Council
2. For lighting horizontal tasks such as roadways, pathways and parking areas, fixtures shall meet IESNA "full cutoff" criteria (not have more than 2.5 percent of their light output emitted above 90 degrees at any lateral angle around the fixture).
3. The use of floodlighting, spotlighting, wall-mounted fixtures, decorative globes and other fixtures not meeting IESNA "full cutoff" criteria shall be permitted only with the approval of the Town Council, based upon acceptable glare control.
4. When LED lighting is used the maximum temperature permitted shall be 3000 degrees kelvin.

### Section 11-6. Trash Collection

- A. Developers are required to submit information to the Planning and Zoning Commission detailing how trash collection will be accomplished in new developments in the R-1 and AR-1 zones.
- B. 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.
- C. If alleys are provided, trash collection from the rear of the units is encouraged.
- D. 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 Town 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 Town 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 Regulations.
- 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**

- A. The Town Council 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.
- B. Where nonresidential development in the C-1 or I district adjoins a residential use or the R-1 district, such nonresidential use shall be screened with:
  1. A landscape screen with a minimum width of five (5) feet and planted with a combination of deciduous and evergreen plantings to provide a year-round visual buffer;  
OR
  2. A fence or wall with a minimum of six feet in height shall be planted and/or erected to separate any permitted nonresidential use. Such landscape screen and/or fence or wall may be located within the side yard or rear yard setbacks.

### **Section 12-6. Landscaping & Tree Preservation**

#### A. Trees Along Dedicated Streets

1. Town 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 or a species of equal characteristics as approved by the Planning and Zoning Commission.

#### B. Tree Planting on Lots

1. The developer shall plant at least two trees on each new lot; more trees are strongly encouraged to increase canopy coverage.
  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 or a species of equal value as approved by the Planning and Zoning Commission. No species considered to be and invasive or nuisance species shall be planted within the Town of Little Creek.
- 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, or alternatives approved by the Planning and Zoning Commission and shall not be invasive or nuisance species.
  4. Tree planting and reforestation is encouraged in passive open space areas.
- D. Commercial Development
1. Existing native vegetation shall be retained to the greatest extent feasible.
  2. A combination of evergreen and deciduous trees and shrubs shall be used as foundation plantings installed along building facades.
  3. Additional landscaping, including trees, shrubs and ground cover, shall be provided in or around the following areas: walkways, courtyards, entrances to the site, building entrances, and structures used for service, storage or maintenance purposes.
  4. Shrubs shall not be placed closer than four feet from any property line, and trees shall not be closer than ten feet from any property line.
- E. Interior Parking Lot Landscaping
1. One landscaped island shall be provided for each 10 single spaces or 20 double spaces.
  2. Landscaping materials shall consist of native grasses and groundcovers, shrubs, and trees as designated by DNREC or the Waterman's Village Pattern Book contained in Appendix 5.
  3. Newly established or reestablished parking lots located along the street frontage and consisting of more than 10 spaces shall be screened from the roadway by plantings or fences with a minimum height of 42" inches when fully mature.
- F. Any portion of a lot, site or tract which is not used for buildings or structures, loading or parking spaces and aisles, or other paved surface shall be protected by landscaping and an all season groundcover to prevent soil erosion and subsequent sedimentation from occurring downstream, according to an overall landscape plan prepared and approved as part of the development plan.
- G. Vegetative screening shall include a variety of deciduous and evergreen species which are designed in a fashion which provides a continuous, year-round visual screen between the activity to be screened and abutting properties. A vegetative screen shall include a minimum of 65 percent evergreen species and ten percent flowering material. The screen may incorporate existing hedgerows to achieve this design control and may incorporate earthen berms.

### **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.
  3. The RBA shall contain no new 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 and Zoning Commission is authorized to consider and approve adjustments to these minimum standards and dimensions for properties zoned Commercial. In order to grant these adjustments, the Planning and Zoning Commission must determine that they will result in superior urban design or waterfront redevelopment.
  6. The Planning and Zoning 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 or in accordance with a landscape plan developed by a landscape architect licensed in the state of Delaware.
  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 impervious surfaces.
  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 (0.5) 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 and Zoning 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 whenever 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.

