

SUBDIVISION ORDINANCE

TOWN OF **CLAYTON**

Kent County & New Castle County, Delaware



Prepared by

UNIVERSITY OF DELAWARE
Institute for Public Administration
SCHOOL OF PUBLIC POLICY & ADMINISTRATION
COLLEGE OF ARTS & SCIENCES



www.ipa.udel.edu
institute for Public Administration

Adopted June 28, 1999
with amendments through
August 8, 2016

CLAYTON TOWN OFFICIALS

June 28, 1999

Town Council

Robert E. Berghorn, Mayor and Council President
Betty L. Turner, Vice Mayor
Thomas E. Horn, Secretary
Wayne Stover, Treasurer
Carlton Thompson, Assistant Treasurer

Planning and Zoning Committee

Pat Wilson, Chairperson
Leslie Bartlett, Committee Member
Jeannie Johnson, Committee Member
Dave Letterman, Committee Member
Kathy Messer, Committee Member

Town Attorney

William L. Witham, Jr.

Town Staff

Jeffrey A. Hurlock, Town Foreman
Jeanette W. Hurlock, Senior Clerk

Planning Assistance

University of Delaware
Institute for Public Administration

June 8, 2015

Town Council

David Letterman, Mayor and Council President
Alex Dias, Vice Mayor
Mary Ellen DeBenedictis, Secretary
William Carrow II, Treasurer
Brian Fletcher, Assistant Treasurer

Planning & Zoning Committee

Thomas E. Watts, Chair
William Brockenbrough, Committee Member
Tom Ruppert, Committee Member
Eddy Seger, Committee Member
Wayne Stover, Committee Member

Town Attorney

Scott E. Chambers, Esq., Schmittinger & Rodriguez, P.A.

Town Staff

Jeffrey A. Hurlock, Town Foreman
Sue Muncey, Administrative Assistant
Tiffany Adams, Municipal Clerk
Melissa Knight, Municipal Clerk
Chris Letterman, Administrative Assistant to Chief of Police
Brian C. Hill, Chief of Police

Planning Assistance

Institute for Public Administration
School of Public Policy & Administration
College of Arts & Sciences
University of Delaware

CONTENTS

Chapter 5.1. General Provisions 1

Section 5.1-1. Title, Purpose, and Application 1

 5.1-1.1. Title 1

 5.1-1.2. Applicability 1

 5.1-1.3. Purposes 2

 5.1-1.4. Authorization 3

 5.1-1.5. Components 3

 5.1-1.6. Ordinance Provisions are Minimum Requirements 3

 5.1-1.7. Rules for Interpretation of Language 3

 5.1-1.8. Compliance Required 3

 5.1-1.9. Conflict with Other Regulations 3

 5.1-1.10. Relationship to Private Agreements 3

 5.1-1.11. Severability 3

Section 5.1-2. Administration 4

 5.1-2.1. Administrator Named 4

 5.1-2.2. Appeals 4

 5.1-2.3. Deviations 4

Section 5.1-3. Amendments 5

 5.1-3.1. General 5

 5.1-3.2. Who May Initiate 5

 5.1-3.3. Application Submission 5

 5.1-3.4. Planning and Zoning Committee Review 5

 5.1-3.5. Town Council Public Hearing 5

 5.1-3.6. Public Notice Provisions 5

 5.1-3.7. Adoption and Notice of Adoption 5

 5.1-3.8. Limitation on Reapplication 5

Section 5.1-4. Enforcement 6

 5.1-4.1. Administrator Authorized to Institute Action 6

 5.1-4.2. Penalties for Violations 6

 5.1-4.3. Responsible Parties 6

Chapter 5.2. Definitions 7

Section 5.2-1. Interpretation 7

Section 5.2-2. Definitions 7

Chapter 5.3. Application and Approval 11

Section 5.3-1. Overview 11

Section 5.3-2. Preliminary Conference/Sketch Plan 11

 5.3-2.1. General 11

 5.3-2.2. Sketch Plan 11

 5.3-2.3. Other Public Agencies 11

Section 5.3-3. Preliminary Subdivision Plan 11

 5.3-3.1. Application Requirements 11

 5.3-3.2. Approval Procedure 11

 5.3-3.3. Public Improvements 12

Section 5.3-4. Final Subdivision Plat 13

 5.3-4.1. Application Requirements 13

5.3-4.2.	Approval Procedure.....	13
5.3-4.3.	“As Built” Drawings.....	13
Section 5.3-5.	Fees	13
5.3-5.1.	Filing Fees	13
5.3-5.2.	Application Review Costs.....	13
Chapter 5.4.	Subdivision Layout and Design Standards.....	15
Section 5.4-1.	General Improvements	15
5.4-1.1.	Conformance to Applicable Rules and Regulations.....	15
5.4-1.2.	Adequate Public Facilities.....	15
5.4-1.3.	Self-Imposed Restrictions	15
5.4-1.4.	Monuments	15
5.4-1.5.	Subdivision Name	15
5.4-1.6.	Character of Land	16
Section 5.4-2.	Lot Layout	16
5.4-2.1.	Requirement.....	16
5.4-2.2.	Lot Access	16
5.4-2.3.	Lot Dimensions	16
5.4-2.4.	Lot Orientation	16
5.4-2.5.	Double Frontage and Reversed Frontage Lots	16
Section 5.4-3.	Roads and Streets.....	17
5.4-3.1.	General Requirements.....	17
5.4-3.2.	Design Standards for Municipal Streets	18
5.4-3.3.	Construction Standards for Municipal Streets	18
5.4-3.4.	Dedications and Reservations for State-Maintained Roads.....	18
Section 5.4-4.	Drainage and Storm Sewers.....	18
5.4-4.1.	Design	18
5.4-4.2.	Construction	18
5.4-4.3.	Streams and Water Courses	18
Section 5.4-5.	Water Facilities	19
5.4-5.1.	Requirement.....	19
5.4-5.2.	Design and Construction	19
5.4-5.3.	Water Mains	19
5.4-5.4.	Hydrants	19
Section 5.4-6.	Sanitary Sewer Facilities.....	19
5.4-6.1.	Requirement.....	19
5.4-6.2.	Design and Construction	19
5.4-6.3.	Prohibited Sewerage Facilities.....	19
Section 5.4-7.	Sidewalks, Curbs, and Gutters.....	19
5.4-7.1.	Sidewalks	19
5.4-7.2.	Curbs and Gutters.....	19
Section 5.4-8.	Utilities	20
5.4-8.1.	Requirement.....	20
5.4-8.2.	Location	20
5.4-8.3.	Easements.....	20
Section 5.4-9.	Erosion and Sediment Control.....	20
5.4-9.1.	Requirement.....	20
5.4-9.2.	Top Soil	20
Section 5.4-10.	Street Lights	20

5.4-10.1. Requirement 20

5.4-10.2. Design, Location, and Construction 20

Section 5.4-11. Public Uses 20

5.4-11.1. Open Space, Park, and Recreation Areas 20

5.4-11.2. Other Public Uses 21

Section 5.4-12. Inspection and Completion 22

5.4-12.1. Inspection 22

5.4-12.2. Completion 22

Section 5.4-13. Nonresidential Subdivisions..... 22

5.4-13.1. General 22

5.4-13.2. Other Principles and Standards 22

Section 5.4-14. Relationship to Site Plan Review 22

Chapter 5.5. Construction Improvements and As-Built Plans 23

Section 5.5-1. Construction Improvements Plans 23

5.5-1.1. When Required 23

5.5-1.2. Contents 23

5.5-1.3. Standard Conditions and Procedures 24

5.5-1.4. Town Review of Construction Improvements Plan 25

Section 5.5-2. As-Built Plans..... 26

5.5-2.1. When Required 26

5.5-2.2. Required Information 26

5.5-2.3. Certification 26

Chapter 5.6. Specifications for Documents 27

Section 5.6-1. Purpose and Organization 27

5.6-1.1. Purpose 27

5.6-1.2. Organization 27

Section 5.6-2. Required Documents 27

5.6-2.1. List of Documents 27

5.6-2.2. Waiver..... 27

Tables

Table 1. Calculation of Land to be Dedicated for Recreation and Open Space 29

Table 2. Calculation of Fee in Lieu of Dedicating Land for Open Space and Recreation 29

Table 3. Cluster Development Open Space Requirements *[Repealed 03/14/2011]*..... 29

Table 4. Rights-of-Way and Roadway Widths 29

Table 5. Required Documents 30

THIS PAGE IS INTENTIONALLY BLANK.

