



**Town of Cheswold
LAND USE ORDINANCE**

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Prepared by

Town of Cheswold and the
Cheswold Zoning Commission
333 Main Street
Cheswold, DE 19936

Based on a Model Ordinance
Developed by
The State of Delaware, Office of State Planning Coordination

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Preface

This ordinance was prepared by the Town of Cheswold Zoning Commissioners; Mr. Dennis Coker, chair, Mr. Robert Sine and Ms. Gerry Harkness, at the direction of the Mayor and Town Council of Cheswold.

The Ordinance was based on a model developed by the University of Delaware, Institute for Public Administration and the State of Delaware Office of State Planning Coordination.

The Zoning Commission was assisted by Vollmer Associates, LLP and Davis, Bowen & Friedel, Inc. The Office of State Planning Coordination provided preliminary review and collected comments from a variety of state agencies.

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Article 1. General Provisions**Section 1-1. Title**

This ordinance shall be known as the Land Use Ordinance of the Town of Cheswold, Delaware.

Section 1-2. Authority

This Land Use Ordinance has been approved and enacted under the authority of the Charter of the Town of Cheswold and made in accordance with the grant of power in Title 22, §301 of the *Delaware Code*.

Section 1-3. Purposes

- A To guide the future growth and development of the Town of Cheswold in accordance with the Comprehensive Plan.
- B To promote the health, safety, morals, and general welfare of the community.
- C To secure safety from fire, panic and other dangers.
- D To provide adequate light and air.
- E To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- F To conserve the value of land and buildings.
- G 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 Cheswold, and may be amended from time to time.

Section 1-5. Components

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

Section 1-6. Compliance Required

- A No tract, parcel, lot, or property shall be divided, partitioned, or combined, whether by metes and bounds, subdivision, or land development, unless done in conformance with the provisions of this Ordinance. This provision also applies to land offered for sale or lease.
- B No building or land shall be used unless it is done in conformance with the provisions of this Ordinance.
- C No building or part of a building shall be 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 structure or open space is located unless otherwise permitted.

2. A yard or other open space associated with a building on one lot shall not be considered as a required yard or open space for a building on any other lot.
3. All required yards and courts shall be open and unobstructed to the sky unless otherwise permitted.
4. All yards shall be maintained in good condition and, when required, landscaped.

E Height of Buildings and Structures.

1. General. No building shall be erected, reconstructed, or structurally altered to exceed the height limits designated for the zone in which such building is located, except as otherwise permitted.
2. Sloping Lot. On any sloping lot, stories in addition to the number permitted in the zone in which such lot is situated shall be permitted on the downhill side of any building erected on such lot, but the building height limit shall not otherwise be increased above the maximum permitted height for the zoning district.
3. Datum. Height shall be measured from the finished grade of the top of curb or edge of pavement at the center point of the front lot line.

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* applies 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. Where construction has begun in accordance with a building permit validly issued more than six (6) months prior to the adoption of this Ordinance, such construction may be completed.
2. Where a building permit has been validly issued within six (6) months prior to the adoption of this ordinance, construction may be completed, as long as construction begins within six (6) months of the adoption of this Ordinance.
3. Construction is begun when excavation for the foundation of at least 1 or more structures covered by the permit have been started.

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.

C Plats

1. Any final subdivision plat, approved by the Cheswold Town Council during the six (6) months immediately prior to the adoption of this Ordinance, shall be recorded with the Recorder of Deeds office.
2. Any lot, shown on such plat, shall be a buildable lot even though it may contain less than the minimum required area for any zone by this Ordinance. However, the plat containing such a lot shall be recorded with the Recorder of Deeds Office within six (6) months following the adoption of this Ordinance.

Section 1-11. Conflict with Other Regulations

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

Section 1-12. Prior Agreements

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

Section 1-13. Separability

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.

Article 2. Definitions

Accessory Use. See *Use, Accessory*.

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

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

Adult Use. Relating to, intended for, or befitting adults, usually containing or dealing with explicitly sexual material. This would include but is not limited to live or non-live entertainment; rental and sales of adult materials; arcades; cabarets; dance halls; clubs; bars; taverns; motion picture theaters; motels; nightclubs; restaurants or similar commercial establishments offering adult entertainment.

Aggregate. Any hard, inert material composed of fragments in a wide gradational range of sizes, which is mixed with a cementing material to form concrete or the like. The term may also refer to a mass of similar mineral fragments which are used, with or without a binder, in many ways, including some that involve physical and chemical alteration of the aggregate material itself. Aggregates may be classed into two (2) groups: (1) natural materials such as sand, gravel, crushed stone, and pumice; and (2) artificial materials, produced by crushing blast furnace slag or burning and crushing clays or shales. The second group includes most of the lightweight aggregates.

Age-Defined. A Development or Community of residential dwelling units, which may include a community center, and is designed as “housing for older persons” as defined in Title 42, Section 3607 of the *Code of Federal Regulations*.

Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation. An alley may not be used as the primary access to any parcel or lot.

Alteration. Any change in or rearrangement of the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

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.

Asphalt. A brownish-black solid or semisolid, cementitious material that consists mainly of bitumens found in nature or left as a residue in the distillation of petroleum. Asphalt is used as a binding material in road, sidewalk, highway, and other types of paving, but is not limited to these uses. The term can also be used to refer to mixed asphalt and crushed stone, gravel or sand, used for paving or roofing.

Automobile. A self-propelled, free-moving vehicle, with not more than 2 axles, usually used to transport passengers and licensed by the Delaware Department of Public Safety as a passenger vehicle.

Basement. That portion of a building having its finished floor elevation below final grade level on all sides, with a ceiling height minimum of five (5) feet. Walkout basements, daylight basements or terrace levels are usually subgrade on only three (3) sides.

Bed & Breakfast Establishment. An accessory use to an owner-occupied, single-family detached dwelling that has been adapted to provide overnight lodging and breakfast to guests or travelers. See Section 7-4.

Blacktop. A bituminous material, such as asphalt, used to pave roads, trails, paths or other areas.

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 Cheswold. See Article 3, Section 2.

Buffer. (See also “Riparian Buffer”)

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.

Bulk Regulations. See Dimensional and Density Standards.

Caregiver. An individual, either a physician, nurse, social worker, parent, foster parent or head of a household, who either assists in the identification, prevention or treatment of an illness or disability, or attends to the needs of a child or dependent adult.

Cement. In its broad meaning includes any cementitious material that is able either to unite portions of substances not in themselves adhesive into a cohesive whole, or to cement nonadhesive materials together. Its purpose is usually as a building material made by grinding calcined limestone and clay to a fine powder, which can be mixed with water and either poured to set as a solid mass or used as an ingredient in making mortar or concrete. Cement in common usage refers to portland cement, but herein can refer to other types of cement, including but not limited to: Keene's oxychloric, and natural cement.

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. For the purposes of this Ordinance, this definition specifically excludes adult uses.

Cluster Development. A residential development pattern or design technique in which lots are grouped together rather than spread evenly throughout a parcel as in conventional subdivision development. Lot density is averaged for the entire development. Development and infrastructure is compressed and open space is maximized. See Article 6.

Communications Tower. Also referred to as “*Cellular Tower*”. A structure, such as a lattice tower, guy tower or monopole tower, constructed as a freestanding structure, or in association with a building, other permanent structure or equipment, on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers and cellular telephone towers. The term does not include television antennas serving individual households.

Community Center. A building or suite of rooms, 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.

Community Center, Private. A building or suite of rooms used for recreational, social, educational and cultural activities, restricted to the residents of a specific community and owned and operated by a private person or entity specifically associated with that community.

Concrete, Concrete Mixing. A mixture of sand, gravel, crushed rock or other aggregate held together by a hardened paste of cement and water. Also known as mortar, grout, stucco and cement plaster. As a construction material, concrete consists of sand, conglomerate gravel, pebbles, broken stone or slag in a mortar or cement matrix.

Conservation District. Meaning the Kent County (Delaware) Conservation District.

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. Occasionally they will contain a drive-through window for pick up.

County. Herein to mean Kent County, Delaware.

Day Care Center. An establishment providing for the care, supervision, and protection of persons away from their homes.

Day Care, Child.

Family Child Care Home. A private home in which child care for 1-6 children at any one time who are not relatives of the Caregiver is provided.

Large Family Child Care Home. A place that provides care, education, protection, supervision and guidance for 7 to 12 children, including preschool children who are related to the owner and/or caregivers, and not including care provided exclusively for relatives. Service is provided on a regular basis, for part of the 24-hour day, unattended by parent or guardian, and for compensation.

Child Day Care Center. A place that provides care, protection, supervision and guidance for thirteen (13) or more children, including preschool children who are related to the operator. Service is provided on a regular basis for periods of less than twenty-four (24) hours per day, unattended by parent or guardian, and for compensation, and are licensed by the State Department of Services for Children, Youth and Their Families.

DelDOT. State of Delaware, Department of Transportation

Development.

- The division of a parcel of land into two (2) or more parcels,
- The construction, reconstruction, conversion, structural alteration, relocation, enlargement or affixing, of any building, structure, or prefabricated structure;
- Any mining excavation, landfill, or land disturbance,
- 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 of Cheswold 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 or structure can be located, including coverage, setbacks, height, and yard requirements; also called bulk regulations

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

District. See *Zoning District*.

DNREC State of Delaware, Department of Natural Resources and Environmental Control.

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. A drive-in use may be subordinate or secondary to a walk-in facility with parking.

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 that is attached to or shares a common vertical wall with one (1) or more single-family dwellings.

Dwelling, Detached. A building containing one (1) single-family dwelling unit and is not attached to any other dwelling by any means, is surrounded by open space or yards, and does not have any roof, wall, or floor in common with any other dwelling unit.

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 is built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976. The term also includes mobile homes, park trailers, travel trailers and other similar transportable structures placed on a site for one hundred-eighty (180) consecutive days or longer and intended to be improved property which is usually leased by the week, day, month or year. For the purposes of this Ordinance, a manufactured home dwelling shall be a single-family dwelling.

Dwelling, Mobile Home. A transportable dwelling unit fabricated in an off-site manufacturing facility, usually containing a HUD sticker, designed to be a permanent residence, and built prior to June 15, 1976 when the Federal Home Construction and Safety Standards became effective. The term also includes manufactured homes, park trailers, travel trailers and other similar transportable structures placed on a site for one hundred-eighty (180) consecutive days or longer and intended to be improved property which is usually leased by the week, day, month or year. For the purposes of this Ordinance, a Mobile Home Dwelling shall be a single-family dwelling.

Dwelling, Modular. A dwelling fabricated in an off-site manufacturing facility in accordance with the County Building Code. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes.

Dwelling, Multi-Family. A building containing three (3) or more dwelling units, including units that are located one over the other.

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

Dwelling, Semi-Detached. One of two (2) 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 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, Triple-Attached. One of three (3) dwelling units, located side by side on adjoining lots, each of which is totally separated from the other by an unpierced wall extending from ground to roof.

Dwelling, Two-Family. A building on a tract containing two (2) dwelling units, arranged EITHER:

- **side by side** (referred to in this Ordinance as a **Semi-Detached Dwelling**) where each unit is totally separated from the other by an unpierced wall extending from ground to roof; OR
- **one on top of the other** (referred to in this Ordinance as a **Duplex**) where each unit is separated from the other by an unpierced ceiling and floor extending from exterior wall to exterior wall,
- except for a common stairwell exterior to both dwelling units.

Dwelling Unit. One (1) or more rooms, designed occupied or intended for occupancy as a separate living quarter or unit, containing 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.

Educational Use. Any land, structures or buildings, however designated, established to offer a public or private 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, excluding schools/institutes for instructing the operation of construction equipment, aviation or helicopters.

Environmentally Sensitive Areas. Land forms, either recognized or delineated, including but not limited to: wetlands, erosion-prone soils, wildlife habitat, environmental hazards (landfills, sinkholes, etc.), floodplain and floodway, groundwater recharge or source water areas for wells, or forest or wooded areas.

Extraction. The removal of mineral deposits from the ground by quarrying, mining, digging, dredging, blasting or any other form of excavation.

Family. A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. The term, "family" shall not include disciplinary group homes, dormitories, boarding houses, rooming houses, fraternity houses, hotels, day care facilities, or any use similar to those specifically excluded.

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.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters; or 2) the unusual and rapid accumulation or runoff of surface waters from any source. See Article 12.