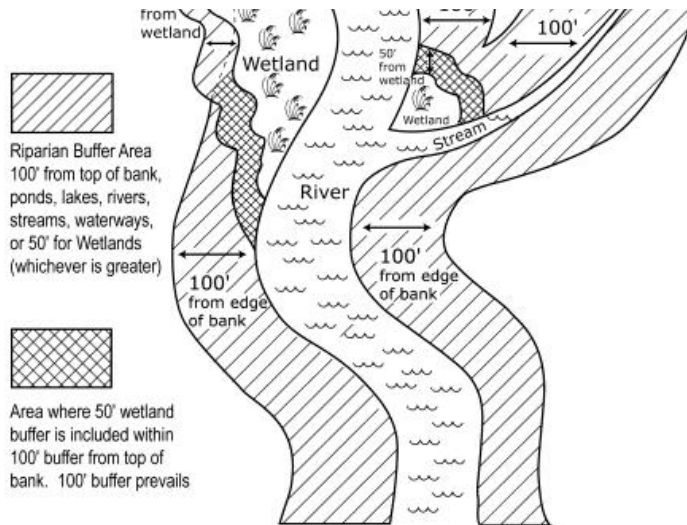
### **Section 12-9 Floodplain Ordinance**

Refer to Ordinance 2014-77 for the Town of Little Creek Floodplain Ordinance.

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. Riparian Buffer Area





## Article 13. Signs

### Section 13-1. Applicability and Purposes

- A. Applicability  
These sign provisions apply within every existing and future zoning district in the Town. A sign may be erected, placed, established, painted, created, or maintained in the Town only in conformance with this Ordinance.
- B. Purposes
  1. To encourage the effective use of signs as a means of communication in the Town.
  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.
  5. To protect and enhance the historic character of Little Creek.

### Section 13-2. General Provisions

- 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 the distance from the existing grade at the sign base to the highest point of the sign structure.
- C. Requirements. Refer to Table 13-1, *Permitted Signs*.
- D. 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.
  5. Illumination of signs shall be permitted only as specified herein and only with a stationary shielded light source, with internal illumination, or with neon type construction.
  6. LED lightbulbs shall have a maximum temperature of 3000 degrees kelvin.

E. Sign Removal.

1. All signs relating to a product no longer available for purchase and all signs relating to a business which is terminated or relocated shall be removed or the advertising copy shall be removed. Painted wall signs shall be painted over with a color that resembles or matches the remainder of the building. Should the owner of, or person responsible for the sign, or if the tenant terminating the business fails to remove or paint over the sign within thirty (30) days following the date of obsolescence, the owner of the premises then shall be held responsible for such removal within sixty (60) days following the date of obsolescence.

**Section 13-3. Permanent Sign Types and Standards**

- A. 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.
1. Minimum setback: 10 feet from the right of way.
  2. Maximum height: five (5) feet in a residential district and 12 feet in a nonresidential district
  3. Maximum sign area: 32 SF in a nonresidential district and eight (8) SF in a residential district;
  4. Maximum number of signs: one (1) per lot.
- B. 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.
1. Maximum sign area: one (1) SF per lineal foot of building façade to which it is attached or maximum of 50 SF, whichever is less.
- C. Projecting Sign. A sign attached directly to the wall of a building and extending perpendicular to such wall.
1. Minimum clearance from the ground: seven (7) feet
  2. Maximum length: such sign shall extend no more than four (4) feet from the building façade to which it is attached
  3. Maximum sign area: four (4) SF (per face); except that signs that meet the conditions of the Waterman's Village Pattern Book shall be permitted to be a maximum of eight (8) SF.
  4. Maximum of one (1) sign per establishment
  5. Such sign may project into the required setback.
- D. Sidewalk Sign. A two-sided portable sign constructed in an "A" or similar tent like shape that is placed outside of an establishment and intended to be viewed at close range by pedestrians.
1. Maximum sign area: eight (8) SF
  2. Such sign shall be vertically oriented (and thus be taller than it is wide).
  3. Such sign shall only be displayed during business hours.
  4. Placement of such sign shall not interfere with pedestrian passage or use of the sidewalk.
  5. There shall be no illumination of such signs.
  6. Maximum of one (1) sign per establishment.
- E. Digital Sign. Any sign, video display, projected image, or similar device or portions thereof with text, images, or graphics generated by solid state electronic components. Electronic signs include, but are not limited to, signs that use light emitting diodes (LED), plasma displays, fiber optics, or other technology that results in bright, high-resolution text, images, and graphics.