Chapter 5.1. General Provisions

Section 5.1-1. Title, Purpose, and Application

5.1-1.1. Title

This Ordinance shall be known as the Town of Clayton Subdivision Ordinance.

5.1-1.2. Applicability

- A. This Ordinance shall apply to all subdivisions of land within the incorporated boundaries of the Town of Clayton. It is the intent of this Ordinance that the extent of its applicability be automatically changed in accordance with the provisions of this Ordinance or the provisions of state law which may affect the applicability of this Ordinance.
- B. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Planning and Zoning Committee.
- C. The Planning and Zoning Committee shall have the authority to review and approve, conditionally approve, or disapprove the sale, lease, or development of lands subdivided prior to or following the effective date of this Ordinance as follows:
 1. The plat of the subdivided land was recorded without prior approval of the Planning and Zoning Committee of the Town whether or not prior approval was required at the time the land was subdivided and the plat contains contiguous lots in common ownership where one or more of the lots are undeveloped, whether the lots are owned by the original subdivider.
 2. The plat of subdivision has been on record for more than 5 years, was not approved after the effective date of this Ordinance, and contains contiguous lots in common ownership where 1 or more of the contiguous lots are undeveloped and 1 or more is nonconforming under the Zoning Ordinance, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider.
 3. The original subdivider or his successor failed to complete subdivision improvement requirements pursuant to a subdivision improvement agreement entered into when the plat for the subdivided land was approved and the plat contains contiguous lots in common ownership where 1 or more of the contiguous lots is undeveloped, whether the lots are owned by the original subdivider or an immediate or remote grantee from the original subdivider. However this section shall not apply if the Town has obtained possession of sufficient funds for security provided by the subdivider with which to complete construction of improvements in the subdivision.
 4. Whenever the jurisdiction of the Planning and Zoning Committee extends to one of the situations described in this section, only the sale, lease, transfer, or development of an undeveloped lot or lots contiguous to a lot or lots in common ownership shall be subject to this Ordinance.
- D. No land described in the Town of Clayton shall be subdivided or sold, leased, transferred or developed until each of the following conditions has been met:
 1. The subdivider has submitted a conforming sketch plat of the subdivision to the Administrator.
 2. The subdivider has obtained approval of a sketch plat, a preliminary plat, and a final plat.
 3. The subdivider has filed approved plats with the County Recorder of Deeds.
- E. No building permit or Certificate of Zoning Compliance shall be issued for any parcel or plat of land created by subdivision after the effective date of this Ordinance that is not in conformance with this Ordinance. No excavation of land or construction of any public or private improvements shall take place that is not in conformance with this Ordinance.

5.1-1.3. Purposes

- A. To protect and provide for the public health, safety, and general welfare of the Town of Clayton.
- B. To guide the future growth and development of the Town in accordance with the comprehensive plan and the zoning ordinance.
- C. To provide for adequate light, air, and privacy, to secure safety from fire, flood, and other dangers, and to prevent overcrowding and population congestion.
- D. To promote the character and the social and economic stability of all parts of the Town and to encourage the orderly and beneficial development of the community through appropriate growth management techniques to assure the appropriate timing and sequencing of development, to promote infill development in existing neighborhoods and non-residential areas where adequate public facilities are in place.
- E. To protect and conserve the value of land throughout the municipality and the balance of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- F. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- G. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the Town with particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and too provide for the proper location and width of streets and building lines.
- H. To establish reasonable standards of design and procedures for review of subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- I. To ensure that public facilities and services are available concurrent with development and will have sufficient capacity to serve proposed developments and the community will be required to bear no more than its fair share of the cost of providing the facilities and services by the requiring developers to pay fees, furnish land, or establish mitigation measures to ensure that their developments provide the fair shares of capital facilities needs generated by their developments.
- J. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities, to safeguard the water table, and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community and the value of land.
- K. To preserve the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features.
- L. To provide for open spaces through the most efficient design and layout of the land including the use of clustering while preserving the density of development established in the Zoning Ordinance.
- M. To ensure that land is subdivided only when subdivision is necessary to provide for the uses of land for which market demand exists and which are in the public interest.
- N. To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered, and low-grade subdivision.

5.1-1.4. Authorization

This Ordinance has been made in accordance with a Comprehensive Plan and the Town Zoning Ordinance as required by the State of Delaware.

5.1-1.5. Components

- A. This Ordinance consists of the regulations contained herein.
- B. The tables included in this Ordinance are part of the regulations of this Ordinance.
- C. The drawings and graphics contained in this Ordinance are illustrations and are not part of this Ordinance.

5.1-1.6. 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.

5.1-1.7. Rules for 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."

5.1-1.8. Compliance Required

After the effective date of this Ordinance, all applications for subdivision approvals of any kind shall be reviewed under this Ordinance.

5.1-1.9. Conflict with Other Regulations

However, where this Ordinance imposes a greater restriction or requirement than is imposed by other resolutions, ordinances, rules, regulations, easements, covenants, or agreements, the stricter provision shall govern.

5.1-1.10. Relationship to Private Agreements

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

5.1-1.11. Severability

The provisions of this Ordinance are severable. If any provision or the application of any provision is held invalid, such invalidity shall not affect other provisions or application which can be given effect without the invalid provisions or applications.

Section 5.1-2. Administration**5.1-2.1. Administrator Named****A. Administrator Named.**

The Town Foreman or designee is the administrator of this Ordinance.

B. Responsibilities.

The Administrator is responsible for securing compliance with this Ordinance.

5.1-2.2. Appeals**A. Sketch and Preliminary Plans.**

1. An applicant may appeal a decision regarding a Sketch or Preliminary Subdivision Plan to the Town Council.

2. An appeal must be filed within 30 days of the date that action was taken on the plan.

B. Final Subdivision Plan.

1. An applicant may appeal a decision regarding a Final Subdivision Plan to the Kent County or New Castle County Superior Court.

2. The appeal must be filed in accordance with the rules and regulations regarding appeals to the court.

5.1-2.3. Deviations**A. General.** The Planning and Zoning Committee, may permit a deviation from the provisions of this Ordinance.**B. Criteria for Granting.** The Committee must find that the application meets following the criteria for granting a deviation:

1. Will not be detrimental to the public safety, health, or welfare or have an adverse effect on adjoining properties.

2. The circumstances upon which the request is based are unique to the property for which relief is sought and are not applicable generally to other properties.

3. Because of the particular physical surroundings, shape, or topographical characteristics of the property, for which relief is sought, the owner would incur a particular hardship, as distinguished from a mere inconvenience if this Ordinance was applied strictly.

4. The relief sought furthers the intent or and carries out the provisions of the comprehensive plan and the Zoning Ordinance.

C. The Committee may attach conditions to the approval of a deviation.**D. Application Submission.**

1. A request for a deviation shall accompany the application for a Preliminary Subdivision Plan.

2. The application shall include a statement demonstrating how the relief sought furthers the criteria for granting a deviation.