Floor Area:

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

- Basement space, if it meets the requirement of a building story.
- Elevator shafts, stairwells and attic space, whether or not a floor has been laid, providing structural headroom of seven (7) feet or more.

- Roofed terraces; exterior balconies or breezeways; where over fifty-percent (50%) of the perimeter is enclosed
- Enclosed porches.

Floor Area, Net. The gross floor area 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.

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

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

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

Hardship. Inability to use land as permitted under this Ordinance due to property boundary configuration or unusual or outstanding conditions.

Home Occupation. See “Home Based Businesses” in Article 7.

Homeowners Association. A non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community-owned property. This term is synonymous with Property Owners Association.

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

Hospital, Animal. A building or structure used for the treatment, housing or boarding of small domestic animals such as, but not limited to, dogs, cats, rabbits and birds or fowl by a licensed veterinarian.

Hot-Mix or Hot-Mix Asphalt. The standard construction of plant-mixed bituminous concrete. See “Asphalt.”

Hospice. See “*Nursing Care*.”

Industrial Use. Any use of land, building(s) or structure(s) for construction, manufacturing, mining, mixing of materials and transportation, or designated as “*Industry*” by this Ordinance. This definition does not include municipal or state uses or functions such as public works areas/yards and/or roadways.

Junk Vehicle. Any vehicle stored outside, which is so disabled, disassembled, dismantled or damaged, as to be incapable of being used safely for its intended purposes, or does not have a current Delaware motor vehicle registration sticker, and is left in such condition for ninety (90) days or more; vehicles stored for their parts, or scrap value.

Kennel. A commercial establishment in which dogs or domestic pets, more than six (6) months old, are housed, groomed, bred, boarded, trained, or sold, all for a fee, income or wherein compensation is derived from such services rendered.

Land Disturbing Activity. A land change or construction activity for residential, commercial, silvicultural, industrial, and institutional land use which may result in soil erosion from water or wind or movement of sediments or pollutants into State waters or onto lands in the State or which may result in

accelerated stormwater runoff, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

Landfill, Sanitary. A tract of land used for the permanent storage and disposal of solid wastes, as defined in the regulations promulgated by the State of Delaware.

Land Owner. (Also *Landowner*) The legal or beneficial owner or owners of land/ the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition) or a lessee if he/she is authorized under the lease to exercise the rights of the owner.

Landscape, Natural. A defined area or space wherein the invasive plantings have been removed, but native species are allowed to grow freely. The area is maintained on a seasonal basis. Property owners are prohibited from using natural landscaping, except in defined, municipally approved buffer or other designated areas.

Landscaped Area. A defined area or space that has had plants installed and is maintained on a regular basis.

Landscape Plan. A plan indicating the placement of trees, shrubs, groundcover and affiliated structures and improvements, including specifications, species, quantities and installation as prepared by a Delaware registered Landscape Architect.

Leased Land. A property or site, used as a commercial enterprise, wherein or on which all or some of the buildings or structures, which may or may not be single-family residential, are held in separate ownership. Upon such land customarily sits a manufactured or mobile home or unit.

Light Rail. A form of electric lightweight rail (as opposed to heavy rail) passenger public transportation with rail cars operating singly (or in short, usually two-car trains) on fixed rails in right-of-way that is not separated from other traffic for much of the way. They can have high or low platform loading. May also be known as “*Streetcar*”, *Trolley car*” or “*Tramway*”.

Loading Space. A durably paved, properly designed for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles in connection with the use of the property on which such space is located.

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 *Yard*.

Lot, Corner. A lot or parcel of land abutting upon two (2) or more streets at their intersection or upon 2 parts of the same street forming an interior angle of less than 135 degrees. The access shall be on the street of lesser classification.

Lot, Double Frontage. A lot, other than a corner lot, that has frontage on two (2) streets. The access shall be on the street of lesser classification.

Lot, Reverse Frontage. A lot extending between and having frontage on two (2) generally parallel streets. Also referred to as a double frontage 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, Flag. Also “flaglot”. An interior lot connected to the street by an access corridor/cartway with a minimum width no less than fifteen (15) feet.

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 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.

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.

- Manufacturing includes all mechanical or chemical transformations regardless of whether the new product is finished or semi-finished or a raw material for further processing.
- The processing of farming by-products is manufacturing and not considered an accessory use to farming operations. The processing of farm products grown on a farm is not manufacturing, but rather, an accessory use to farming operations.

Manufacturing, Light. Designated to accommodate limited intensity levels of manufacturing and assembly activity, characterized by low levels of noise, with virtually no dust or odor and local delivery or transportation. It could include the assembly of component parts and associated office uses with minimal storage areas.

Manufacturing, Heavy. Designated to accommodate intense levels of manufacturing and assembly activity, characterized by high levels of dust, noise, odor and transportation needs. It could include the assembly of parts manufactured on-site and large building areas, including large storage buildings.

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.

Mobile Home. See *Dwelling, Mobile Home* or *Dwelling, Manufactured Home*.

Modular Home. See *Dwelling, Modular* or *Dwelling, Manufactured Home*.

Municipal Facilities and Services, Cheswold. A use conducted by the Municipality, such as parks, playgrounds, and other recreational, cultural and conservation areas, or other public facilities, but excluding maintenance and storage facilities.

Municipal Facilities and Services, All Other. A use conducted by any other governing body. Includes post offices, parks, playgrounds, and other recreational, cultural and conservation areas, or other public facilities, but excludes maintenance, storage and postal distribution facilities.

Municipal Governing Body. The legislative body for the Town of Cheswold.

Municipality. In this ordinance, to mean the Town of Cheswold.

Nonconformities. Use, 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 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 Public Health and Safety:

- *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, such as convalescent services or sanatorium.
- *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 Similar Care Facilities.* Including family care homes, group homes, intermediate care facilities for persons with mental retardation; neighborhood group homes; family care homes; and rest residential facilities or hospice facilities.

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

Open Space. Land area to be left undeveloped (that is, not impervious) as part of a natural resource preservation, recreation, buffers or other open space provision of this Ordinance. See Table 8.1 and 8.2 and Article 12.

Overlay Zone. A set of additional requirements or conditions that may be superimposed over a zoning district. See Article 6.

Permit, Building. A license or certificate issued by the Town of Cheswold or its designated Agent for the construction of any building, structure or addition to an existing building or structure. See Section 4.01.

Permit, Demolition. A license or certificate issued by the Town of Cheswold or its designated Agent for the dismantling or razing of any building, structure or any portion of an existing building or structure.

Permit, Excavation or Grading. A license or certificate issued by the Town of Cheswold or its designated Agent for any earth moving activities that alter the existing contours of any property or portion thereof or cause the removal of existing top soil, even if temporarily.

Permit, Occupancy. Sometimes called “*Use and Occupancy Permit.*” A license or certificate issued by the Town of Cheswold or its designated Agent for the occupancy or use of land or any building or structure.

Permit, Zoning. A license or certificate issued by the Town of Cheswold or its designated Agent to insure the use and area and bulk standards are in compliance with municipal regulations.

Phase. An area or tract which is part of a proposed development which will be constructed according to a timetable for development over a pre-approved period of years, included by the applicant in the subdivision and/or land development plan.

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

Plat, Record. See Article 4, Section 4.01.

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

Public Building. A building, owned or leased, occupied and used by an agency or political subdivision of the Federal, State, County, or municipal government.

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

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

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

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

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

Ready-Mix. See “Concrete.”

Recharge Area or Areas. The recharge water resource protection areas are designed as having the best potential for groundwater recharge. They were delineated using methodology described in a report prepared by the Delaware Geological Survey entitled, “Ground-Water Recharge Potential Mapping in Kent and Sussex Counties, Delaware” and a recent DGS Hydrologic Map publication: Hydrologic Map 11, covering Kent County.

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

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

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

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

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

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

Restaurant. A restaurant includes the following:

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

Retail Food Establishments. Establishments engaged in selling goods or merchandise to the general public specifically relating to food, but not selling food for consumption on the premises.

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:

- usually a business place engaged in activity to attract the general public to buy.
- buys and receives as well as sells merchandise.
- may process or manufacture some of its products—a jeweler or a bakery—but processing is secondary to principal use.
- 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.

ROW. Right-of-way; land over which a legal right-of-way exists for roadway or railroad.

Sanatorium. See *Nursing & Similar Care Facilities*.

Sediment. Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by water.

Sediment, Erosion Control and Stormwater Management Plans. Structures and designs for the control of soil erosion, sedimentation, stormwater quantity, and water quality impacts which may result from any land disturbing activity. Regulated and approved by the Kent Conservation District. See Section 12-4.

Self-Storage Facility. Also called “mini-storage”. A structure containing separate, individual, and private storage spaces of varying sizes leased or rented on individual leases for varying amounts of time. It may be supported by a small office and is usually fenced for security purposes.

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

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

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

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

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

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

Shopping Center. A group of commercial establishments planned, constructed and managed as a total entity with a unified plan for the provision of customer and employee parking, provisions for goods delivery separated from customer access and aesthetic considerations. For the purposes of this Ordinance, the term shall also apply to a Regional Center, where there is a depth of retail goods and services

comparable to a central business district, generally anchored by one or two department stores, and to a Super Regional Center, which is larger and contains at least three full-line department stores as its anchors.

Sign. See Article 13.

Significant Features/Other Significant Features. Recognized or delineated areas, including but not limited to: Environmentally sensitive areas, roads, viewsheds, historical or archaeological significant areas or structures, or any other site, area or feature that provides a unique character.

Site Plan. See “*Development Plan.*”

Stabilization. The prevention of soil erosion by surface runoff or wind through the establishment of a soil cover through the implementation of vegetative or structural measures. Examples include, but are not limited to, straw mulch with temporary or permanent vegetation, wood chips, and stone or gravel ground cover.

State. The State of Delaware.

Stick-Built. Of a house or other building or structure. Built piece-by-piece at the construction site, as opposed to factory-built.

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 purposed other than storage.

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

Street. Any vehicular way that: (1) is an existing State, County or Municipal roadway ; (2) is shown upon an approved plat; (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the Office of the County Recorder of Deeds prior to the appointment of the Planning Commission and the grant of power to review plats. A street includes the land between the right-of-way lines, whether improved or unimproved. All streets constructed in the Town of Cheswold following the adoption of this Ordinance shall be constructed to DelDOT standards and inspected during construction.

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

Street, Alley. A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation, or for use as primary access to any parcel or lot.

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, built to DelDOT standards and inspected by Town of Cheswold during construction that has not been accepted by the Town or the State, and which is wholly maintained by

the property owner or through a Homeowners Association (HOA) agreement, and which shall be approved by the Town Council as part of a subdivision or land development process.

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. See also “*Building*.”

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:

- The division of any tract or parcel of land into 2 or more plots, parcels, dwelling 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.
- The division or partition of land or involving the opening, widening, or extension of any streets or access easements; or the extension of any electrical, sewer, water mains or any other utility line.
- The assemblage or consolidation, of tracts, parcels, lots or sites, resubdivision, and condominium creation or conversion.

Supermarket. A retail establishment primarily selling food and other convenience and household goods. They may contain an in-house pharmacy, bank, photo processing, florist or eat-in area. but not a restaurant.

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

Swimming Pool, Private. 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. All fencing requirements contained in the most recent Building Code, as amended and adopted by the County, shall apply.

Traffic Noise Sensitive Land Use. Lands on which community members carry out their day-to-day activities of life, where traffic noise is considered undesirable.

Trailer. See *Dwelling, Mobile Home or Dwelling, Manufactured Home*.

Unbuildable. For purposes of Article 1. of this Ordinance, an approved record plan for a subdivision or land development shall be deemed unbuildable if, immediately prior to the adoption of this Chapter, such plan did not comply with all applicable laws, including zoning and subdivision regulations, and no longer fell within any period of protection under former Code provisions, so that a valid building permit could not have been issued for construction of development or improvements.

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.

Warehouse. A building used primarily for the storage of goods and materials. Not to be used for the sale of goods and materials. Not to be confused with “*mini*” or “*self-storage*”.

Wellhead Protection Area. Surface and subsurface areas surrounding public water supply wells or wellfields where the quantity or quality of groundwater moving toward such wells or wellfields may be adversely affected by land use activity.

Wetland. Those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions; or areas that are defined and delineated in accordance with the “Federal Manual for Identifying and Delineating Jurisdictional Wetlands”, dated January 10, 1989, and as may be amended from time to time; or as further defined and delineated by the U.S. Army Corps of Engineers (ACOE), the U.S. Environmental Protection Agency (EPA), or the Delaware Department of Natural Resources and Environmental Control (DNREC).