1. Permanent digital signs shall not be permitted in Little Creek. Notwithstanding any other section of this Ordinance, digital signs that were in existence prior to the adoption of this definition shall be legally nonconforming uses.
- F. Directional Signs. Signs located within a site or development and on private property that assist guests and visitors in finding their way.

#### **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 the construction activity.
  4. Materials. Real estate, development and construction signs must be made of materials sufficiently durable for the time that they are displayed.
  5. Maximum sign area: 16 SF

#### **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
1. Temporary signs shall be removed within one week (7 calendar days) after the event that they are advertising has concluded.
  2. Maximum size: 16 SF
  3. Temporary signs shall not be located within any required setback.
  4. Temporary digital signs used for the purpose of public service announcements.

#### **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 above the top wall or edge of a building with a flat roof, the eave 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 pennant, streamer, ribbon, 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, without the permission of the owner, nor to any public structure such as a utility pole.
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 freestanding, off-site advertising sign directing attention to a business, commodity, service, or entertainment.
9. Any sign with moving parts or which emits smoke, vapor, sound, or odor.
10. Any sign that imitates or resembles any official traffic sign, signal or device.

### **Section 13-7. Exempt Signs**

#### **A. Applicability**

The following signs shall be permitted in any zoning district without a permit so long as they/it complies with the applicable provisions below.

#### **B. List of Exempt Signs**

The following signs are permitted without a permit so long as they meet the following standards:

1. Two Square Feet or Less
  - a. Identification Sign. A sign located on private property, customarily associated with a home-based business. Such sign shall be motionless.
  - 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. Sidewalk signs. In accordance with section 13-3.D.
3. Maximum size of 24 square feet.
  - 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. Holiday and seasonal decorations.
- h. Personal expression signs of any sign type provided that they are not illuminated, including political signs.
- i. Banners sponsored by the Town and attached to street light or utility poles.
- j. Window displays

### **Section 13-8. Non-Conforming Signs**

See Article 5, Nonconforming Situations.

### **Section 13-9. Administration**

- A. Permits Required. A permit is required prior to installation for all signs not listed under Section 13-7.
- B. All signs must receive a Certificate of Zoning Compliance before proceeding to apply for a Sign Permit from Kent County.
- C. Required Information.  
The following information shall be submitted to the Planning and Zoning Commission:
  - 1. Location on property and buildings and structures to determine that the sign meets setbacks.
  - 2. Construction material(s)
  - 3. Illumination
  - 4. Manner of securing
  - 5. Number of signs, drawing depicting the sign area for each sign, and size of building wall to which it shall be affixed.
- D. Review
  - 1. The Administrator shall review each application as soon as is feasible following receipt of a complete application.
  - 2. The Administrator may attach conditions to approval for a Certificate of Zoning Compliance, temporary use permit, or sign permit.
- E. Permit Fees  
The Town Council may adopt fees for the processing and issuing of sign permits.

### **Section 13-10. Bayshore By-way Branding**

All signage proposed within the Town of Little Creek is strongly encouraged to adhere to the guidelines for colors and materials for the Delaware Bayshore Byway as found in the Watermen's Village Pattern Book.

### **Section 13-11. 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. Permitted Signs by District**

	<b>Freestanding</b>	<b>Wall sign</b>	<b>Projecting sign</b>	<b>Directional Sign</b>	<b>Identification Sign</b>	<b>Digital Sign</b>	<b>Sidewalk Sign</b>
R-1	Y	N	N	N	Y	N	N
AR	N	N	N	N	Y	N	Y
C-1	Y	Y	Y	Y	Y	N	Y
I-1	Y	Y	Y	N	Y	N	Y

## Article 14. Parking Standards

### Section 14-1. Purpose & Scope

- A. Purpose
  - 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. Applicability
  - 1. Required 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 one (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 and Zoning Commission through the site plan or as Conditional Use as described in Section 4-4, 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 Town Council may modify the parking requirements when it determines that:
  - a the requirements are clearly excessive and unreasonable; or
  - b Parking requirements can be met through other means, including on street parking, shared parking, or bike/pedestrian transport.