3. The Preliminary Subdivision Plan must depict the subdivision layout with and without the deviation.

Section 5.1-3. Amendments

[Section repealed and replaced 11/13/2012]

5.1-3.1. General

The Town Council may amend, supplement, change, or modify the provisions of this Ordinance.

5.1-3.2. Who May Initiate

An amendment to this Ordinance may be initiated by a resolution of the Town Council or at the request of the Planning and Zoning Committee.

5.1-3.3. Application Submission

- A. An application an amendment shall be submitted to the Administrator at least 15 days prior to the Planning and Zoning Committee's next regular meeting.
- B. The Administrator shall forward the application to the Committee for review and recommendation prior to the Town Council's public hearing.

5.1-3.4. Planning and Zoning Committee Review

- A. The Planning and Zoning Committee shall forward a recommendation on each proposed amendment to the Town Council.
- B. The Planning and Zoning Committee's recommendation shall incorporate the applicable review criteria in Section 5-1.3.5C.

5.1-3.5. Town Council Public Hearing

- A. Town Council to Hold Hearing. The Town Council shall hold a public hearing on each proposed amendment to this Ordinance.
- B. Conduct of Public Hearing.
 1. The Planning and Zoning Committee's report and recommendation shall be presented at the public hearing and made a part of the hearing record.
 2. All interested parties and citizens shall be given an opportunity to be heard, but presentation times may be limited as directed by the Town Council.
- C. Review Criteria. The Town Council shall consider the relationship of the proposed change to the general purpose and intent of this Ordinance, the Comprehensive Plan, and the Zoning Ordinance.

5.1-3.6. Public Notice Provisions

- A. Newspaper Notice. The Town shall advertise the public hearing in a newspaper of general circulation. The notice shall appear at least 15 calendar days prior to the public hearing date and shall contain the following information.
 1. The location, date, and time of the public hearing.
 2. Information on where full details of the application may be obtained, including hours of availability and phone number.
- B. Town Hall Posted Notice. Notice shall be posted at Town Hall at least 15 calendar days prior to the public hearing date and shall contain the same information as required for the newspaper advertisement.

5.1-3.7. Adoption and Notice of Adoption

- A. Ordinance Required to Adopt. An amendment to this Ordinance shall be made by Ordinance.
- B. Notice of Adoption. Following the adoption of an amendment to this Ordinance, notice of such action shall be published in an official newspaper of general circulation in the Town.

5.1-3.8. Limitation on Reapplication

No application for an amendment proposing substantially similar provisions shall be received by the Town for a period of one (1) year following the decision in the matter by the Town Council.

Section 5.1-4. Enforcement**5.1-4.1. Administrator Authorized to Institute Action**

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

5.1-4.2. Penalties for Violations

- A. Initial Violation. Any person or corporation, who shall violate any provision of this Ordinance or shall fail to comply with any requirements of this Ordinance, shall be guilty of a violation and shall be liable to a fine of not more than \$100.00 or imprisonment not to exceed 30 days, for each lot or parcel so transferred or sold or agreed or negotiated to be sold.
- B. Subsequent Violations.
 - 1. Defined. A subsequent violation is defined as each and every day that any person or corporation shall violate any provision of this Ordinance or shall fail to comply with any requirements of this Ordinance.
 - 2. Penalty. An entity, who commits a subsequent violation, shall be charged with such violation and shall be assessed for a violation in the amount of \$100.00 each day without the necessity of a separate citation or summons issued by the Town of Clayton.

5.1-4.3. Responsible Parties

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

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

Chapter 5.2. Definitions**Section 5.2-1. Interpretation**

Words and terms not defined in this Ordinance shall be interpreted according to their normal dictionary meanings and customary usage.

Section 5.2-2. Definitions

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

Administrator. Town Foreman, or other person authorized to administer this Ordinance.

Applicant. See *Subdivider*.

Assemblage. Merger of separate parcels into a single tract of land.

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.

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

Building. See *Structure*.

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

Cluster Development. See *Zoning Ordinance, Section 6.5-2.2 Cluster Development*.

Committee. The Clayton Planning and Zoning Committee.

[Definition revised 08/08/2015; references to "Planning Commission" replaced throughout]

Consolidation. Removal of lot lines between parcels.

Council. The Town Council of Clayton.

County. Kent County or New Castle County, Delaware.

Crossway. A public way intended for pedestrian use which excludes motor vehicles and cuts across a block in order to furnish improved access to adjacent streets or properties.

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 the dwelling unit for the exclusive use of a single family maintaining a household.

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

Engineer. An individual who is technically and legally qualified to practice the profession of engineering and who is a registered engineer in the State of Delaware.

Final Subdivision Plat. See *Plat, Final Subdivision*.

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

Health Officer. The State Health Officer responsible for Kent County or New Castle County.

Local Street. See *Street, Access*.

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.

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

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

C. Lot, Interior. A lot other than a corner lot

Lot Area. The total area within the lines of a lot excluding any street rights-of-way.

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

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.

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

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

C. 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 Kent County or New Castle 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.

Minor Street. See *Street, Access*.

Plan, Sketch. A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

Plan, Preliminary Subdivision. The preliminary drawing or drawings, described in this Ordinance, indicating the proposed manner or layout of a subdivision to be submitted to the Planning and Zoning Committee.

Plat, Final Subdivision. The map of a subdivision that is to be recorded after approval by the Town Council and any accompanying material required by this Ordinance.

Recorder of Deeds. The Recorder of Deeds for Kent County or New Castle County, Delaware.

Regulations. See *Section 5.1-1.5 Components* (of this Ordinance).

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.

Right-of-Way. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or another special use. The term "right-of-way"

Roadway. The paved area of a street between the curbs, including travel lanes and parking areas but not including shoulders, curbs, sidewalks, or swales.

Service Drive. See *Street, Service*.

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.

State. The State of Delaware

Street. Any vehicular way that: (1) is an existing State, County or Town 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 Kent County or New Castle County Recorder of Deeds prior to the appointment of the Planning and Zoning Committee and the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved.

- A. Street, Access.** A street designed to provide vehicular access to abutting property and to discourage through traffic.
- B. Street, Alley.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.
- C. Street, Centerline of.** The center line of any street shown on any official Town, County, or State records.
- D. Street, Collector.** A street that collects traffic from local streets and connects with minor and major arterials.
- E. Street, Cul-de-Sac.** A street with a single common ingress and egress with a turnaround at the end.
- F. Street, Dead-End.** A street with a single common ingress and egress.
- G. Street, Private.** A street that has not been accepted by the Town or the State.
- H. Street, Service.** A street running parallel to a freeway or an expressway that serves abutting properties, but restricts access to the freeway or expressway.

Street Frontage. See *Frontage*.

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

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

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

Subdivision. The division of any tract or parcel of land into 2 or more plots, parcels, units, lots, condominiums, tracts, sites, or interests for the purpose, of offer, sale, lease, development, whether immediate or future; either on an installments plan or upon any other plans, terms, or conditions; or for any other purpose to include any 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 operated and maintained by the Town. Subdivision includes assemblages or consolidation of tracts, parcels, lots or sites, resubdivision, and condominium creation or conversion

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

THIS PAGE IS INTENTIONALLY BLANK.

Chapter 5.3. Application and Approval

Section 5.3-1. Overview

The procedure for obtaining approval for a subdivision plan is as follows:

- Step 1. Preliminary Conference/Sketch Plan
- Step 2. Preliminary Subdivision Plan
- Step 3. Final Subdivision Plat.

Section 5.3-2. Preliminary Conference/Sketch Plan

5.3-2.1. General

- A. Before preparing a preliminary subdivision plan, an applicant shall meet with the administrator to discuss the approval process and the requirements for preparing a plan.
- B. Purposes.
 - 1. To provide information about and expedite the subdivision process.
 - 2. To minimize applicant expense in preparing drawings and supplying information.
 - 3. To coordinate the applicant's development plans with the Town's comprehensive plan, zoning ordinance, and public improvement needs.