Wildlife Habitat. A community of plants that provide food, moisture or water, cover, nesting and foraging or feeding conditions necessary to maintain populations of wild animals.

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, Certificate of Compliance. Required to insure that buildings and structures and their proposed uses comply with the requirements of Section 4 and the provisions of this Ordinance. May also be called a ‘Zoning Certificate’.

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

Zoning Map. The map showing the location and boundaries of the zoning districts established by this Ordinance. This map is entitled, “Official Zoning Map of the Town of Cheswold, Delaware.”

Zoning Permit. A written permit issued by the municipality or its designated agent prior to the issuance of a Building Permit, which certifies that the proposed use of the land will be in compliance with this Ordinance.

Article 3. Administrative Structure**Section 3-1. Mayor and Town Council****A Administrative Responsibilities.**

1. Under the Town Charter, § 6.8.2, the Mayor and Council is vested with the authority to appointment of an Administrator for this Ordinance, to establish fees and charges by resolution.
2. Under the Town Charter §17, the Town Council shall review and approve all land development activities regulated by this ordinance after considering recommendations of the Planning Commission.

B Legislative Responsibilities related to this Ordinance include:

1. Adoption of, amendments to, updates of, revisions to, and implementation of a comprehensive plan in accordance with Title 22, Section 702 of the *Delaware Code*.
2. Taking action on changes to the text and map of this Ordinance in accordance with Title 22, Sections 301-310 and 702 of the *Delaware Code*.

Section 3-2. Planning Commission**A Created; Name**

A Planning Commission is hereby created. This Commission shall be known as the Town of Cheswold Planning Commission.

B Organization

1. Appointments, in accordance with Town Charter, §6.2.1
 - a. The Mayor shall appoint and the Town Council shall confirm members of the Planning Commission by majority vote.
2. Members. The Planning Commission shall consist of 5 voting members.
3. Term of Office
 - a. Each member shall serve a 5-year term or until a successor takes office.
 - b. The terms shall be staggered so that generally only 1 member is appointed or re-appointed each year. Town Council
4. Chairperson and Secretary. Members shall elect a chairperson and a secretary from among themselves.
5. Vacancies
 - a. A vacancy occurring prior to the expiration of a term shall be filled in the same manner as a member appointed to a full term.

- b. The person appointed to complete an unexpired term shall have the same qualifications as members appointed to full terms.
- 6. Removal. The Town Council may remove a member for cause after a hearing by majority vote.
- 7. Subcommittees.
 - a. From time to time the Town Council may appoint from the Planning Commission membership in subcommittees to serve as temporary or permanent subcommittees with specified responsibilities.
 - b. The Zoning Commission, may be appointed as set forth in Title 22, Chapter 3 §306, from members of the Planning Commission.

C Powers and Duties

- 1. The powers and duties of the Planning Commission shall be as set forth in Title 22, Chapter 7 of the *Delaware Code*.
- 2. Review land use proposals and make recommendations to the Town Council.

Section 3-3. Board of Adjustment**A Created; Name**

A Board of Adjustment is hereby created. This Board shall be known as the Town of Cheswold 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 326 of the *Delaware Code*.**C Powers and Duties.** The Board's powers and duties shall be those set forth in Title 22, Section 326 of the *Delaware Code*.**D Meetings & Hearings.** The Board shall conduct meetings and hearings in accordance with Title 22, Section 323 of the *Delaware Code*.**Section 3-4. Administrator****A** For the purposes of this Ordinance, the Administrator shall mean the Town Council's designee, representative, or department vested by the Council with the responsibilities described herein.

1. The Administrator shall develop procedures, checklists, logs or registrars or other tools to assure applications submitted under this Ordinance are tracked through the approval process.
2. The Administrator is responsible for the interpretation of and securing compliance with the provisions of this Ordinance.
3. The Administrator shall be responsible for assuring professional technical review is completed for all land development activities regulated by this ordinance, and shall provide commentary and recommendations to the Planning Commission and the Town Council prior to their consideration of all applications.
4. The Administrator shall perform other activities that the Town Council deems appropriate.

Article 4. Administrative Procedures

Section 4-1. General Provisions

A Definitions

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

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

Concept Plan. An informal sketch or drawing of a subdivision or site development plan of sufficient accuracy to be used for discussion only, and utilizing Table 4.1 as a guide for the information to be included.

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

Record Plat. A map depicting the layout of a major subdivision, containing information as set forth in Table 4.3, and submitted for final approval and/or recordation with the County.

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

Preliminary Plan. A detailed map showing the proposed layout of a subdivision or site development, containing information as set forth in Table 4.14.

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot, containing information as set forth in Table 4.1.

Site Plan. For the purposes of this Ordinance, a plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure - except for a single-family detached dwelling or an accessory building on a lot with a single-family detached dwelling - containing information as set forth in Table 4-4, and submitted to the Town Council for final approval.

B General Procedures

1. Duties of the Administrator
 - a. The Administrator shall establish application forms and procedures, such as but not limited to the number of plan copies necessary for submission and the format of that submission.
 - b. The Administrator shall refer the Plans to the Planning Commission and Town Council in accordance with the schedules set forth in Table 4-2 and Table 4-4. Figure 4-1 and 4-2, Procedure Flow Charts, are included for general information and not specifically part of this Ordinance.

2. Issuance of Building Permits

As a prerequisite for the issuance of building permits and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Certificate of Zoning Compliance to the building permit authority.

3. Final Recordation of Plats

As a prerequisite for the final recordation of subdivision plats and as proof that the Plan in question has complied with all regulations of this Ordinance, the applicant is responsible for submitting a Record Plat signed by the Mayor, or designee, to the Recorder of Deeds.

4. Consistency with Comprehensive Plan

If the Planning Commission or Town Council find any development project to be inconsistent with the policies set forth in the Town's most recently Certified Comprehensive Plan, then the applicant will be provided with documentation that details the substantive reasons why the project is not in compliance with the Comprehensive Plan and informs the applicant that the project shall not be approved until such time as it is brought into compliance with Cheswold's Comprehensive Plan.

C Guidelines for Development Review

These guidelines include the required approvals, plans, and other information that are necessary to assist the Planning Commission and Town Council in assessing the development project's potential impact on the public health, safety and welfare, and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and, more specifically, the project's impact on the following objectives:

1. Maximum safety and convenience of vehicular and pedestrian traffic;
2. Provision of adequate access to all sites for fire and police protection;
3. Provision of adequate off-street parking;
4. Site layouts minimizing adverse effect upon adjacent properties;
5. Landscaping of the site in a manner in keeping with the generally prevailing character of the neighborhood;
6. An adequate drainage system and layout.

Section 4-2. Single Family Development Plan

Figure 4-1 SF Home Development Plan Diagram is provided at the end of this Article for general information only and is not considered a part of this Ordinance.

A Purpose

To ensure that Single-Family Detached Dwellings and accessory buildings to Single-Family Detached Dwellings comply with the provisions of this Ordinance prior to the issuance of building permits

B When Required

1. Prior to the issuance of building permits for Single-Family Detached Dwellings on legal lots.
2. Prior to the issuance of building permits for accessory buildings on legal lots with existing Single Family Detached Dwellings.

C Required Information

See Table 4-1, Information required for Single-Family Development, Concept, and Preliminary Plan Review.

D Application Review Process

1. After submission of the application for a Zoning Certificate for a single family home on a legal lot, the Administrator shall review the application and plan for completeness, and provide a report to the Planning Commission regarding compliance with this Ordinance. If the lot is contained within a subdivision approved under this Ordinance, the Administrator may forward his report to the Commission and issue the Certificate of Zoning Compliance without further review.
2. The Administrator may forward the Single-Family Development Plan to the Planning Commission for review. The Administrator shall confirm the proposed setbacks for a lot within an approved subdivision.
 - a. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified Comprehensive Plan.
 - b. If the application is for a Conditional Use, the Planning Commission will forward the plan to the Town Council for public hearing and final approval.
3. If the Planning Commission finds the proposed plan to be consistent with the policies set forth in Cheswold's most recently Certified Comprehensive Plan, and accepts the Administrators report, then the Planning Commission shall authorize the Administrator to proceed with issuance of the Certificate of Zoning Compliance.
4. If the Single-Family Development Plan is determined to be out of compliance with the regulations of this Ordinance then the Administrator or Planning Commission shall issue a letter to the applicant detailing those elements of the Single-Family Development Plan not in compliance with the regulations of this Ordinance and issue a copy of said letter to the Town Council.

E Duration, Revocation, & Extensions

See Table 4-2, Deadlines & Duration of Single Family Development, and Site Plan Review.

Section 4-3. Concept Plan**F General**

Prior to submitting a multi-lot or large project Development Plan, an applicant may submit a Concept Plan to the Planning Commission to be used as the basis for discussion and to receive direction on preparation of the Subdivision or Site Plan. No formal action may be taken on the part of the Planning Commission or the Administrator. However, the Planning Commission and/or the Administrator may issue non-binding comments to the applicant based on the Concept Plan.

See Table 4.1 for minimum requirements for Concept Plan submission. The Concept Plan is shown as an option on Figure 4-2 Subdivision and Site Plan Diagram, which is included for information purposes at the end of this Article.

Section 4-4. Preliminary Plan, Subdivision Plan and Site Plan Approval**A Purposes**

1. To guide the growth and development of the Town of Cheswold in accordance with the Comprehensive Plan.
2. To confirm land use compliance with this Ordinance for proposed projects prior to detailed design review.
3. To minimize and manage the impact of development on air, water, and other natural resources.

B When Required

1. Prior to the issuance of building permits for site plans.
2. Prior to the approval of subdivision plans and recordation of subdivision plats.

C Required Information

See Table 4-1, Information Required for Single-Family Development, Preliminary Plans, and Site Plan Review.

D Application Review Process

1. The process includes a preliminary review by the Town for compliance with the Comprehensive Plan and the Ordinance and a final review.
2. The Administrator shall review the application and plan for completeness, and provide a report to the Planning Commission regarding compliance with this Ordinance .
3. The Planning Commission shall determine whether a conditional use review is necessary, and if the plan is consistent with the most recently certified plan.
4. Approval of the Preliminary Plan is good for one year from the date of approval. The applicant is responsible for submitting a final Site Plan or Subdivision Plan

to the Administrator, with all applicable final construction approvals and permits and utility service agreements within one year.

5. If the application is for a Conditional Use, the Planning Commission will forward the application to the Town Council for Public Hearing and approval of the Conditional Use and Preliminary Plan.

Section 4-5. Final Reviews and Approvals

A Purposes

1. To establish design standards and procedures for reviewing site plans.
2. To coordinate the review and approval with other regulatory agencies.
3. To assure complete review and approval prior to the issuance of building permits.
4. To ensure that public utilities are available and of sufficient capacity to serve proposed developments.
5. To minimize and manage the impact of development on air, water, and other natural resources.

B When Required

1. Prior to the issuance of building permits for site plans.
2. Prior to the approval of subdivision plans and recordation of subdivision plats.

C Required Information

See Table 4-4, Information Required for Site Plans, Subdivision Plans, and Record Plats.

D Final Plan Review Process

Figure 4-2 Subdivision and Site Plan Diagram is provided at the end of this Article for general information only and is not considered a part of this Ordinance.

1. No plan shall be reviewed without a Preliminary Plan Approval.
2. The Administrator shall establish a fee schedule for all technical reviews required for final Plan approval. No review shall proceed without payment of a final review fee. Significant plan revisions that are required after review may be assessed another review fee prior to additional reviews.
 - a. The Planning Commission and/or Administrator may request review and comments on a plan from the Municipal Engineer, pertinent State Department such as DelDOT, DNREC, Education, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.