D. Location

1. General

- a. Required parking facilities shall be located on the same lot with the building or use served.
  - b. Off-street parking facilities may be located within required side or rear building setback areas, but shall be set back a minimum of five (5) feet from the property line.
  - 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.
  - d. Existing residences within the R-1 district may count on-street parking spaces located directly in front of their homes towards their required parking. To calculate the number of on-street spaces allotted to each dwelling unit, the distance between property lines shall be measured, subtract four (4) feet (for a two (2) foot buffer at either end) and divide this length by 22. Required spaces shall be reserved for use by the property owner.
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 or pervious pavers in accordance with applicable town 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 five (5) feet from grade but no more than seven (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 and Zoning 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 in the front yard setback 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 and current insurance 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

**Section 14-3. Bike Parking**

A. Any nonresidential development, expansion, or redevelopment shall provide a bike rack or racks capable of parking a minimum of five (5) bikes.

## Article 15. Development Plan Review

### Section 15-1. Reserved.

### Section 15-2. Modification of approved development plans.

No change shall be made to any approved development plan without approval of the Planning and Zoning Commission.

### Section 15-3. Development Plan Review Process

- A. Development Plans may be reviewed by one of the following processes:
  - 1. A single-family development plan review in accordance with Section 15-4.
  - 2. An Administrative Site Plan review in accordance with Section 15-5.
  - 3. A minor subdivision, major subdivision, or Site Plan review in accordance with sections 15-6 and 15-7.

### Section 15-4. Single-Family Development Plan Review

- 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 Certificate of Zoning Compliance for Single-Family Detached Dwellings on legal lots.
- C. Required Information  
See Table 15-1, *Information required for Development Plan Review*.
- D. Application Review Process
  - 1. The Single-Family Development Plan shall be submitted by the applicant to the Planning and Zoning Commission.
  - 2. If the Planning and Zoning Commission finds the proposed plan to be consistent with the policies set forth in the Town's most recently Certified Comprehensive Plan, then the Planning and Zoning Commission shall review the Single-Family Development Plan.
  - 3. The Planning and Zoning Commission shall review the Single-Family Development Plan for compliance with the provisions of this Ordinance.
  - 4. If a Conditional Use review is required, then the Planning and Zoning Commission shall review the Conditional Use concurrently during the Single-Family Development Review. The Conditional Use review shall be conducted in accordance with Section 4-4 of this Ordinance.
  - 5. Referrals to other agencies.
    - a. The Planning and Zoning Commission may request review and comments on a plan from the Town Engineer, State Fire Marshal, County departments and agencies, Floodplain Administrator, and any other appropriate agency or person.
    - b. Before taking action on a plan, the Planning and Zoning Commission shall allow sufficient time for other agencies to respond.
  - 6. The Planning and Zoning Commission shall take one of the following actions:

- a. If the Single-Family Development Plan is determined to be in compliance with this Ordinance, then the Planning and Zoning Commission shall issue a Certificate of Zoning Compliance to the applicant.
  - b. If the Single-Family Development Plan is determined to be out of compliance with this Ordinance, or if the Conditional Use is denied, then the Planning and Zoning Commission shall issue a letter to the applicant detailing those elements of the Single-Family Development Plan not in compliance with this Ordinance, and/or reasons why the Conditional Use was denied.
- D. Duration, Revocation, & Extensions  
See Table 15-2, *Deadlines & Duration of Development Plans*.