5.3-2.2. Sketch Plan

Depending on the type of proposed subdivision, the Administrator may require an applicant to prepare a sketch plan. Such a plan shall lay out the approximate locations of existing features and planned construction and shall provide ownership information.

5.3-2.3. Other Public Agencies

Where appropriate, the Administrator shall advise an applicant to contact other public agencies that will review the proposed subdivision plan.

Section 5.3-3. Preliminary Subdivision Plan

5.3-3.1. Application Requirements

An application for approval of a preliminary subdivision plan must include:

- A. Completed application form.
- B. 20 copies of the proposed subdivision plan. The plan shall contain all data, illustrations, computations, and ownership information required in this Ordinance.
- C. Filing fee.
- D. A statement of no objection from each State and County agency that must sign-off on plats to be recorded with the Recorder of Deeds. These agencies include, but are not limited to, the County Fire Marshal, the Delaware Department of Transportation, the County Soil Conservation Service, the 911 Agency, and the County Engineer.
- E. Where required, a site plan.
- F. Other information needed by the Committee to take action on the plan.

5.3-3.2. Approval Procedure

- A. The plan and accompanying materials shall be filed with the Administrator.
- B. Review and Recommendation by the Administrator.
 - 1. The Administrator shall review the plan for completeness and conformance to the recommendations made during review of the sketch plan.
 - 2. The Administrator shall prepare a report containing his/her comments and recommendations and comments from the Development Advisory Committee.

- C. Planning and Zoning Committee Hearing.
[Subsection revised 08/08/2016]
1. Following receipt of a complete application for approval of a Preliminary Subdivision Plan, the Committee shall hold a public hearing, give public notice of the hearing, and take action on the application.
 2. Public Notice.
 - a) Prior to the public hearing, a notice shall be published in a newspaper of general circulation.
 - b) The notice shall provide information about the nature of the proposed subdivision plan and announce the time and the place for the Planning and Zoning Committee's hearing.
 3. Hearing Time Frame
 - a) The public hearing shall be held no fewer than 15 days, but not more than 60 days, following publication of the hearing notice in a newspaper of general circulation in the Town as required in this Section.
 - b) If the hearing does not take place within 60 days following newspaper notice, the hearing shall be re-advertised.
 4. Conduct of Hearing.
 - a) The Administrator's recommendations shall be presented at the hearing and made a part of the hearing record.
 - b) All interested parties and citizens shall be given an opportunity to be heard, but the presentation times may be limited as directed by the Planning & Zoning Committee.
 - c) The Planning and Zoning Committee shall forward to the Council a written report of its action including conditions.
- D. Duration and Revocation.
1. The duration of an approved preliminary subdivision plan is 12 months from the approval date.
 2. Proceeding to Final Plat application
 - a) The applicant must file an application for approval of a Final Subdivision Plat for all or part of the property included in the Preliminary Subdivision Plan within 12 months of the date on which the Committee approved the Preliminary Subdivision Plan.
 - b) When Final Plats for a part of an approved Preliminary Plan are filed, plats for the remainder of the property must be filed within 24 months of the date on which the Committee approved the Preliminary Subdivision Plan.
 3. Automatic Revocation. If an applicant does not file an application for all or part of an approved Preliminary Plan as required above, the Preliminary Plan approval is automatically revoked.
 4. Extension. The Committee may grant 1, 6-month extension if an applicant can demonstrate that delays were beyond his/her control.

5.3-3.3. Public Improvements

- A. Following approval of a preliminary subdivision plan, the applicant shall file plans for the public improvements required for the subdivision with applicable public agencies.
- B. Prior to approval of a final plat, the applicant shall provide written evidence that each applicable public agency has approved plans for the public improvements proposed for the subdivision. The final plat shall depict the locations of all roads and public improvements to be dedicated and any other requirements of the Committee.

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

Section 5.3-4. Final Subdivision Plat**5.3-4.1. Application Requirements****A. General.**

1. Within 12 months following Committee approval of a preliminary plan, an applicant shall file an application for approval of a final subdivision plat with the Council.
2. A final plat shall contain all data, illustrations, computations, and ownership information required in this Ordinance.
3. A final plat may be for all or part of the property included in the approved preliminary plan.
4. The final plat must be substantially in accordance with the preliminary plan.
5. The final plat must include all adjustments, additions, and changes required as conditions for preliminary plan approval.

B. An application for approval of a final subdivision plat must include:

1. Completed application form.
2. Copies of the final plat.
 - a) 9 paper prints.
 - b) 2 prints on mylar or other suitable reproducible material.
 - c) 1 opaque linen print.
3. Filing fee
4. Other information needed by the Council to take action on the plan.

5.3-4.2. Approval Procedure

- A. The plan and accompanying materials shall be filed with the Administrator at least 15 days prior to the meeting of the Council at which the Council will take action on the plan.
- B. Review and Recommendation by the Administrator.
 1. The Administrator shall review the plan for completeness and conformance to the recommendations made during review of the sketch plan.
 2. The Administrator shall prepare a report containing comments and recommendations including comments from agencies involved with required public improvements.
- C. Council Action. The Council shall take action on the record plat at a regularly-scheduled meeting.

5.3-4.3. "As Built" Drawings

When required public improvements are completed, the applicant shall provide 1 copy of all construction and improvement plans that contains "as-built" locations and field notations.

Section 5.3-5. Fees**5.3-5.1. Filing Fees**

- A. From time to time, the Council shall establish by resolution filing fees for subdivision applications.
- B. Filing fees shall be paid at the time a subdivision plan is filed for processing or review.
- C. The fees shall reflect the type and size of subdivision.

5.3-5.2. Application Review Costs

- A. In addition to filing fees, the applicant shall be responsible for all engineering and legal fees incurred by the Town in connection with the processing, review and approval of subdivision plans and plats.
- B. Upon request, the Town shall provide an estimate of the application review costs prior to plat recordation.

THIS PAGE IS INTENTIONALLY BLANK.

Chapter 5.4. Subdivision Layout and Design Standards

Chapter name changed 06/09/2014

Section 5.4-1. General Improvements

5.4-1.1. Conformance to Applicable Rules and Regulations

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

- A. All applicable statutory provisions.
- B. The Zoning Ordinances, building and housing codes, and all other applicable laws of the County and State.
- C. The comprehensive plan.
- D. Standards and regulations adopted by any Clayton boards, committees, or commissions.
- E. Rules, regulations, and standards of applicable County or State agencies.

5.4-1.2. Adequate Public Facilities

- A. Requirement. No preliminary plan shall be approved unless the Committee determines that public facilities are or will be adequate to support and service the area of the proposed subdivision.
- B. Upon request, the applicant shall provide information needed by the Committee to evaluate the adequacy of public facilities. For developments needing a Site Plan Permit, the community impact study shall be used to judge adequacy.
- C. The following services shall be examined for adequacy:
 1. Roads.
 2. Sewage treatment.
 3. Water service.

5.4-1.3. Self-Imposed Restrictions

If the owner, applicant, or subdivider places restrictions on any land included in a subdivision that are different from, more strict than, or in addition to those required by the Zoning Ordinance or this ordinance, the Committee may require that such restrictions be indicated on the Subdivision Plan and/or that restrictive covenants be recorded with the Recorder of Deeds. The owner, applicant, or subdivider shall grant the Town the right to enforce the restrictive covenants.

5.4-1.4. Monuments

The applicant shall provide permanent reference monuments follows.