3. After technical review is complete, the Administrator shall submit to the Planning Commission a report confirming that the plan is consistent with the Preliminary Plan, that all conditions imposed under the Preliminary Plan approval have been met, that the Plan has been reviewed by the State under Title 29, Chapter 92 of the *Delaware Code*, that all applicable permits and approvals from outside agencies have been obtained for the project and that all technical reviewers' comments have been satisfied.
4. The Planning Commission shall review the plan and the administrator comments in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. The Planning Commission shall develop recommendations for the Town Council.
5. The Cheswold Town Council shall review the final plan and the recommendations of the Planning Commission, in accordance with the Guidelines for Development Review found in Section 4-1, C of this Ordinance. prior to issuing a final approval.
 - a. If the Town Council approves the project, the applicant shall provide plans printed on mylar with signature blocks for approval signature(s) representing the Town.
 - b. If the project is a subdivision, the applicant will provide Record Plat printed on mylar with signature blocks for approval signature(s) representing the Town.
 - c. If the Town Council does not approve the final plan, a letter of explanation will be issued from the Town if the applicant.
6. The developer is responsible for complying with conditions of approval as a prerequisite to obtaining a Certificate of Zoning Compliance for site plans, or the signature of the Mayor or designee on subdivision plans.
7. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.

E Action

1. The Town Council may by a simple majority vote to approve subdivision or site plan.
 - a. If a Site Plan is approved, then the Town Council shall direct the Administrator to issue the applicant a Certificate of Zoning Compliance for the Site Plan.
 - b. If a Subdivision Plan is approved then the Town Council shall direct the applicant to the process for Plat Approval as described in Section 4-6. The approval of a Subdivision Plan shall not be construed to exempt future developments on the lots in question from review by the regulations set forth by this Ordinance as a prerequisite for the issuance of building permits.

2. If a subdivision or site plan is not approved, then the Town Council shall issue a letter to the applicant detailing the substantive reasons for the disapproval of the applicant's plan.

F Duration, Revocation, and Extensions

See Table 4-2, Deadlines & Duration of Single-Family Development, Minor Subdivision, and Site Plan Review

Section 4-6. Subdivision Record Plat

A Requirements

1. The applicant shall prepare a Record Plat in accordance with Table 4-4 and submit the Record Plat to the Administrator.
2. As a prerequisite to obtaining the Mayor'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 from applicable agencies, including, but not limited to the Delaware State Fire Marshall, DelDOT and Kent Conservation District.
3. The Administrator shall review the Record Plat for compliance with the regulations of this Ordinance.
 - a. If the Record Plat is determined to be in compliance with the regulations of this ordinance then the Administrator shall issue a letter to the Mayor addressing this compliance and the Mayor or designee shall sign the Record Plat.
 - b. If the Record Plat is determined to be out of compliance with the regulations of this ordinance then the Administrator shall issue a letter to the applicant detailing those elements of the Record Plat not in compliance with the regulations of this ordinance.
4. Applicant shall be responsible for recording the Record Plat at the recorder of deeds. No building permits shall be issued until the Plat is lawfully recorded.

B Duration, Revocation, and Extensions

See Table 4-3, Deadlines & Duration of Final Approvals.

Section 4-7. Conditional Uses

A Definition & Purpose

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

B Required Findings

The Planning Commission shall review and make recommendations to the Town Council who shall determine whether each conditional use:

1. Is in harmony with the purposes and intent of the Comprehensive Plan.
2. Will be in harmony with the general character of its neighborhood considering density, design, bulk, and scale of proposed new structures.
3. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties.
4. Will not cause objectionable noise, vibrations, fumes, odors, dust, glare, or physical activity.
5. Will have no detrimental effect on vehicular or pedestrian traffic.
6. Will not adversely affect the health, safety, security, or general welfare of residents, visitors, or workers in the area.
7. Will not, in conjunction with existing, proposed, and potential development, overburden existing public services and facilities.
8. Complies with all other applicable standards, laws, and regulations in addition to the provisions of this Ordinance.
9. Meets all other Additional Requirements for Certain Conditional Uses.

C Action

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

Section 4-8. Administrative Review and Variances

A Variances

1. **Definition.** Relief from the strict application of the provisions of this Ordinance when, owing to special conditions or exceptional situations, a literal

interpretation of this Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of property.

2. Required Findings. The Board of Adjustment shall determine whether each variance application meets the following criteria:
 - a. The variance relates to a specific parcel of land, and the hardship is not shared generally by other properties in the same zoning district and vicinity.
 - b. The variance can be granted without substantial detriment to the public good.
 - c. The benefits from granting the variance would substantially outweigh any detriment.
 - d. The variance would not substantially impair the intent and purposes of the comprehensive plan or this Ordinance.
3. 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. See Article 16.
 - b. Non-Conforming Situations Not Grounds for Variance. Non-conforming uses, lots, structures, or signs shall not be considered grounds for granting variances.

B Administrative Review

1. Purpose. To provide a mechanism for appeals where an error is alleged in any interpretation, order, requirement, decision, or determination made by the Administrator or designee in the administration of this Ordinance.
2. Procedure. In order for the Board of Adjustment to conduct an administrative review:
 - a. The Administrator must issue a written interpretation, requirement, decision, or determination. The Administrator's written product must include information about the applicant's/property owner's situation, request, inquiry, etc. and references to pertinent sections of this Ordinance to support the interpretation, requirement, decision, or determination.
 - b. The Administrator must make every effort to present the written product to the applicant including, but not limited to, return receipt mailing.
 - c. The applicant must, by return receipt mailing or similar verifiable method, file a written request to the Cheswold 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

Applications for administrative review and variances shall be submitted to the Administrator. The Administrator may provide forms to facilitate application processing.

1. Applications shall be made in writing and shall provide the following information:
 - a. Information about the owner and applicant.
 - b. Statement of the type of relief, permission, or review requested.
 - c. Information about the property for which the application or review is being made.
 - d. Information to support the application, including specifically references to pertinent provisions of this Ordinance from which relief is being applied; or identification of the provisions of this Ordinance, with which the application must comply, and statements as to how the application complies with those provisions.
 - e. Plans or drawings that support or clarify the relief or permission requested.
 - f. Other information requested by the Board of Adjustment.
 - g. Applicant shall be responsible for any incurred costs for advertisements of public hearings.
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. 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. The public notice shall specify the time, place, and nature of the hearing at least 15 days prior to the public hearing, including but not limited to:
 - (i) Newspaper Publication. Legal notice in a newspaper of general circulation at least 15 days prior to a public hearing.
 - (ii) Property Posting. For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location.
 - (iii) Municipal Hall. Notice shall be posted at a public place in town.
 - c. Public Hearing. The hearing shall take place no less than 15 days following publication of the legal notice.

- (i) The Board of Adjustment's hearing shall be conducted and applications shall be acted on as specified on Article 3 of this Ordinance.
- (ii) 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.

D Duration, Revocation, and Extension

- 1. The duration of an approved application is 12 months from the approval date.
 - a. If a landowner, developer, agent, representative, or designee fails to begin construction in developing the land within 12 months, the application is automatically revoked.
 - b. The Board of Adjustment may grant only 1, 6-month extension if applicant can demonstrate that delays were beyond his/her control.
- 2. Reapplications and Appeals
 - a. Limitation on Reapplications. The Board of Adjustment shall not hear or accept an application requesting the same relief or permission for the same property for a period of 12 months from the date of a resolution taking action on the application.
 - b. Appeals to Superior Court. Appeals from 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 Single-Family Development, Concept, and Preliminary Plan Review

Information Required for Development Plan Review Blank No Requirement. G General information. R Complete data or information required.	Single-Family Development Plan	Concept Plan	Preliminary Plan	See also
PLAT INFORMATION				
Name and address of owner and applicant	R	R	R	
Subdivision or development name		R	R	Art 9, Sec 2-C
Signature and seal of a registered Delaware land surveyor or professional engineer			R	
Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat			R	
Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	R	G	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		G	R	
Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R	Art 8
North arrow and scale	R	R	R	
Plan sheets <u>no larger than</u> 24 inches by 36 inches including a 1/2 inch margin outside of rules border lines or other size acceptable to the Town of Cheswold	R	R	R	
Acreage of tract to nearest tenth of an acre	R	G	R	
Date of original and all revisions		R	R	
Size and location of existing or proposed structures with all setbacks dimensioned	R	G	R	Art 8
Proposed lot lines and areas of lots in square feet		R	R	Art 9, Sec 3
Locations and dimensions of existing and proposed streets		G	R	
Copy and/or delineation of any existing deed restrictions or covenants	R	G	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 facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council			G	
Owners' certification, acknowledging ownership of the property	R		R	
Existing or proposed easement or land reserved for or dedicated to public use or to the residents of the proposed development		G	R	
Development or staging plans		G	R	
List of required regulatory approvals or permits. Conditional approval may be granted subject to other regulatory approvals.	R	G	R	

Information Required for Development Plan Review Blank No Requirement. G General information. R Complete data or information required.	Single-Family Development Plan	Concept Plan	Preliminary Plan	See also
Variances requested	R	G	R	Art 4, Sec 6
Conditional Uses required	R	G	R	Art 4, Sec 5
Payment of application fees	R		R	
SETTING-ENVIRONMENTAL INFORMATION				
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map		G	R	
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site		G	R	
Location of all wetlands and supporting documentation	R		R	
Floodplains. Location of the 100-year floodplain based on current Flood Insurance Rate Map	R		R	
Existing rights-of-way and/or easements on and within 200 feet of tract, including lands in Agricultural Preservation Districts, and lands whose development rights have been sold to preserve them for farming (PDRs)		G	R	
Topographical features of the site from USGS map		R		
Existing and proposed contour intervals based on NGVD datum at one-foot intervals; contours must extend at least 200 feet beyond subject property			R	
Edge of wooded areas. , limits, nature and extent of wooded areas, and other significant features		G	R	
Existing drainage system of site and of any larger tract or basin of which it is a part			R	Art 12, Sec 2
IMPROVEMENTS AND CONSTRUCTION INFORMATION				
Water supply and distribution plan	G		G	Art 11, Sec 2
Sewage collection and transmission plan	G		G	Art 11, Sec 3
Soil erosion and sediment control plan			G	Art 12, Sec 4
Permanent stormwater management plan			R	Art 12, Sec 3
Detailed landscape plan			R	Art 15
Site identification signs, traffic control signs, and directional signs			R	Art 13
Vehicular and pedestrian circulation patterns		G	G	Art 10
Parking and loading plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions		G	R	Art 14
Spot and finished elevations at all property corners; corners of all structures or dwellings, existing or proposed first floor elevations.			R	
Lots numbered in consecutive numerical order		G	R	
Other information required by the Town of Cheswold, the County, or other departments and agencies involved in approval of plan	R	G	R	

Table 4-2. Deadlines & Duration of Single-Family Development, Concept Plan, and Preliminary Plan Review

Item	Single-Family Development Plan	Concept Plan	Preliminary Plan
Deadline for submitting plan to Planning Commission before next Planning Commission meeting	15 days	N/A	15 days
Deadline for acting on plan following Town Council meeting	45 days if conditional use	N/A	60days
Duration of plan approvals beginning at approval or recordation date	1 Year	N/A	1 Year
Number and Duration of Extensions Permitted. Provided that the applicant can demonstrate that delays were beyond his/her control	One extension; 6 months	N/A	One extension; 6 months

Table 4-3 Timeline for Plan Approvals

Item	Site Plan	Final Plan	Record ¹ Plat
Deadline for submitting plan to Town Council before next Town Council meeting	30 days	15 days	N/A
Deadline for acting on plan following Town Council meeting	N/A	60 days ²	N/A
Duration of plan approvals beginning at approval or recordation date	N/A	1 Year	5 Years
Number and duration of Extensions Permitted. Provided that the applicant can demonstrate that delays were beyond his/her control	N/A	One extension; 6 months	None

¹ The Record Plat is submitted directly to the Administrator for approval and does not require review by the Town Council, however, The Mayor or Council representative signs the Plat.