### **Section 15-5. Administrative Site Plan Review**

- A. Site Plans within the C-1 District that meet the following thresholds may be approved pursuant to Administrative Site Plan review:
  1. New structures or additions to existing structures that cumulatively consist of less than 2,500 square feet in floor area;
  2. Additions of impervious surface where new or additional impervious surfaces constitute less than 20% of the existing impervious surface area and less than 5,000 square feet of new impervious surface in total.
- B. The Administrator shall determine if the application meets the threshold for administrative site plan review as part of the Concept Plan.
- C. If it is determined that the proposed uses or development is of a type that may be approved by the Planning and Zoning Commission as an Administrative Site Plan Review, the applicant shall submit the application for site development plan approval with the documentation as required by the Administrator. The Planning and Zoning Commission will take action upon such application at their next meeting. If a Conditional Use approval is necessary, such review may be held concurrent with the review of the plan in accordance with Section 4-4. When the Planning and Zoning Commission has approved such plan, a Certificate of Zoning Compliance may be issued.

### **Section 15-6. Concept Plan**

- A. Purpose
  1. To provide the opportunity for applicants and the Planning and Zoning 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 and Zoning 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 required for all development in the C-1 District. In all other districts the Concept Plan is optional.
  2. Concept Plan review is submitted and reviewed prior to the formal submission of a site plan, minor subdivision, or major subdivision.
  3. As part of the Concept Plan stage, the Administrator shall determine if the site development plan should be submitted for processing as an administrative site plan, per Section 15-5. If the administrative review is determined, the Administrator shall identify required plan and application contents.
- C. Required Information

See Table 15-1, *Information required for Development Plan Review*.

D. Application Review Process

1. The Concept Plan shall be submitted by the applicant to the Planning and Zoning Commission.
2. The Planning and Zoning 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.

**Section 15-7. Minor Subdivision, Major Subdivision, and Site Plan Review**

A. Purposes

1. To guide the growth and development of the Town of Little Creek 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. Development Plan approval is required:
  - a. Prior to the issuance of building permits for site plans denoting the establishment, erection, or enlargement of:
    - (1) any nonresidential use
    - (2) any multifamily dwellings containing three or more units
    - (3) docks, piers or other over-water structures except for private piers accessory to a dwelling.
  - b. Prior to the subdivision, resubdivision, or combining of land into two or more parcels, lots or sites.
  - c. Exceptions. Site plans that have been approved for Administrative Site Plan review are exempt from these provisions.

C. Required Information

1. Development plans shall be submitted to the Administrator a minimum of 15 days prior to the next Planning and Zoning Commission meeting.
2. The Administrator shall review each application for technical completeness. Incomplete applications shall not be processed until all required information and fees have been provided.
3. The Administrator shall provide the application materials to the Planning and Zoning Commission.
4. See Table 4-1, *Information required for Development Plan Review*.

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 and Zoning Commission.
2. The Planning and Zoning Commission shall determine whether a Conditional Use review is necessary, and if the plan is consistent with this Ordinance and the most recently certified Comprehensive plan.
3. Applications that qualify to be processed as an administrative site review under Section 15-5, the applicant shall be informed at the Concept Plan meeting which items from the site development plan requirements checklist will be needed for determination of

- conformity with the provisions and intent of this section, along with any other comments on the contents of a complete application.
4. State Planning Review. No plan shall be reviewed unless it complies with Title 29, Chapter 92 of the *Delaware Code*.
  5. Referrals to other agencies.
    - a. The Planning and Zoning Commission may request review and comments on a plan from the Town Engineer, Floodplain Administrator, pertinent State Departments such as Natural Resources and Environmental Control, Education, Transportation, State Fire Marshal, County departments and agencies, particularly infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
    - b. Before taking action on a plan, the Planning and Zoning Commission shall allow sufficient time for departments and agencies to respond.
  6. The Planning and Zoning Commission shall review the plan. If a Conditional Use review is necessary, such review may be held concurrent with the review of the plan in accordance with Section 4-4. The Planning and Zoning Commission shall develop recommendations or conditions of approval.
  7. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance, or the signature of the Mayor or designee on a Minor Subdivision Plan.
  8. Action
    - a. The Planning and Zoning Commission may approve any plan that meets this Ordinance, deny approval of any plan which is not in compliance with this Ordinance, or may apply conditions of approval.
      - a. If a Minor Subdivision, Major Subdivision, or Site Plan is approved, then the applicant may proceed to Record Plat Approval as described in Section 4-7. The approval of a Minor or Major Subdivision Plan shall not be construed to exempt future developments on the lots in question from review under the provisions 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 Planning and Zoning Commission shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.
- E. Duration, Revocation, and Extensions  
See Table 15-1, *Deadlines & Duration of Development Plan*