- A. The external boundaries of a subdivision shall be delineated by monuments of stone or concrete, not less than 30 inches in length and not less than 4 inches square or 5 inches in diameter with a suitable center point. These monuments shall be flush with the finished grade and placed at locations required by the Town.
- B. Monuments of non-corrosive metal pipe, $\frac{3}{4}$ inches in diameter and not less than 24 inches in length shall be set in place flush with the finished grade at all:
 1. Intersections of streets.
 2. Intersections of streets and alleys with subdivision boundary lines.
 3. Points of streets, alleys, and boundary lines where there is a change in direction or curvature.
 4. Lot corners.

5.4-1.5. Subdivision Name

The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by this ordinance. The Council shall have final authority to designate the name of a subdivision.

5.4-1.6. Character of Land

Land which the Committee 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 Committee 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 5.4-2. Lot Layout**5.4-2.1. Requirement**

Lots shall be arranged so that there will be no foreseeable difficulties, because of topography or other conditions, in securing building permits

5.4-2.2. Lot Access

Every lot shall abut and have access to a street.

5.4-2.3. Lot Dimensions

- A. Lot dimensions shall comply with the minimum 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 by the Zoning 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, including railroad, uses shall be sufficient to provide parking, loading, landscaping, and other facilities specified in this ordinance, the Zoning Ordinance, and other applicable requirements.
- H. Double the Minimum Area. Where lots are more than double the required minimum area, the Committee may require that these lots be arranged to permit further subdivision and the opening of future streets.
- I. Drainage.
 1. Lots shall be laid out so as to provide positive drainage away from all buildings.
 2. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area in which the subdivision is located.
 3. Drainage systems shall be designed to avoid concentration of sort water runoff from adjacent lots on to any single lot.

5.4-2.4. 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.

5.4-2.5. 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 5.4-3. Roads and Streets

5.4-3.1. General Requirements

- A. **Service from Public Streets.** Every subdivision shall be served by a dedicated public street. Except as provided in this ordinance, there shall be no private streets platted in any subdivision.
- B. **Street Names.** Street names shall neither duplicate nor closely resemble existing street names in either the Town or the County, except for extensions of existing streets. The Council shall have final authority over street names in every subdivision.
- C. **Grading and Improvement Plan.** Roads shall be graded and improved in conformance with the construction standards of the applicable government agency. Applicable government agencies shall approve design specifications prior to final plat approval.
- D. **Classification.** Each road shall be classified as either a State-maintained road or a municipal street. Municipal streets shall be further classified as access streets or collector streets.
- E. **Topography and Arrangement.**
 1. 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. **Collector Streets.**
 - a) Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Committee determines:
 - 1) That topography or other physical condition prevents continuation.
 - 2) That coordination between the two subdivisions is unnecessary.
 - 3) 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 Committee.
 4. **Alleys.**
 - a) **Commercial and Industrial Developments.** Private alleys shall be provided in commercial and industrial areas unless adequate access to parking and loading areas is provided by other means.
 - b) **Residential Areas.** Private alleys are not permitted in residential developments except to provide rear access to townhouses or where required by topographic or unusual physical conditions.
- F. **Blocks.**
 1. 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. The lengths, widths, and shapes of blocks shall be appropriate for the character of the Town, the surrounding neighborhood, the proposed development.
 3. In long blocks, the Committee may require the reservation of an easement through a block to accommodate utilities, drainage facilities, or pedestrian traffic.
- G. **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.

5.4-3.2. Design Standards for Municipal Streets

- A. Applicability. These standards apply to municipal streets. State standards apply to State-maintained roads.
- B. Purposes of Standards. The purposes of these standards are to provide for roads in suitable locations and of sufficient width to:
 - 1. Accommodate future traffic.
 - 2. Provide access to police, fire fighting, snow removal, sanitation, and road maintenance equipment.
 - 3. Provide a safe and convenient road system.
 - 4. Minimize adverse effects on adjoining properties.
- C. Intersections.
 - 1. Streets shall be laid out to intersect one another at or as near to right angles as topography, existing development and streets, and best design practices will permit.
 - 2. No street shall intersect another street at an angle of less than 70 degrees for all other streets.
 - 3. Intersections shall be designed to provide clear sight distance for oncoming vehicles, and the street grade should be suitably leveled within and approaching the intersection.
 - 4. Curbs at street intersections shall be rounded off concentrically with the property lines.
 - 5. Each property corner at street intersections shall be rounded off by an arc with a radius of not less than 20 feet.
- D. Right of Way and Roadway Widths. The widths for rights-of-way and roadways shall be as set forth in Table 3.
- E. Cul de Sac Streets.
 - 1. Maximum length. 600 feet.
 - 2. Unless the Committee approves a "T" or "Y" backaround, cul-de-sac streets shall comply with the following standards:
 - a) Paved Circular Turnaround. 100 feet in diameter to the street line.
 - b) Roadway. 80 feet in diameter.
- F. Street Grades. Not less than 0.5 percent or greater than 7.0 percent.

5.4-3.3. Construction Standards for Municipal Streets

Municipal streets shall be constructed to current State standards for the type of road being constructed.

5.4-3.4. Dedications and Reservations for State-Maintained Roads

When a subdivision adjoins a State-maintained road, the subdivision layout shall provide for the platting and dedication of the State-maintained road. The State shall determine the amount of land need for dedication or reservation.

Section 5.4-4. Drainage and Storm Sewers**5.4-4.1. Design**

- A. Every subdivision plan shall provide for storm or flood runoff channels or basins. The stormwater drainage system shall be separate from and independent of any sanitary sewer system. The system shall be designed according to the standards contained in the Kent County Drainage Code.
- B. Drainage systems in source water protection areas shall be designed in accordance with applicable State and Town standards. See Section 6.6-4.2. *[Subsection B added 06/08/2015]*

5.4-4.2. Construction

Construction of drainage facilities shall be in accordance with standards and specifications established by the Delaware Department of Transportation.

5.4-4.3. Streams and Water Courses

Where a proposed subdivision is traversed by any stream, water course, or drainage way, the subdivider shall make adequate provision for surface water drainage including the dedication of easements as determined by the Committee.

Section 5.4-5. Water Facilities**5.4-5.1. Requirement**

Each lot in a subdivision shall be connected to the Town's water supply and distribution system. The subdivider shall provide these improvements and appropriately spaced fire hydrants.

5.4-5.2. Design and Construction

These facilities shall be designed and constructed in accordance with the standards and specifications established by the Town.

5.4-5.3. Water Mains

Water mains shall be at least 8 inches in diameter and shall conform to the requirements of applicable State agencies and the Town.

5.4-5.4. Hydrants

Hydrants shall be of the "B" type with national B-62 standard threads.

Section 5.4-6. Sanitary Sewer Facilities**5.4-6.1. Requirement**

Each lot in a subdivision shall be connected to a public sanitary sewerage system.

5.4-6.2. Design and Construction

Sanitary sewer facilities shall be designed and constructed in accordance with the standards and specifications of applicable State agencies and the Town.

5.4-6.3. Prohibited Sewerage Facilities

Private sewage collection and treatment facilities are prohibited. This includes community systems as well as individual facilities, such as septic systems.

Section 5.4-7. Sidewalks, Curbs, and Gutters**5.4-7.1. Sidewalks**

- A. Requirement. Sidewalks shall be required in all subdivisions and shall be included within the dedicated, nonpavement right-of-way of all streets and roads.
- B. Design. Sidewalks shall conform to the following unless otherwise specified by the Committee.
 - a) Residential Subdivisions: 5 feet wide.
 - b) Commercial and Industrial Subdivisions: From curb to property line.
- C. Pedestrian Access Easements.
 - 1. The Committee may require perpetual, unobstructed easements to facilitate pedestrian access from roads to schools, parks, playgrounds, or other nearby roads.
 - 2. Pedestrian access easements shall be at least 20 feet wide.
 - 3. Pedestrian access easements shall be indicated on the plat.