² 90 days if a conditional use hearing is required

Table 4-4 Information Required for Final Plan Review

Information Required for Development Plan Review Blank No Requirement. G General information. R Complete data or information required.	Final Site Plan	Final Subdivision Plan	Record Plat	See also
PLAT INFORMATION				
Name and address of owner and applicant	R	R	R	
Subdivision name, as approved by Kent County 911 Addressing		R	R	Art 9, Sec 2-D
Signature and seal of a registered Delaware land surveyor or professional engineer	R	R	R	
Name, signature, license number, seal, and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in preparation of plat	R	R	R	
Title block denoting type of application, tax map sheet, county municipality, block and lot, and street location	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	
Schedule of required and provided zoning district requirements including lot area, width, depth, yard, setbacks, building coverage, open space, parking, etc.	R	R	R	Art 8
North arrow and scale (1"=100')	R	R	R	
Signature blocks for Mayor and/or pertinent Municipal official, pertinent County officials, Municipal Engineer	R	R	R	
Certification blocks for surveyor, engineer, architect including: surveyor's or engineer's seal, signature, and certification statement that the final plat, as shown, is a correct representation of the survey as made, that all monuments indicated thereon exist and are correctly shown and that the plat complies with all requirements of this Ordinance and other applicable laws and regulations.	R	R	R	
Locations and descriptions of all permanent survey monuments.	R		R	Art 9, Sec 2-E
Plan sheets no larger than 24 inches by 36 inches including a 1/2 inch margin outside of rules border lines or other size acceptable to County	R	R	R	
Metes and bounds description showing dimensions, bearings, curve date, length of tangents, radii, arcs, chords, and central angles for all centerlines and rights-of way and centerline curves on streets	R		R	
Acreage of tract to nearest tenth of an acre	R	R	R	
Date of original and all revisions	R	R		
Size and location of existing or proposed structures with all setbacks dimensioned	R	R		Art 8
Proposed lot lines and areas of lots in square feet		R	R	Art 9, Sec 3
Locations and dimensions of existing and proposed streets	R	R	R	
Copy and/or delineation of any existing deed restrictions or covenants	R	R	R	

Information Required for Development Plan Review Blank No Requirement. G General information. R Complete data or information required.	Final Site Plan	Final Subdivision Plan	Record Plat	See also
Copies of and a summary of deed restrictions for the new the subdivision, including agreements for the operation and maintenance by the property owners or agency in the subdivision of common areas, open space, recreation facilities, surface drainage facilities, erosion and sedimentation control facilities, water supply facilities, sanitary sewer facilities, forested buffer strips, or other improvements deemed necessary by the Town Council	R	R	R	
Statement attesting the Town's right to enforce deed restrictions.	R	R	R	Art 9 Sec 3C
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	
Owners' statement dedicating streets and other public ways for public use (Private streets prohibited in Town of Cheswold)			R	Art 10
Existing or proposed easement or land reserved for or dedicated to public use or to the residents of the proposed development	R	R	R	
Development or staging plans		R	R	
List of required regulatory approvals or permits. Conditional approval may be granted subject to other regulatory approvals.	R	R	R	
Variances requested	R	R	R	Art 4, Sec 6
Conditional Uses required	R	R	R	Art 4, Sec 5
Payment of application fees	R	R	R	
SETTING-ENVIRONMENTAL INFORMATION				
Property owners and lines of all parcels within 200 feet identified on most recent tax parcel map	R	R		
Existing streets, water courses, floodplains, wetlands or other environmentally sensitive areas on and within 200 feet of site	G	R	R	
Location of all wetlands and supporting documentation	G	R	R	
Floodplains. Location of the 100-year floodplain based on current Flood Insurance Rate Map	G	R	R	
Water Resource Protection Areas	G	R	R	Art 12, Sec 1
Existing rights-of-way and/or easements on and within 200 feet of tract, including lands in Agricultural Preservation Districts, and lands with purchased development rights (PDRs) to preserve them for farming.	R	R	R	
Existing and proposed contour intervals based on NGVD datum at one-foot intervals; contours must extend at least 200 feet beyond subject property	R	R		
Edge of wooded areas, limits, nature and extent of wooded areas, specimen trees, and other significant features	R	R		

Information Required for Development Plan Review Blank No Requirement. G General information. R Complete data or information required.	Final Site Plan	Final Subdivision Plan	Record Plat	See also
Existing drainage system of site and of any larger tract or basin of which it is a part	R	R		Art 12, Sec 2
IMPROVEMENTS AND CONSTRUCTION INFORMATION				
Water supply and distribution plan, including (as applicable) copy of Willing and Able letter from Tidewater Utilities, Inc.	R	R		Art 11, Sec 2
Sewage collection and transmission plan	R	R		Art 11, Sec 3
Approved Soil erosion and sediment control plan	R	R		Art 12, Sec 4
Grading plan	R	R		Art 12, Sec 4
Approved Permanent stormwater management plan	R	R		Art 12, Sec 3
Additional utility infrastructure plans, including gas, telephone, electric, cable TV.	R	R		Art 11, Sec 5
Site identification signs, traffic control signs, and directional signs	R	R		Art 13
Vehicular and pedestrian circulation patterns	R	R		Art 10
Spot and finished elevations at all property corners; corners of all structures or dwellings, existing or proposed first floor elevations.	R	R		
Construction details, such as cross sections and profiles, as required by applicable laws, regulations, and policies.	R	R		Arts 10-12
Proposed street names, as approved by Kent County 911 Addressing	R	R	R	Art 10, Sec 1-A
New blocks lettered consecutively; lots or outlots numbered in consecutive numerical order		R	R	
Other information required by the Town of Cheswold, the County, or other departments and agencies involved in approval of plan	R	R	R	
Detailed landscaping plan	R	R		Art 15

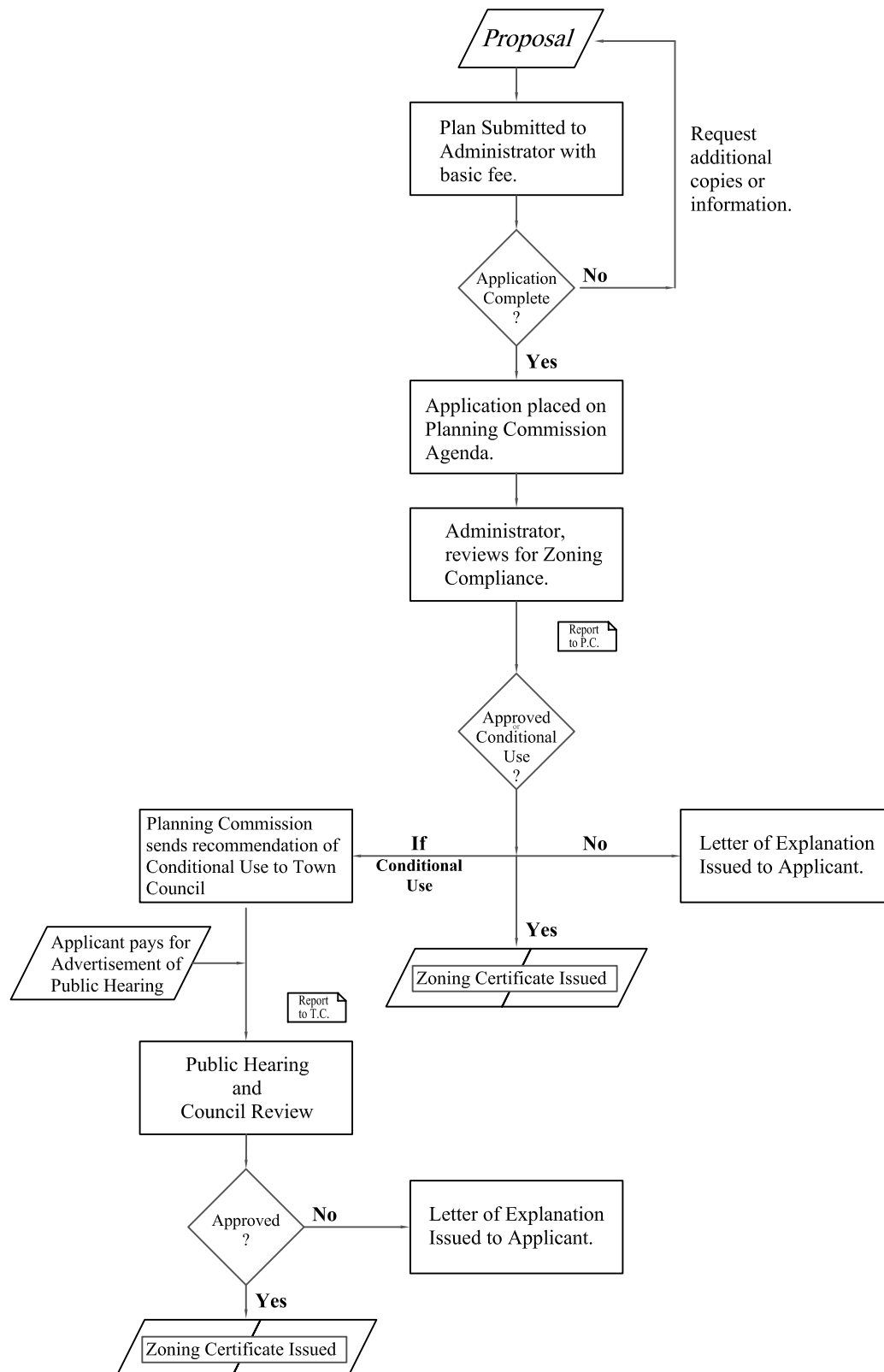
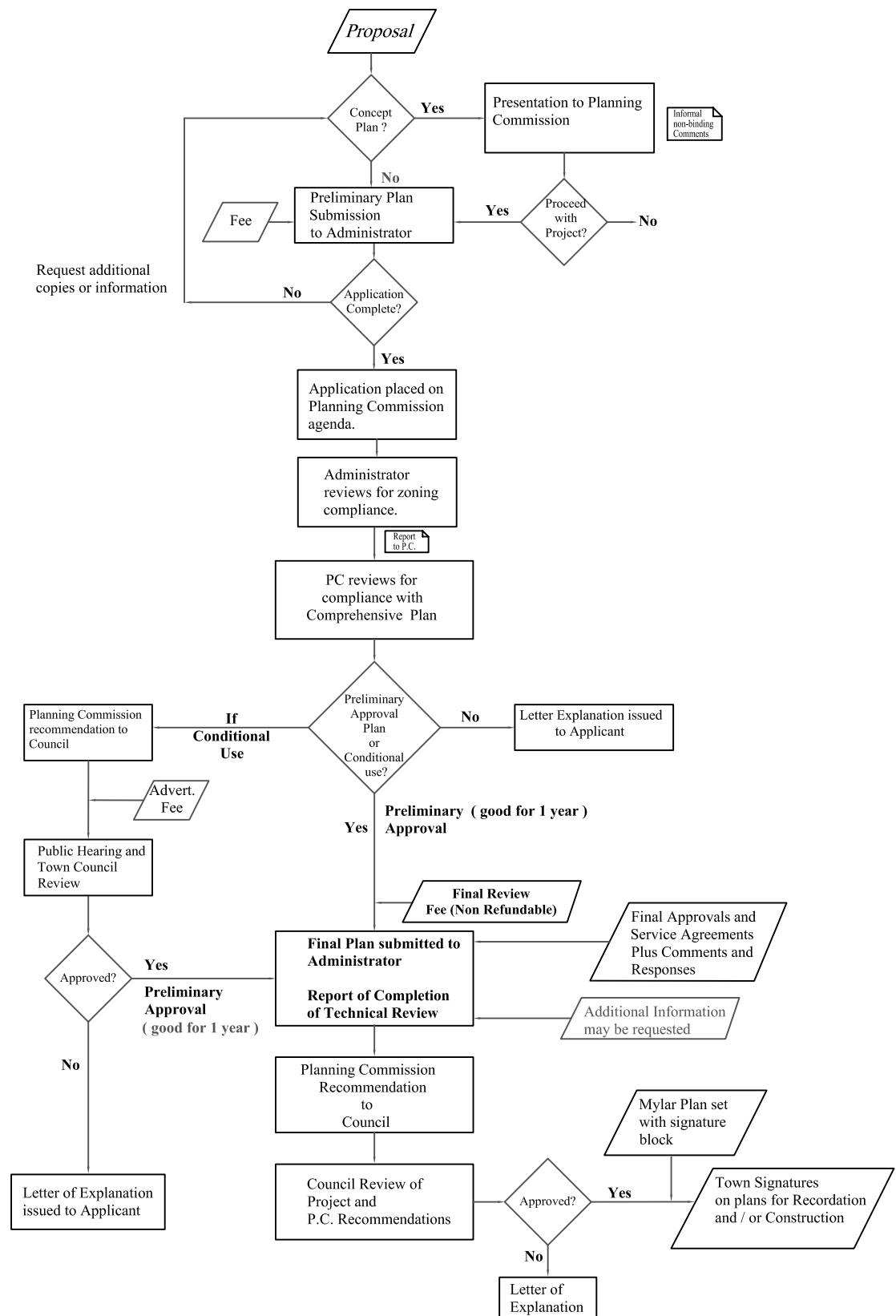
Figure 4-1 Review process for Single Lot, Residential Projects

Figure 4-2 Review process for Subdivision, Site Plan and Development Projects

Article 5. Nonconforming Situations**Section 5-1. Definition & Intent****A Definition**

Nonconforming situations are existing structures, lots, signs, and uses of land, which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under the provisions of this Ordinance.