### **Section 15-8. Record Plat**

- A. Required Information
  1. The Plat shall contain information as set forth in Table 4-1 *Information Required for Development Plan Review*.
- B. When Required
  1. After approval of a development plan, but prior to the issuance of any Certificate of Zoning Compliance or building permits.
- C. Requirements
  1. The applicant shall prepare a Record Plat in accordance with Table 4-1 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 this Ordinance.
    - a. If the Record Plat is determined to be in compliance with this Ordinance and the applicant has obtained all required outside agency letters, permits and approvals, 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 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 this Ordinance.
  4. Applicant shall be responsible for recording the Record Plat at the Recorder of Deeds once signed by the Mayor. 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. Following recordation, the applicant shall return at least one paper copy and a digital copy to the Administrator.
  6. Duration, Revocation, and Extensions  
See Table 15-2, *Deadlines & Duration of Development Plan Review*.



**Table 15-1. Deadlines & Duration of Development Plan Review**

<b>Item</b>	<b>Single-Family Development Plan</b>	<b>Minor Subdivision</b>	<b>Site Plan</b>	<b>Concept Plan</b>	<b>Major Subdivision</b>	<b>Record Plat</b>
Deadline for submitting plan to Planning Commission before next Planning & Zoning Commission meeting	15 days	15 days	15 days	15 days	15 days	N/A
Deadline for acting on plan following Town Council meeting	45 days if Conditional Use	60 days	60 days	None	60 days 90 days with Conditional Use	N/A
Duration of plan approvals beginning at approval or recordation date	1 year	5 years	1 year	NA	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

## **Article 16. Text & Map Amendments**

### **Section 16-1. General Provisions**

The Town Council may amend, supplement, change, or modify the number, shape, area, or boundaries of the zoning districts or the text of 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 Town Council.
- B. Zoning Map Amendment  
An amendment to the Zoning Map may be initiated by the Town Council or by a petition from the owner of the property proposed for a zoning change.

### **Section 16-3. Application Submission**

- A. Planning and Zoning Commission to Accept Applications  
An application for map or text amendment shall be submitted to the Planning and Zoning Commission at least 15 days prior to the Planning and Zoning Commission's next regular meeting.
- B. Planning and Zoning Commission Recommendation  
The Planning and Zoning Commission shall send application to the Administrator for technical review and the Administrator shall send comments back to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the proposed amendment based on the Town's Comprehensive Plan and the intent of this Ordinance and shall forward recommendations and Administrator comments to the Town Council prior to the Town Council's public hearing.

### **Section 16-4. Town Council Review**

- A. Town Council to Hold Hearing  
The Town Council 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 Town.
  - 2. The notice shall provide information about the nature of the proposed amendment and announce the time and the place for the Town Council'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 Town Council shall consider the Town's Comprehensive Plan, public testimony, and recommendations of the Administrator and Planning and Zoning Commission in making decisions regarding text and map amendments.
  - 2. Text Amendment. The Town Council 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 Town Council 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 Town Council for a period of one year following the decision in the matter by the Town Council.

## Article 17. Violations & Penalties

### Section 17-1. Town Council Authorized to Institute Action

- A. The following actions shall be violations of this section.
  - 1. Failure to secure a building permit (from Kent County), certificate of zoning compliance, temporary use permit, sign permit, or approval from the Board of Adjustment, when required, previous to the erection, construction, extension, or demolition of, or addition to, a building.
  - 2. Violation of any provision of this Article.
- B. The Town Council is authorized and directed to institute appropriate actions to put an end to any violations of this Ordinance.