5.4-7.2. Curbs and Gutters

- A. General Requirement. Curbing shall be required for the purposes of drainage, safety, and delineation or protection of pavement edge.
- B. Specific Requirements. Curbing may be required:
 - 1. For stormwater management.
 - 2. To stabilize pavement edge.
 - 3. To delineate parking areas.
 - 4. 10 feet on each side of drainage inlets.
 - 5. At intersections.
 - 6. At corners.
 - 7. At tight radii.
- C. The Committee may vary curb requirements according to the type of street and intensity of development. Where curbing is not specifically required, the Committee may approve an alternative type of edge definition and stabilization for safety reasons and to prevent pavement unraveling.

Section 5.4-8. Utilities**5.4-8.1. Requirement**

Provision shall be made for each lot in a subdivision to be connected to utility services, including but not limited to, gas electricity, telephone, fiber optic, and cable television.

5.4-8.2. Location

- A. All utility facilities shall be located underground throughout the subdivision.
- B. Existing Facilities. Existing utility facilities, located aboveground, shall be removed and placed underground except those located on public roads and rights-of-way.
- C. Connections. The subdivider shall install underground service connections to the street property line of each platted lot at his/her expense.
- D. The preliminary plan shall show the locations of existing and proposed underground utility lines.

5.4-8.3. Easements

- A. Easements shall be provided for public and private utilities.
- B. Easements shall be at least 10 feet wide.
- C. The subdivider and the applicable utility companies shall coordinate the establishment of utility easements established in adjoining properties.
- D. Utility easements shall be indicated on the plat.

Section 5.4-9. Erosion and Sediment Control**5.4-9.1. Requirement**

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

5.4-9.2. 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 5.4-10. Street Lights**5.4-10.1. Requirement**

Street lights shall be required in every subdivision unless exempted by the Committee.

5.4-10.2. Design, Location, and Construction

The Committee shall specify the number, type, spacing, and installation method for street lights.

Section 5.4-11. Public Uses**5.4-11.1. Open Space, Park, and Recreation Areas**

- A. General
 - 1. The Committee shall require that either:
 - a) Land be dedicated for open space, parks, playgrounds, or other recreational purposes in locations designated on the master plan or where such dedications are appropriate; or
 - b) A cash payment in lieu of land dedication be deposited with the Town.
 - 2. The land or fees received under this ordinance shall be used only for providing open space, park and recreational facilities to serve the subdivision for which the land was dedicated or the fee was collected. The location of the land and the amount of fees shall bear a reasonable relationship to the use of the park or recreation facilities by the future residents of the subdivision.
- B. Land Dedications.
 - 1. Each dedication shall be of suitable size, dimension, topography, and general character and shall have appropriate road access.
 - 2. The area shall be shown and marked on the subdivision plat "Dedicated for Park and Recreation Purposes."

3. The amount of land to be dedicated shall be calculated in accordance with *Table 1. Calculation of Land to be Dedicated for Recreation and Open Space.*
- C. Fee-in-Lieu of Land Dedication.
1. When land dedicated for is either insufficient to satisfy the requirements or not suitable for open space, parks, or recreation uses, the Committee may require payment of a cash deposit in lieu of land dedication.
 2. Fee in lieu of land dedication shall be calculated in accordance with *Table 2. Calculation of Fee in Lieu of Dedicating Land for Open Space and Recreation.*
 3. The Town shall use the fee to provide open space, park or recreation facilities that will be available to and generally benefit the residents of the subdivision for which the fee is collected.
 4. A fee-in-lieu of land dedication shall not be used to satisfy the open space requirements in cluster subdivisions.
- D. Open Space Dedications in Cluster Developments.
[Subsection 5 stricken in its entirety and replaced, 03/14/2011]
1. Liability and Maintenance. Property owners shall be responsible for the liability and maintenance of open space areas. Open space set aside under Cluster Development shall be protected by legal arrangement satisfactory to the Town Council and sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the open space; method of maintenance; responsibility for maintenance; taxes and insurance; compulsory membership or compulsory assessment provisions; guarantees that any association formed to own and maintain the open space will not be dissolved without the consent of the Town Council; and any other specifications deemed necessary.
 2. Up to 1/3 of the required open space may be located in a 100-year floodplain.
 3. Cluster open space shall not include areas devoted to public or private vehicular streets or any land which has been, or is to be, conveyed to a public agency via a purchase agreement for such uses as schools or other public facilities.
 4. Cluster open space must be set aside and usable for recreation or conservation, and shall be shown on an approved subdivision plan.
 5. Minimum cluster open space in the amount of thirty (30%) percent of the gross tract area needed for common use by the residents of the development.
- E. Other Recreation Dedications. The provisions of this section are minimum standards. A developer may set aside additional land for park or recreational use.

5.4-11.2. Other Public Uses

- A. The Committee may require land dedication for other public uses, including but not limited to schools and fire stations.
- B. The Committee shall use the following criteria for determining when land dedication for other public uses:
 1. Where a need is included in the comprehensive plan.
 2. Where the Town's adopted capital improvement plan or budget have identified a need.
 3. Where the type of development proposed in a subdivision requires such a facility.

Section 5.4-12. Inspection and Completion**5.4-12.1. Inspection**

Applicable, authorized officials shall inspect and approve all construction work required in this ordinance.

5.4-12.2. Completion

Upon completion of each required improvement, the subdivider shall furnish the Administrator with the following information:

- A. An accurate and detailed description of the improvement as actually constructed.
- B. Location of the improvement.
- C. Completion date of the improvement.

Section 5.4-13. Nonresidential Subdivisions**5.4-13.1. General**

In addition to the requirements contained in this ordinance, an applicant for the subdivision of commercial or industrial property shall demonstrate to the satisfaction of the Committee that the proposed street, parcel, and block pattern respects other uses in the vicinity.

5.4-13.2. Other Principles and Standards

- A. Proposed commercial and industrial parcels shall be suitable in area and dimensions to the types development anticipated.
- B. Street rights-of-way and pavement shall be sufficient to accommodate the type and volume of traffic that the proposed development will generate.
- C. The Town may impose special requirements with respect to the design and construction of streets, curbs, gutters, and sidewalks.
- D. The Town may impose special requirements with respect to the installation of utilities, water facilities, sewer facilities, or drainage systems.
- E. The subdivider shall make every effort to protect existing or proposed residential areas from potential nuisances resulting from proposed commercial or industrial subdivisions, including the provision of extra depth in parcels adjacent to existing or proposed residential developments and provisions for permanently landscaped buffers strips where appropriate.

Section 5.4-14. Relationship to Site Plan Review

Where a site plan permit is required, the Committee shall review and take action on the site plan simultaneous with review and approval of the preliminary subdivision plan. The Committee shall not approve a preliminary subdivision plan unless it has approved a site plan permit for the property proposed for subdivision.

Section 5.4-15. [Repealed 06/09/2014]

Chapter 5.5. Construction Improvements and As-Built Plans

Added 06/09/2014

Section 5.5-1. Construction Improvements Plans

5.5-1.1. When Required

A Construction Improvements Plan must be submitted to the Administrator after recordation of the final subdivision plat. The Administrator shall determine the number of copies and the manner of submission.

5.5-1.2. Contents

A. Streets

1. Horizontal Plan.

- a) Centerline with bearings, distances, and curve data and stations corresponding to the profile.
- b) Right-of-way and curb lines with radii at intersections.
- c) Beginning and end of proposed construction.
- d) Tie-ins by courses and distances to intersections of all public roads with their names and widths.
- e) Location of all monuments with reference to permanent structures.
- f) Proposed and existing property lines and ownership of abutting properties.
- g) Contour lines at intervals not to exceed 5 feet.
- h) Location, size, and elevations of all drainage structures and public utilities.
- i) Scale at least 1 inch = 50 feet.