B Intent

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

Section 5-2. Nonconforming Lots**A Definition**

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

B Nonconforming Legal Lots

1. Definition. A nonconforming legal lot is a nonconforming lot of record, whose owner or ownership entity does not own or control adjacent property.
2. Applicability. Zoning districts where single-family dwellings are permitted.
3. Regulation. A non-conforming 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 or controls 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 or controls 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 or controlled by the same owner or ownership entity, may not be sold to different purchasers in order to subvert the intent of this Ordinance.

Section 5-3. Nonconforming Structures**A Definition**

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

B Continued Existence

A nonconforming structure may be continued under the following conditions:

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

C Termination of Legal Nonconforming Status

1. When a nonconforming structure, or a nonconforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated unless reconstruction of the structure commences within twelve (12) months time of said destruction.
2. Any subsequent use, including replacement construction, of such land shall conform to the provisions of this Ordinance.
3. 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.

Section 5-4. Nonconforming Uses**A Definition**

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

B Continued Existence

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

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

C Termination of Legal Nonconforming Status

1. When a nonconforming use of land ceases for any reason for a period of more than 6 months, its legal, nonconforming status is terminated.
2. Any subsequent use of such land shall conform to provisions of this Ordinance.

Section 5-5. Nonconforming Signs**A Definition**

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

B Continued Existence

A nonconforming sign may be continued under the following conditions.

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

C Termination of Legal Nonconforming Status

1. When a nonconforming sign is damaged or destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, nonconforming status is terminated.
2. Any subsequent sign shall conform to provisions of this Ordinance.
3. When the establishment to which a nonconforming sign is attached to ceases to operate for a period of more than six (6) months, its legal, nonconforming status is terminated.

Article 6. Zoning Districts and Map

Section 6-1. Establishment of Zoning Districts

A Base Zones

Table 6-1 Zoning District Summary

Zoning District	Designation	Typical Kinds of Uses in Zone
Residential	R-1 Old Town Residential	Single family dwellings and home based or neighborhood businesses, located in the historic center of the original Town.
	R-2 1 & 2-Family Residential	Single family, duplexes, and single-family semi-detached dwellings and institutional uses such as schools, churches, or municipal buildings.
	R-3 1, 2 & 3- Family Residential & Townhouse Residential	Uses permitted in R-2 plus age-defined communities, townhomes and multi-family dwellings, including apartments. Also clustered residential designs with associated public services.
	R-4 Manufactured Home Park & Trailer Park	For Manufactured Homes and Existing Trailer Parks
Commercial	C-1 Neighborhood Business	Small scale commercial uses that can meet setback & off-street parking requirements
	C-2 Highway Commercial	Commercial located on arterials; also for large-scale shopping centers and uses that are not appropriate in Neighborhood Business (C-1) or require substantial buffering from residential uses.
Industrial	I-1 Light Industrial	Light or small-scale industrial uses, and other uses such as Warehousing and mini-storage.
	I-2 Heavy Industrial & Extraction	Heavier or larger industrial uses. Outdoor storage of materials is discouraged, however accessory uses for storage are allowed. Towers for communications.

Section 6-2. District Purpose and Intent

A R-1 Old Town Residential

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

B R-2 Single and Two-Family Residential

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

C R-3 Multi-family and Townhouse Residential

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

D R-4 Manufactured Home Park and Trailer Park

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

E C-1 Neighborhood Business

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

F C-2 Highway Commercial

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

G I-1 Light Industrial

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

H I-2 Heavy Industrial and Extraction

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

Section 6-3. Overlay Zones

A General Guidelines

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

B List of Overlay Zones

1. Flood Prone

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

2. Water Resource Protection (WRP)

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

3. Cluster Development District (CDD) Overlay

The purpose of the Cluster Development overlay is to provide for large-scale, unified, mixed-style residential developments that use innovative design as a means of ensuring open space and natural and cultural resource protection and preservation. See Article 7, Section 2.J.

4. Age-defined Residential Overlay

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

Section 6-4. Map of Zoning Districts

The official zoning map shall be kept on file at the Town Hall. See Article 16 for information regarding amendments to the map. Figure 6-1 is provided for informational purposes only.

A Interpretation of Zoning Map

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

B Uncertainty as to Boundaries

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

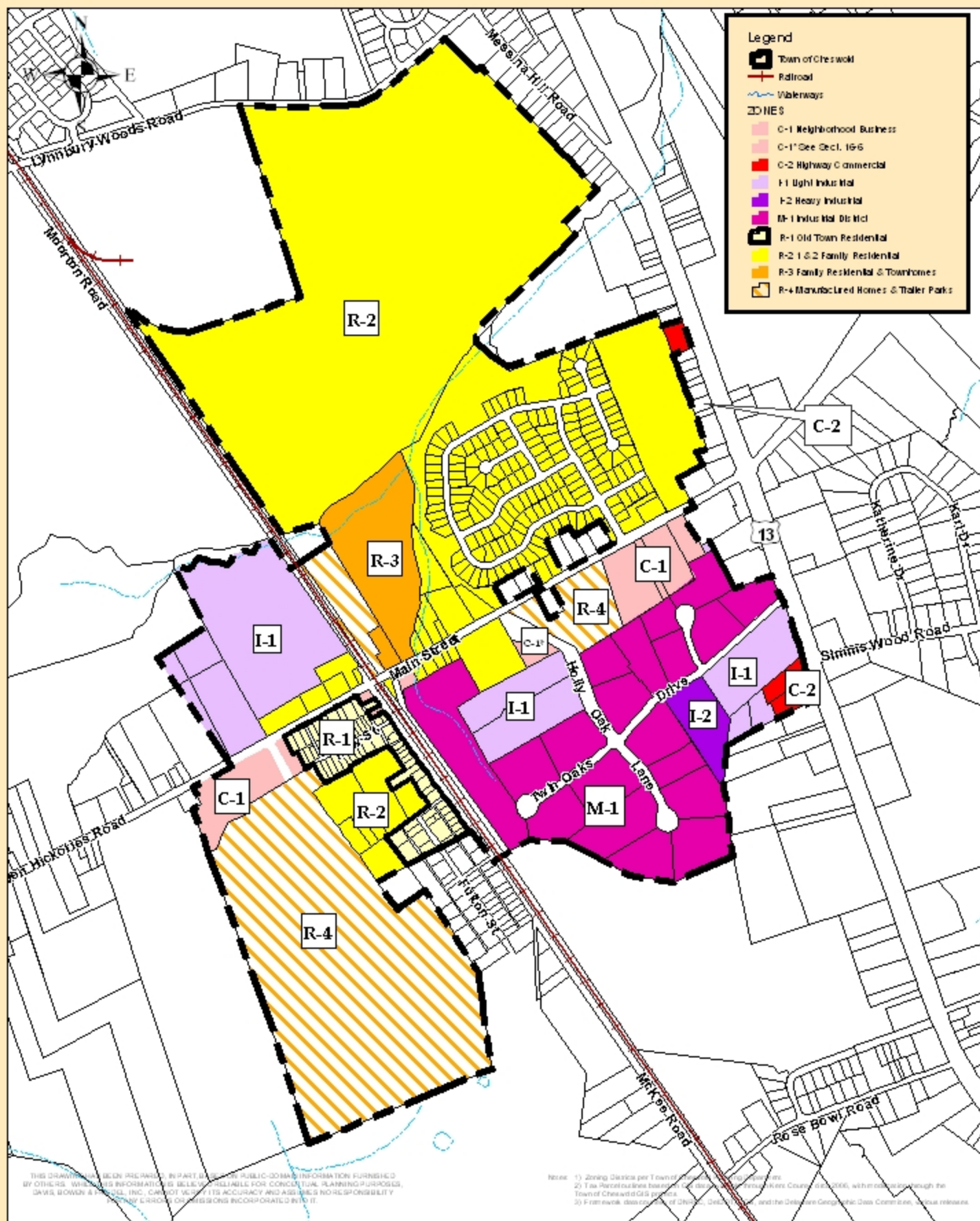
1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following Municipal or County limits shall be construed as following Municipal or County limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as approximately following the centerlines of streams, lakes, or other bodies of water shall be construed as following such centerlines.
6. 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.
7. Where physical or cultural features existing on the ground differ from those shown on the official zoning map, or in other circumstances not covered by this subsection, the Board of Adjustment shall interpret the zone boundaries.

C Errors or Omissions

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

D Parcels Split by Zoning Districts

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



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Figure 6.1 - Zoning Map

Article 7. Use Regulations

Section 7-1. Permitted uses

Permitted uses and structures for all zoning districts can be found in Table 7-4.

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

A R-1 Old Town Residential

RESERVED

B R-2 Single- and Two-Family Residential

RESERVED

C R-3 Multi-family and Townhouse Residential

RESERVED

D R-4 Manufactured Home Park and Trailer Park

RESERVED

E C-1 Neighborhood Commercial

1. Roof design and landscaping shall be intended to reinforce the compatibility of uses and reflect the Town's suburban character.
2. Allowed uses: Retail store, excluding adult uses; Shops for performance of personal services, excluding adult uses; Maximum 2-story utilizing office and single-family residences; Banks and other financial institutions; Restaurants, excluding drive-ins; Theatres, excluding adult uses; Funeral homes; Single professional offices; Laundry/dry cleaners; Community Center; schools; Fire and ambulance station; Indoor commercial recreational uses, excluding adult uses; utility substations; Automobile service stations; Automobile sales.
3. Any use that directly abuts a residential use must provide a vegetative buffer/screening with a minimum height of six feet (6') within the required setback.
4. All lighting must be shielded to remain on-lot.
5. No noise, smoke, dust shall be generated by the use, unless contained indoors. No odors shall leave the lot.

F C-2 Highway Commercial

1. Design should promote like uses and mix compatible uses, and use roof design and landscaping to tie all together and reflect the Town's character.
2. Any use abutting a residential area shall provide a visual screen of a fence and vegetated barrier not less than 15 feet wide with a minimum six foot (6') height within the setback along the adjoining property line.
3. Interior landscaping within parking lots of greater than 0.5 acre shall be provided.
 - a. Landscaping beds shall total 4,000 square feet per 100 parking spaces
 - b. Landscaping shall not interfere with provision of adequate lighting, and vehicle or pedestrian line-of-sight.

G I-1 Light Industrial

1. Signage shall be kept to a minimum.
2. No outdoor storage is allowed. Accessory uses shall be kept at a minimum.
3. High security fences shall be kept at a minimum, not enclosing the entire parcel, but only being used to protect a sensitive/restricted area of the site.
4. Any use abutting a residential area shall provide a visual screen of a fence and vegetated barrier not less than 20 feet wide with a minimum six foot (6') height within the setback along the adjoining property line.
5. No public warehouse sales more than four (4) times per calendar year.
6. Airports, heliports, airparks, flight training and personal aircraft or other similar uses are not permitted.
7. Any on-site caretaker residence for storage or mini-storage facilities shall only be permitted by Conditional Use.

H I-2 Heavy Industrial and Extraction

1. To accommodate structures that are likely to be unsightly and may have associated dust and light, all uses shall provide vegetated buffer of not less than 25 feet in width and 12 feet in height within all rear yard setbacks.
2. Any use abutting a residential area shall provide a visual screen of a vegetated barrier not less than 40 feet wide with a minimum 15-foot screen height within the setback along the adjoining property line
3. Lighting shall not be permitted to glare off-lot.
4. All signage shall be kept to a minimum.
5. Heliports, airports/airparks, flight training and personal aircraft are not allowed.
6. Outdoor storage of materials is discouraged, however accessory uses for storage are allowed.

I Age-defined Residential Overlay

1. Overlay shall apply to subdivisions, townhouse or multi-family plans of a minimum of 8 residential units.
2. All permitted uses within the base zone are permitted with the overlay.
3. Overlay requirements are in addition to all requirements and regulations pertaining to the base zone.
4. Age-defined Residential overlay is not intended to increase density, but to allow flexibility in the design of the number of dwelling units by reducing the required parking area.
5. All age-defined residential plans shall include a community center, centrally located within the community.
 - a. Community center shall be a minimum of 800 square feet, or 5.0 % of the total living space for all dwelling units included in the community.
 - b. Community center shall be a fully accessible public building as required under the Americans with Disabilities Act.
6. Off street parking requirements within the overlay are:
 - a. Single Family Dwellings or Single Family mobile homes – One (1) per dwelling unit, in addition to parking at the community center.
 - b. 2-family, multi-family or townhouses – Two (2) per dwelling unit, in addition to parking at the community center.
 - c. All parking lots shall be painted and shall include marked cross walks and curb cuts to sidewalks.

d. All other permitted uses in the base zone shall comply with requirements in Article 14.