### Section 17-2. Violation Issuance

- A. Whenever the Administrator or designee determines that activity on any premises is being done in violation of this section, the Administrator or such designee may issue a violation notice that shall:
  - 1. Be in writing;
  - 2. Contain the address of the property or a description of the property sufficient for identification;
  - 3. State the activity or condition occurring at the property in violation of this ordinance and the actions that must be completed within seven (7) calendar days to remediate the violation(s);
  - 4. Include notice of the opportunity to appeal the violation to the Board of Adjustment within seven (7) calendar days of the date of the notice;
  - 5. Specify the civil penalties that may be imposed for failure to remedy the violation(s) by the date specified in the notice;
  - 6. Be hand-delivered or sent via first class mail to (a) the property owner and (b) to any other person or entity responsible for the property; and
  - 7. Be physically posted upon the property.
- B. Effect of issuance.
  - 1. Upon issuance of a violation, all activity done in violation of this section shall immediately cease.
  - 2. Any person or entity who shall continue any activity in violation of this Article after having been served with a violation notice, except such work as that person or entity has been directed to perform in the violation notice or that is required to remove a violation of an unsafe condition under this Ordinance, shall be considered to be in violation of this section and the Administrator may institute a penalty for the maximum amount permitted.

### Section 17-3. Penalties for Violations

- A. Initial Violation
  - 1. Defined. An initial violation is the first time that any person or entity 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. A person or entity, who commits an initial violation, shall have seven days to remedy such violation. If such violation is not remedied or appealed by the end of the seventh day, then such person or entity shall be charged with the 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 calendar day starting on the eighth calendar day after the date of violation notice, that any person or entity remains in violation of this Ordinance as specified in Section 17-3.A.1.
  - 2. Civil Penalties. An individual or entity that fails to remediate one or more violations identified in a violation notice within seven (7) days thereof shall be assessed a civil penalty in the amount of \$100.00. Each day thereafter that a violation occurs or continues shall constitute a separate violation subject to a separate civil penalty, up to a maximum combined total of \$500.

#### **Section 17-4. 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 individually guilty of a separate offense and shall be assessed civil penalties as provided herein.

#### **Section 17-5. Public Hearing.**

Any individual or entity receiving a violation notice under § 17-2.A may, within seven (7) calendar days of receipt of the notice, file a written appeal with the Board of Adjustment requesting a hearing to prove that the alleged violation does not exist. If the appeals period expires without an appeal being filed, it shall be presumed that a violation exists and any civil penalty was appropriately assessed. If an appeal is filed and the Board of Adjustment affirms the decision of the Administrator, the appellant shall have seven (7) calendar days to remediate the violation before civil penalties shall be assessed without any further notice.

#### **Section 17-6. Additions to Tax Bills.**

All civil penalties assessed for any violation of this Ordinance shall be a debt of the person or entity causing the violation to exist. Additionally, pursuant to 25 Del. C. § 2901, all civil penalties assessed against property owners for violations of this Ordinance on their property shall constitute a lien against the subject property and, if not paid within 30 days, may be added by the Town to the property tax bill.

**Section 17-7. Alternate Remedies.**

In lieu of or in addition to the aforesaid procedure for the abatement of any public nuisance, the Town may file a civil action for injunctive relief to enjoin any violation of this Ordinance, or any appropriate civil or criminal action for enforcement of the penalty provided herein, or both, in any court of competent jurisdiction.



**Appendix 1 – Approved Trees**

The following species and varieties of trees are considered acceptable for use in the Town of Little Creek. All required trees must be a minimum of 1 ½” diameter at breast height (dbh) at time of planting. Additional trees may be used upon approved by the Planning and Zoning Commission.

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 palustris	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 sargentii	Sargent Cherry
Pyrus calleryana	Flowering Pear (Aristocrat or Redspire varieties)
Sophora japonica	Scholar Tree
Syringa reticulata	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.)

Source: <http://delcode.delaware.gov/title22/c007/index.shtml#TopOfPage>

**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.**

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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.)

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**§ 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

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.)

Source: [http://delcode.delaware.gov/title22/c003/index.shtml#P-1\\_0](http://delcode.delaware.gov/title22/c003/index.shtml#P-1_0)

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**Appendix 4 – Waterman’s Village Micro Retail Pattern Book**