2. Profile.

- a) Profile of existing ground surface along the road centerline and also both right-of-way lines if required by the Town.
- b) Proposed centerline grade with percent of grade on tangents and elevations at 50-foot intervals, grade intersections and both ends of curb radii.
- c) Vertical curve data including length, tangent elevations, and corrections with elevations at 25-foot intervals for sharp vertical curves.
- d) Scale at least 1 inch = 50 feet Horizontal and 1 inch = 5 feet Vertical.

B. Sanitary Sewers and Storm Drains

1. Horizontal Plan.

- a) Location and size of line with stations corresponding to the profile.
- b) Location and types of manholes or inlets with grades between and elevation of flow line and top of each manhole or inlet.
- c) Property lines and ownership, with details of easements where required.
- d) Beginning and end of proposed construction.
- e) Location of laterals, Y's, etc.
- f) Location of all other drainage facilities and public utilities.
- g) Scale at least 1 inch = 50 feet.

2. Profile.

- a) Profile of existing ground surface with elevations at top of manholes or inlets and at flow line.
- b) Profile of storm drain or sewer showing size of pipe, grade, and cradle (if any), manhole or inlet locations.
- c) Scale at least 1 inch = 50 feet Horizontal and 1 inch = 5 feet Vertical.
- d) Location of these and all other utilities at points of intersection.

- C. Water Mains: Horizontal Plan.
 - 1. Location and size of line with stations corresponding to profiles.
 - 2. Locations of valves, fittings, fire hydrants, and other appurtenances.
 - 3. Property lines and ownership with details of easements where required.
 - 4. Beginning and end of proposed construction.
 - 5. Location of service lines, etc.
 - a) Location of all other drainage facilities and public utilities.
 - b) Scale at least 1 inch = 50 feet.
- D. Bridges and Other Improvements. These plans shall contain sufficient information to provide complete working plans for the proposed construction.
- E. Additional Information.
 - 1. Title as required for the Subdivision Plan
 - 2. Names of abutting owners
 - 3. Names, locations, widths, center line courses, distances, and curve data, paving widths and curb lines, right-of-ways and curb line radii at intersections of all existing plotted and other approved streets, alleys, right-of-way and easements, and parks and other public places or improvements within the land being subdivided.
 - 4. Location, elevation, material, and size of all monuments with reference to them.
 - 5. Location to include elevations and size of sanitary and storm sewers, including manholes, inlets and building laterals.

5.5-1.3. Standard Conditions and Procedures

- A. Liability Insurance.

A liability insurance policy in the amount of \$300,000/\$500,000 per accident, providing full protection of the Town, its officials and employees against all damages or claims for damages occurring directly or indirectly by reason of the Construction Improvements, shall be filed with the Administrator before any work begins in an approved subdivision.
- B. Compliance with Regulations, Codes, etc.

Grading, excavation, construction, erection, or building shall begin only if in full compliance with this Subdivision Code (including tables), the Building Code, the Town Zoning Ordinance (including tables), Town standard and specifications, and all other applicable standards, procedures, and ordinances of the Town and the laws of the State of Delaware.
- C. Notice of Construction.

The Administrator must be notified at least 5 working days in advance of the commencement of any construction operation in order that provision may be made for proper inspection.
- D. Inspections.

The Town Inspector shall coordinate inspection of required improvements during construction. If the Town Inspector finds upon inspection that any of the required improvements have not been constructed in accordance with the Town standard specifications, the developer shall be responsible for correcting the improvements. Wherever the cost of improvements is covered by a surety guarantee bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.
- E. Limited Authority for Minor Alterations.

The Administrator (who may solicit advice from a consulting engineer) shall have the authority to approve minor alterations of construction details as field conditions may require. He/she shall have no authority to approve changes in the boundaries of streets and other areas to which title has been transferred or for which agreements been made to transfer to the Town.

- F. Release of Liens.
Within 90 days after the completion of the Construction Improvements of the subdivision or approved sections, the Developer shall submit a release of liens to the Administrator with respect to the Construction Improvements.
- G. Completion Deadline.
All Construction Improvements shall be completed within 2 years of the date of the recordation of the subdivision plat. The Town Council may grant extensions upon request.
- H. Completion Requirements and Exceptions.
1. Requirement. No certificate of approval for occupancy of any dwelling, house, building, or structure within the subdivision shall be issued by the Town until all work required by the Construction Improvements Plan shall have been completed in strict accordance with the approved plans and specifications and maintained in a condition acceptable to the Town.
 2. Exceptions. The only exceptions to completion requirements are blacktopping streets, installing sidewalks, monuments, as-built drawings, and street lights (if applicable), which shall be guaranteed through the posting of a Bond in accordance with Paragraph I of this Subsection.
- I. Bonding.
Prior to the issuance of certificates of approval, a surety guarantee bond acceptable to the Town Solicitor shall be posted in an amount equal to 150% of the estimated cost to the Town for work required in the Construction Improvement Program. No occupied dwelling unit shall be without complete facilities including paved streets and walks for a period of more than one year.
- J. Maintenance of Facilities.
The developer shall maintain, to the satisfaction of the Town, all facilities specified in the Construction Improvement Plan (including ice and snow control for streets) for one year after their completion and approval, or until 50% of the occupancy permits for the subdivision or section of subdivision have been issued, whichever time period is greater.
- K. Certification and Acceptance of Public Improvements.
After the maintenance period specified in Paragraph J of this Subsection has ended, and after the Construction Improvement Plan is completed and approved, and before the last Certificate of Approval is issued for the subdivision, the following shall occur:
1. Certification by the Town (or consulting engineer representing the Town) that Construction Improvements are complete and ready for use according to approved specifications.
 2. Certification that all terms and conditions of the agreement, including submission of a satisfactory release of liens, have been met to the Town's satisfaction.
- L. Streets on Official Map.
After acceptance by Town of Clayton, the streets shall be incorporated on the official Town map.

5.5-1.4. Town Review of Construction Improvements Plan

- A. The developer shall submit the Construction Improvements Plan to the Administrator, who may forward it to a consulting registered professional engineer for review and approval. The consulting engineer shall inform the Administrator as to whether the Construction Improvements Plan conforms to the requirements and specifications of this Subdivision Ordinance and other applicable laws, regulations, procedures, and practices. The Administrator shall notify the Developer of the Town's acceptance of the Construction Improvements.
- B. The approved Construction Improvements Plan shall contain the following:
1. Signature and seal of registered professional engineer representing the Applicant/Developer certifying the accuracy of the Plan.
 2. Signature of a registered professional engineer representing the town that the Plan conforms to the applicable Town standards.

Section 5.5-2. As-Built Plans**5.5-2.1. When Required**

Upon completion of the Construction Improvements and prior to the release of the developers' surety guarantee bond, the developer shall provide "as-built" plans to the Town. The Administrator shall determine the number of copies and the manner of submission.

5.5-2.2. Required Information

- A. Title as required for the Subdivision Plan.
- B. Location, size, and elevations of all drainage structures and public utilities.
- C. Location and size of sanitary and storm sewers, including manholes, inlets, and house laterals.
- D. Location and size of water mains, including service lines, valves, fire hydrants, and appurtenances.
- E. Location of all subsurface facilities.
- F. Any other applicable information specified in Table 5 Required Documents.

5.5-2.3. Certification

Prior to issuing the last certificate of approval, the Administrator shall certify completion of Construction Improvements before releasing bonds.

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

Chapter 5.6. Specifications for Documents**Section 5.6-1. Purpose and Organization****5.6-1.1. Purpose**

- A. To provide the Committee and the council with sufficient information to assure compliance with all applicable codes, ordinances, rules, standards, and policies of the Town, County, State and other agencies involved in the review of development proposals.
- B. To ensure that the proposed development meets the design and improvement standards contained in this ordinance.