7. Utilities and Maintenance Responsibility

a. Residential and other acceptable uses shall be served by public sewer and public water systems.

b. In the case of individual home ownership, a homeowners association shall be required in which every owner shall be a member, for the purpose of providing operation and maintenance of common elements, including but not limited to landscaping, community center, stormwater management facilities and grounds.

c. In the case of single ownership that may lease lots or dwelling units, the owner of the land shall have the responsibility for operation and maintenance of common elements including but not limited to landscaping, community center, stormwater management facilities and grounds.

J Cluster Development District (CDD) Overlay

1. Definitions

Active Open Space: See Section 12-9. Active Open Space and Recreation

Estimated Development Area: An area calculated for design that equals the area of the proposed CDD overlay district less the Sensitive Drainage Area(s), riparian buffers and other sensitive environmental resources protected by code.

Estimated Residential Area: An area calculated for design purposes that equals sixty percent (60%) of the Estimated Development Area and is used exclusively for residential lots.

Estimated Residual Area: An area calculated for design purposes that equals forty percent (40%) of the Estimated Development area and is used for active open space, roadways and other infrastructure.

Gross Residential Density: The total number of all residential units divided by the total CDD overlay area.

Residential Lot: For the purposes of the CDD overlay, residential lot is the area of land required for each residential unit. Lot area is required for each unit regardless of housing type.

Sensitive Drainage Area(s): The total area within the proposed CDD overlay district that includes the FEMA 100-year flood zone, National Wetlands Inventory data and other site specific delineations of tidal and non-tidal wetlands.

2. Authorization and Intent

a. The Town Council may establish a CDD Overlay permitting the development of land in accordance with the standards and procedures set forth in this Article for properties zoned R-3.

- b. The overlay shall apply to the entire tax parcel. The overlay may not be applied for only a portion of a tax parcel. Split zoning is not permitted.
 - c. The minimum CDD overlay area shall be 30 acres
 - d. Approval of a CDD District constitutes a commitment by the applicant to develop the subject property in accordance with the variety and arrangement of land uses and the resulting density ranges authorized in the CDD approval process.
 - e. Dimensional and Density Standards shall apply regardless of land ownership method, that is, condominium or rental or other legal forms shall be treated as fee-simple or subdivision for design and development plan review.
3. Purpose
- a. To encourage the efficient use of land through creative and flexible site design that is sensitive to natural features and adapts to the natural topography; and
 - b. To decrease or minimize non-point source pollution impacts by reducing the amount of impervious surfaces in site development; and
 - c. To promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines need to be extended or by reducing the length of streets; and
 - d. To preserve, protect and enhance water quality and water resources.
 - e. To provide amenities that ensure a walkable community, opportunities for social interaction, and walking to local services and in active open space areas
4. Use Requirements
- a. CDD overlay is primarily residential in nature.
 - b. Minimum permitted gross residential density shall be 4.0 dwelling units per acre.
 - c. Maximum permitted gross residential density shall be 8.0 dwelling units per acre.
 - d. Project development plan must include at least two (2) styles of dwelling units. As examples: a combination of single-family detached and semi-detached , or a combination of single-family, townhomes and multi-family. See Article 2. Definitions, Dwelling.
5. Permitted Uses and Structures
- a. All principal and accessory uses permitted for the underlying R-3 zone shall be permitted.
 - b. See Table 7-1, R-3 1, 2 & 3-Family Residential and Townhouse Residential, Table 8-4 and Table 8-5 Permitted Projections into Required Yards.
6. Cluster Design Required. Residential Density and Dimensional Standards
- a. Required lot area per Dwelling Unit shall be reduced from R-3 standards to the following detailed in Table 7-1. The number of dwelling units and total square footage required for the subdivision will be proposed by the applicant.
 - b. Active Open Space requirements shall be increased to 420 sq. ft. per dwelling unit.

- c. Required dimensional standards for residential units shall be modified for those of the R-3 zone as follows:

Table 7-1 Dimensional Standards for the Cluster Development District Overlay

	Single Family	2-Family (Duplex)	Triple Attached	Townhouse	Multi-family
Lot Size					
Per dwelling unit (sq ft, min.)	5000	2500	2000	2000	2000
Lot Standards				Per building block	Per building
Number of DU/building	1	2	3	8	18
Street Frontage (ft, min.)	30	30	40	20 per DU plus 20 ft.	60
Lot width at front building line (ft, min.)	50	50	60	n/a	n/a
Setbacks					
Front Yard (ft., min.)	15	15	15	15	15
Driveway (front loaded vehicular access) (ft., min.)*	20	20	20	20	n/a
Side Yard (ft., min.)					
One	10	10	10	10**	15
Sum of Both	20	20	20	20**	30
Rear Yard (ft., min.)	25	25	20	20	30
Building Standards					
Height (Stories, max.)	2 ½	2 ½	2 ½	3	3
Height (Feet, max.)	35	35	35	38	38
Coverage (% of Lot, max.)	70%	70%	70%	65%	Building plus parking 55%
Active Open Space					
Per Dwelling Unit (sq. ft, min.)	420	420	420	420	420

* See Article 14, Section 14-2 E (7) for further parking design standards

** Applies only to end units.

7. Environmental Protections and Open Space

- a. Each CDD development plan shall be designed to use the open space required for design to separate more intensely constructed areas from flood plains, wetlands, agricultural lands protected through purchased development rights or conservation easements.
- b. Each CDD development plan shall limit to the greatest extent practicable the clearing of wooded uplands by including existing wooded uplands within required open space design areas.
- c. Provisions of Article 12 shall be in effect, however Active Open Space requirements shall be increased to 420 sq. ft. per dwelling unit.
- d. Under the CDD Overlay wetlands and flood plain may be used in the provision, but not in the calculation, of the Active Open Space acreage.

8. Other Development Standards

Except as noted elsewhere under Cluster Development District, the provisions of the following Articles apply to CDD developments:

Article 9. Subdivision Design and Layout;
Article 10. Streets, Sidewalks, Curbs, and Gutters;
Article 11. Utilities;
Article 12. Environment and Open Space;
Article 13. Signs, and
Article 14. Parking Standards.

Section 7-3. Interpretation of Uses

A General.

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

B Determination of Similar Uses

1. Determination of Similar Uses

- a. A determination as to whether a use is similar to a use permitted by right shall be considered an expansion of the use regulations of the zone and not as a variance applying to a particular situation. Any use found similar and so acted upon shall thereafter be included in the list of uses permitted by right by the Town of Cheswold through a text amendment to this Ordinance.
- b. Application
 - (i) All applications for permits involving uses not specifically listed among the prohibited uses or uses permitted by right in any zone

- shall be submitted to the Administrator for a determination of use, in the form of a Concept Plan (see Article 4, Section 4-3).
- (ii) Specifically prohibited uses are not allowed.
 - (iii) The Administrator may refer the application to the Board of Adjustment if the applicant wishes relief from a determination of use that has not been specifically prohibited.
- c. Standards governing the determination of a 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, hear, smoke, odor, glare, or other objectionably 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 apply to off-street parking or signs.

Section 7-4. Accessory Uses

A Definition.

A use is accessory use if it meets all of the following criteria:

- The use is incidental and subordinate to the principal use;
- It is usual and customary to the principal use;
- It is operated and maintained under the same ownership and on the same lot as the principal use;
- It does not include structures or structural features inconsistent with the principal use; and
- Does not include overnight lodging for anyone other than member of the household in which the accessory use is conducted. Note that this item does not apply to Bed & Breakfast (See Article 2, and requirements provided below.)

B Where Permitted

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

C Regulations Governing Certain Accessory Uses

1. Major Recreational Equipment

- a. Definition. Includes boats, boat trailers, travel trailers, pick-up campers, motor homes or coaches designed to be mounted on motor vehicles, motorized dwellings, tent trailers, 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 either R-2 and R-3 residential zones, major recreational equipment:

- (i) Must be parked or stored within an enclosed building.
- (ii) Must not be used for living, sleeping, or other housekeeping purposes.
- (iii) May be parked anywhere for a maximum of twenty-four (24) hours while loading and unloading.

2. Junk Vehicles and Trailers. A vehicle or a trailer, as described in Article 2 or without current license plates may be parked or stored on any residentially zoned property only in a completely enclosed building.
3. Commercial Vehicles. In any residential zone, no more than one (1) commercial vehicle, not exceeding two axles and six wheels, may be parked on a lot.
4. No accessory use, in any zone, shall contain or be connected to any sanitary facility.
5. Accessory structures, other than duplex garages, shall not be located in the front yard, nor shall they be located within ten (10) feet of any rear property line, or five (5) feet of any side property line, nor shall they be located within five (5) feet of any other building or structure.
6. Bed & Breakfast Establishment.

a. Definition. Such commercial lodging is for a short-term, less than fourteen (14) consecutive days, and the only meal provided is breakfast in a dining room.

b. Regulations.

- (i) No food preparation or consumption is permitted in the guest rooms.
- (ii) The number of guest rooms is limited to a total of five (5).
- (iii) Owners shall comply with all federal, state and local requirements for handling, preparation and serving of food.
- (iv) Any amenities (swimming pool, tennis court, etc.) shall be for the use, solely of the resident owner and guests of the bed and breakfast facility.
- (v) There shall not be more than one (1) employee on the premises at any one time who is not a member of the household.
- (vi) One (1) on-site parking space shall be provided for each guest bedroom and for any employee not a member of the household and shall be subject to all other provisions of Article 14.
- (vii) The owner shall maintain a current guest register.

- (viii) Signage shall conform to the applicable requirements of Article 13.
- (ix) Area and bulk requirements shall be those that apply to single-family detached dwellings within the applicable zoning district.
- (x) The facility shall be serviced by public water and sewer and have proof of continuous refuse service.

Section 7-5. Home-based businesses

A Permitted Home-Based Businesses

1. Offices for Professionals including architects, brokers, counselors, clergy, , draftspersons and cartographers, educational tutoring, engineers, instructional services including art and craft classes, insurance agents, lawyers, real estate agents, accountants, tax preparers, editors, publishers, journalists, contract management, graphic design, , landscape design, salespersons and manufactures' representatives, travel agents.
2. Babysitting services defined as the occasional care of children

B Home-based Businesses requiring Conditional Use Permit

1. Instructional classes for music or dance classes, workrooms for tailors, dressmakers, milliners, and craft persons including weaving, lapidary, and jewelry making
2. Repair services including watches and clocks, small appliances, computers, electronic devices, lawnmowers, and small engines
3. Pet grooming.

C Garage and yard sales, "Tupperware" parties are not considered home-based businesses. Each use shall only be allowed four (4) times per year within the confines of a single lot.

D Prohibited Home-Based Businesses

1. Barbershops, beauty parlors, manicure and pedicure shops
2. Dentists, doctors, massage therapy, psychologists
3. Cleaning services, construction contractors, surveyors
4. Kennels, veterinary clinics and animal hospitals
5. Medical clinics, dental clinics, and hospitals
6. Studios for musicians, photographers and sculptors, shops for cabinetry and woodworking
7. Restaurants, bars, and night clubs
8. Funeral homes and undertaking establishments
9. Adult uses

E Operational Standards

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

- Generate noise that violates any Municipal ordinance or regulation pertaining to noise;
- Create any electrical, magnetic or other interference off the premises;
- Consume utility quantities that negatively impact the delivery of those utilities to surrounding properties;
- Use and/or store hazardous materials in excess of quantities permitted in residential structures.