5.6-1.2. Organization

- A. The specification is based on the type of development and the particular state of a development application.
- B. The intent of this organization is require an applicant to present more detailed information as a development application progresses from a sketch plan to a final plat.

Section 5.6-2. Required Documents**5.6-2.1. List of Documents**

lists the documents required to be submitted during the subdivision review procedure.

5.6-2.2. Waiver

- A. The Administrator, the Committee, or the Council may waive requirements for submission of documents and/or may tailor the level of detail to the nature of a particular subdivision.
- B. When a requirement is waived, the minutes of the Committee's or the Council's meeting shall document the reason for the waiver.

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

THIS PAGE IS INTENTIONALLY BLANK.

Table 1. Calculation of Land to be Dedicated for Recreation and Open Space

Density	Percentage of Gross Tract to Be Dedicated	Density	Percentage of Gross Tract to Be Dedicated
1 D.U. per acre or more	0.60%	10 to 19 D.U.s per acre	5.79%
1 D.U. per ½ to 1 acre	1.20%	20 to 29 D.U.s per acre	9.30%
1 D.U. per 10,000 sq. ft. to ½ acre	1.73%	30 to 39 D.U.s per acre	12.56%
1 D.U. per 9,000 to 9,999 sq. ft.	2.70%	40 to 49 D.U.s per acre	15.58%
1 D.U. per 8,000 to 8,999 sq.ft.	3.01%	50 to 59 D.U.s per acre	18.40%
1 D.U. per 7,000 to 7,999 sq.ft.	3.40%	60 to 69 D.U.s per acre	21.05%
1 D.U. per 6,000 to 6,999 sq.ft.	3.90%	70 to 79 D.U.s per acre	23.54%
1 D.U. per 5,000 to 5,999 sq.ft.	4.58%	80 to 89 D.U.s per acre	25.85%
10 to 19 D.U.s per acre	5.79%	90 to 99 D.U.s per acre	28.00%
20 to 29 D.U.s per acre	9.30%	100 D.U.s and over per acre	29.07%

Note: D.U. means dwelling unit.

Table 2. Calculation of Fee in Lieu of Dedicating Land for Open Space and Recreation

Formula:

\$200.00 Multiplied by the number of times that the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which the tract to be subdivided is located.

Example:

Fee required for a 10 acre subdivision in the R Zone

Minimum R Zone Lot Size: 8,000 square feet.

Area of New Subdivision: 10 acres or 435,600 square feet

Calculation: $\$200(435,600/8,000) = \$10,890$

Table 3. Cluster Development Open Space Requirements [Repealed 03/14/2011]

Table 4. Rights-of-Way and Roadway Widths

Type of Street or Road	Right-of-Way Width	Roadway Width
State-Maintained Streets	State standard	State standard
Municipal Streets		
Collector Streets (c)		
Commercial and Industrial	60 feet	34 feet (d)
Multi-Family Residential	60 feet	34 feet (d)
Other than Multi-family Residential	60 feet	34 feet (d)
Access Streets		
Commercial and Industrial	60 feet	34 feet (d)
Multi-Family Residential	60 feet	34 feet (d)
Other than Multi-Family Residential	50 feet	34 feet (d)
Service Streets	24 feet	24 feet (d)
Alleys	20 feet	20 feet

Notes:

- (a) A *State Maintained Street* is any street or road owned and/or maintained by the State. State streets include freeways, arterials, and subdivision streets as defined by the State.
- (b) *Municipal Streets* are streets, roads, alleys, etc. owned and maintained by the Town of Clayton.
- (c) The Committee may reduce the roadway width to 20 feet for streets serving lots of 1 acre or greater.
- (d) Paved with curbs and gutters.

REMAINDER OF PAGE IS INTENTIONALLY BLANK.

Table 5. Required Documents		Sketch Plan	Prelim Plan	Final Plat
<p>“X” denotes an item required at the indicated stage of subdivision review. “G” means that general information is sufficient at indicated stage of subdivision review. “E” means that information is required for existing situations.</p>				
I.	PLAT INFORMATION			
1.	Name and address of owner and applicant	X	X	X
2.	Subdivision name	X	X	X
3.	Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat	X	X	X
4.	North arrow and scale	X	X	X
5.	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	X	X	X
6.	Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	X	X	X
7.	Acreage of tract to nearest tenth of an acre	X	X	X
8.	Proposed lot lines and areas of lots in square feet	X	X	X
9.	Size and location of existing or proposed structures with all setbacks dimensioned	X-G	X	X
10.	Locations and dimensions of existing and proposed streets	X-G	X	X
11.	Copy and/or delineation of any existing or proposed deed restrictions or covenants	X-E	X	X
12.	Existing or proposed easement or land reserved for or dedicated to public use	X-E	X	X
13.	Development or staging plans	X-G	X	X
14.	List of required regulatory approvals or permits <i>Conditional approval may be granted subject to other regulatory approvals.</i>	X-G	X	X
15.	List of waivers required	X	X	X
16.	Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.		X	X
17.	Signature blocks for Planning and Zoning Committee Chairperson and, where appropriate, other governmental agencies		X	X
18.	Certification blocks for surveyor and/or engineer as appropriate			X
19.	Monumentation			X
20.	Metes and bounds description showing dimensions, bearings, curve data, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of way and centerline curves on streets			X
21.	Date of original and all revisions	X	X	
22.	Payment of application fees		X	X
II.	SETTING-ENVIRONMENTAL INFORMATION			
23.	Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map		X	X
24.	Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site	X-G	X	X
25.	Existing rights-of-way and/or easements on and within 200 feet of tract	X	X	X
26.	Topographical features of the site from the USC&GS map		X	X
27.	Existing and proposed contour intervals based on USC&GS data; contours to extend 200 feet beyond the site		X	X
28.	Boundary, limits, nature and extent of wooded areas, specimen trees, and other significant features	X-G	X	X
29.	Existing drainage system of site and of any larger tract or basin of which it is a part		X	X
30.	Location of source water protection areas (wellhead protection and excellent groundwater recharge potential areas) <i>[Item added 06/08/2015, remaining items renumbered]</i>			

Table 5. Required Documents		Sketch Plan	Prelim Plan	Final Plat
<p>“X” denotes an item required at the indicated stage of subdivision review. “G” means that general information is sufficient at indicated stage of subdivision review. “E” means that information is required for existing situations.</p>				
III.	IMPROVEMENTS AND CONSTRUCTION INFORMATION			
31.	Proposed utility infrastructure plans, including sanitary sewer water supply, stormwater management, gas, telephone, electric, and cable TV	X-G	X	X
	a. Plans and profiles of each street, shall show proposed grades, street intersection elevations, and station references every 100 feet.			X
	b. Cross-sections of proposed streets, shall show the width of roadways, existing and proposed grade lines, and the locations and sizes of utility mains, taken at intervals of not more than 50 feet along each street centerline. Such cross-sections shall extend laterally to the point where the proposed grade intersects the existing grade and the full width of the street right-of-way shall be shown.			X
	c. Plans and profiles of proposed sanitary sewer and storm water management systems shall show proposed grades and pipe sizes.			X
	d. Plans of the proposed water distribution system shall show pipe sizes and the locations of all valves and hydrants.			
32.	Soil erosion and sediment control plan		X	X
33.	Spot and finished elevations at all property corners; corners at all structures or dwellings, existing or proposed first floor elevations.		X	X
34.	Construction details as required by applicable laws, regulations, and policies		X	X
35.	Road paving cross-sections and profiles		X	X
36.	Proposed street names		X	X
37.	New block and lot numbers		X	X
38.	Detailed lighting plan		X	X
39.	Detailed landscape plan		X	X
40.	Site identification signs, traffic control signs, and directional signs		X	X
41.	Sight triangles		X	X
42.	Vehicular and pedestrian circulation patterns	X-G	X	X
43.	Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		X	X