3. Signs. See Article 13 in this Ordinance governing Signs.

Table 7-2 Permitted Uses & Structures

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

Blank	Not Permitted								
P	Permitted Use								
SP	Site Plan Review required. See Sec. 4-2.								
CU	Conditional Use. See Sec.4-7.								
O	Overlay Zone Applies (See Sec. 6-2)								
See definitions in Art. 2.									
Social Service Establishments					P,SP	P,SP	CU, SP	P, SP	
Banks			P,SP		P,SP	P,SP			
Banks with drive through			CU SP		P,SP	P,SP			
Manufacturing, Assembling, Processing									
Manufacturing, Light							P,SP		
Manufacturing, Heavy								P,SP	
Asphalt, Aggregate, Hot Mix								CU SP	
Concrete, Cement, stone and gravel bulk storage								CU SP	
Commercial composting, materials recycling								CU SP	
Sanitary transfer station								P,SP	
Educational, Cultural, Religious, Philanthropic, Social, Fraternal									
Club, private such as golf, swimming, and tennis clubs, lodges, and other annual membership clubs		CU SP	CU SP	CU SP					
Educational institutions, public and private		CU SP	CU SP	CU SP	CU SP	CU SP			
Places of worship	CU SP	CU SP	CU SP	CU SP	CU SP				
Community Center, Private		P,SP	P,SP	P,SP	CU SP				
Institutional or Residential Care, Confinement & Medical Facilities									
Day Care Center			CU SP		P,SP	P,SP			
Day Care, Family (1-6 children)			CU,SP						
Day Care, Large Family (7-12 children)					P,SP	P,SP			
Hospital					CU SP	P,SP	CU, SP		
Medical Clinic, no over night facilities			CU SP		CU, SP	P,SP	P, SP		
Nursing and care facilities			CU SP		CU SP	P,SP	P, SP		
Surgical Center, no overnight facilities					CU SP	P,SP	P, SP		
Transportation-Related Sales & Service									
Motor vehicle filling stations					P,SP	P,SP			
Motor vehicle sales, repair, service and storage					P	P,SP			
Storage & Parking									
Distribution center							P,SP	P,SP	
Garage, public or commercial parking			CU SP		CU SP	P,SP	P,SP		
Self-storage facility							P,SP		
Warehouse							P,SP	P,SP	

Blank	Not Permitted								
P	Permitted Use								
SP	Site Plan Review required. See Sec. 4-2.								
CU	Conditional Use. See Sec.4-7.								
O	Overlay Zone Applies (See Sec. 6-2)								
See definitions in Art. 2.									
Public, Semi-Public, Emergency									
Government facilities and services, local		P,SP	P,SP	P,SP	P,SP	P,SP	P,SP	P,SP	P,SP
Government facilities and services, non-local		P,SP	P,SP	P,SP	P,SP	P,SP	P,SP	P,SP	P,SP
Parks & open space		P,SP	P,SP	P,SP	P,SP	P,SP	P,SP		
Public safety facilities including, ambulance, fire, police, rescue, and national security				CU, SP		CU SP	P,SP		P, SP
Public utility service facilities						P SP	P,SP	P,SP	P,SP
Recreation facility			CU, SP	CU SP		CU SP	P,SP	P,SP	P,SP
Not Grouped Elsewhere									
Accessory Uses, generally		P	P	P	P	P	P	P,SP	P,SP
Cemeteries				CU, SP			CU, SP	P,SP	
Funeral home, without crematorium				CU, SP		CU SP	P,SP	P,SP	
Mixed use developments (See also Overlay Districts)			CU, SP	CU SP		P,SP	CU, SP		
Veterinary clinics, animal hospitals, or commercial kennels, provided that no open pens, runs, kennels or cages are located within 100 feet of land that is used or zoned residential						CU, SP	P,SP	CU, SP	

Article 8. Dimensional and Density Standards**Section 8-1. Basic Dimensional & Density Standards**

- A Residential Zones: Table 8-1, Table 8-2
- B Non-Residential Zones: Table 8-3
- C Accessory Buildings & Structures: Table 8-4
- D Projections into Required Yards: Table 8-5

Section 8-2. Supplemental Dimensional & Density Standards**A Structures to Have Access**

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

B Fences, Walls, Hedges & Shrubbery

- 1. Setbacks. Fences, walls, hedges, and shrubbery may be placed anywhere on a residential lot as long as they comply with the height limitations stated in this subsection.
- 2. Height Limitations for fences and walls.
 - a. Front Property Line. Fences shall not exceed 3' up until the front façade of the building.
 - b. Side Property Line. Shall have a 10 foot setback from front property line in which fence or other structure shall be a maximum of 3 feet; thereafter the maximum height shall be 6½ feet.
 - c. Corner side property line. Shall be a maximum of 6 ½ feet and shall meet visibility requirements as set forth in Section 8-2, C.
 - d. Rear Property Line. Shall be a maximum of 6½ feet high
- 3. Height Limitations for hedges and shrubbery
If all the following criteria are satisfied, then there is no height limitation for hedges and shrubbery:
 - The hedges and shrubbery are well maintained.
 - The hedges and shrubbery do not encroach on another property.

4. Non-Residential Uses. The Administrator 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 Administrator must find that exceeding the height limitations is necessary due to the type of use, security concerns, or the protection of adjacent properties.

C Visibility at Intersections within "Sight Triangle"

1. 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.
2. At street intersections, the profile and grading of the right-of-way shall be such that the driver of any vehicle preparing to enter the major traveled way has a clear line of sight in accordance with Section 6 of *DelDOT Rules and Regulations for Subdivision Streets* and AASHTO – *Geometric Design of Highway and Streets* (both, as amended).

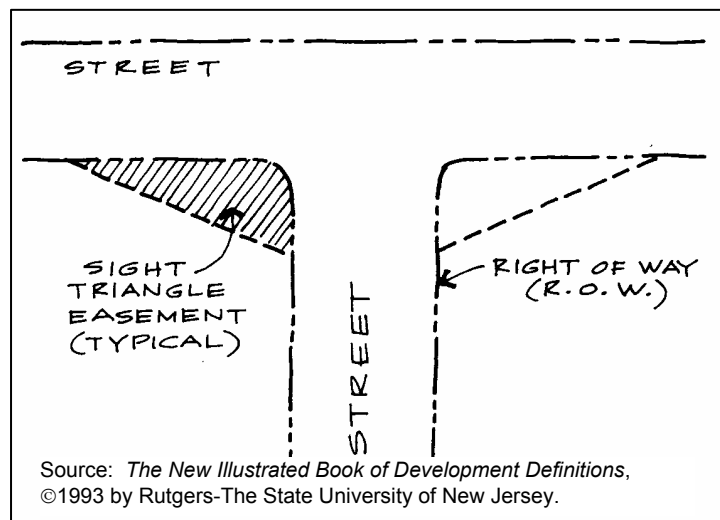


Figure 8-1. Sight Triangle

D Height Limits—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, the following:

Belfries	Public Monuments
Chimneys	Radio and television antennas for residential use
Cupolas	Smoke stacks
Flag poles	Spires
Ornamental towers	Water towers

E Townhouses

The following standards are in addition to the standards in Table 8-1.

1. Row Design
 - a. Maximum number of townhouses in a row shall be six (6).
 - b. The facades of the dwellings in each townhouse group must be varied in architectural treatment and roof lines.
 - c. Offsets Required. No more than 2 adjacent townhouses shall have the same front building line. The variation in the building line must be at least 2 feet.
2. When the rear lot lines of townhouses abut one another, a 20-foot wide alley must be provided.

F Manufactured, Mobile Home or Trailer Park

The standards in this subsection are in addition to those in Table 8-1 and Table 8-2.

1. Definition. A tract of land used or offered for use for the location of manufactured or homes or trailers. Such land shall provide individual lots for each unit.
2. General. Such a community shall comply with all sanitary and all other requirements prescribed by law or regulations governing the manufacture, transport, or installation of manufactured housing units, including, but not limited to the Delaware Department of Transportation; Kent County Soil Conservation District; Kent County Sanitary Sewer Authority and the Delaware Department of Natural Resources and Environmental Control.
3. Except for required open space, buffers, recreational and stormwater management areas, streets and parking areas, no building, structure or premises shall be used and no building or structure shall be constructed, installed or placed upon any premises or site within this zone which is intended or designed to be used in whole or in part for any purpose other than as a residential manufactured home community for the leasing of home sites (parcels, stands or lots) for manufactured homes designed for single family occupancy and accessory uses thereto as specified in this Ordinance.
4. Site Design.
 - a. Topography of the site shall be engineered to facilitate drainage and drainage facilities shall be provided.
 - b. All specifications shall comply with all other requirements prescribed by law or regulations governing the installation of manufactured housing, and as required by the agency issuing the building permit.
 - c. Natural amenities and green area.
 - (i) The site design shall demonstrate a reasonable effort to preserve the site's natural amenities.
 - (ii) The site design shall include a landscaped or wooded strip of open space along street frontages and along the borders with adjacent

lots as required in the Development Standards for Manufactured Housing Communities.

5. Utilities.
 - a. All utility lines, including electrical, telephone, and TV cable, shall be underground.
 - b. All utilities, other than electric power and except for short, lateral spurs connecting individual homes, shall be located within a street right-of-way unless the Municipality directs otherwise.
 - c. Each manufactured home site shall have an individual, metered connection to a central water and sewer system
6. Access, Circulation, and Parking.
 - a. Access to a manufactured home community shall be from a public street.
 - b. The number and location of access drives shall be based on traffic safety and the protection of surrounding properties.
 - c. Individual manufactured homes shall not have direct access to a street outside the manufactured home community's boundaries.
 - d. Standards for interior access drives.
 - (i) Interior access drives shall be properly lighted.
 - (ii) Interior access drives shall be constructed and maintained in accordance with applicable specifications and ordinances.
 - e. Parking. See Article 14.
7. Ownership.
 - a. The entire land area used for a manufactured home community shall be maintained in single ownership throughout the entire life of the park.
 - b. Multiple ownership may be permitted if done so under the laws of the State of Delaware dealing with unit properties, and an applicant for a manufactured home community declares multiple ownership as part of the application to the Municipality for the establishment of the park.
8. Manufactured Home Installation.
 - a. Anchoring.
 - (i) Every manufactured home shall be anchored prior to its occupation or use, or within 7 days of its placement in a manufactured home community, whichever occurs first.
 - (ii) Each manufactured home shall be anchored to resist flotation, collapse or lateral movement.
 - (iii) Anchoring Methods. Units must be on a solid, masonry foundation with concrete footers. Acceptable methods of anchoring include, but are not limited, to the over-the-top and frame ties to ground anchors, such as the following:

- Over-the-top ties provided at each of the four corners of the manufactured home, with two additional ties per side for manufactured homes less than 50 feet long.
 - Frame ties provided at each corner of the home, with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
- b. 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 four thousand eight-hundred (4,800) pounds.
- c. Manufactured Homes in Floodplains. In addition to meeting the requirements of Article 12. and any other applicable sections of this Ordinance, manufactured homes within any floodplain area shall:
- (i) Be elevated on a permanent foundation so that the lowest floor of the manufactured home is elevated to or above the base flood elevation; and
 - (ii) Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- d. No manufactured home shall rest permanently on the wheels used to transport it.
- e. Perimeter Enclosure Walls (Also known as *Skirts* or *Skirting*).
- (i) Required. Prior to occupancy or use, a perimeter enclosure wall must be installed in the space between the manufactured home and the ground level.
 - (ii) Design. The design of these walls shall be consistent throughout the park and shall complement the appearance of the park.
 - (iii) On individual lots where the ownership of the manufactured home and the land owner are the same, perimeter enclosure walls must consist of solid block masonry material, complete with masonry joints and concrete footers, tied down, all in accordance with Kent County specifications at the time of placement.
 - (iv) No skirting material shall support combustion.
 - (v) Utility Access. Each perimeter enclosure wall must have an opening that provides access to water and wastewater connections under the home. The opening must be at least eighteen (18) inches in all dimensions, but not more than three (3) square feet in area.
- f. Hitch. The hitch or tow bar, used to transport a manufactured home, shall be removed when the manufactured home is placed upon its final foundation, and prior to issuance of the Certificate of Occupancy.

- g. Other Standards specifically applicable.
- h. See Article 10. for Streets and Article 14 for Parking.
- i. The ratio of single-wide residential manufactured homes to multi-sectional residential manufactured homes in the R-4 Zone shall never exceed twenty percent (20%) single sectional to eighty percent (80%) multi-sectional.

G Landscape Buffer (see Table 8.2)

- 1. During Preliminary Plan review, the Town shall determine whether the existing vegetation is adequate to perform as a buffer within the required side or back-yard setback. Additional planting shall be required along the subdivision boundary as follows:
 - a. A planting strip of evergreens or other suitable shrubbery and trees to arranged to provide a suitable screen. Continuous hedges shall not be used. Such planting strip shall be located adjacent to the subdivision or property line and shall be a minimum of fifteen (15) feet in width and six (6) feet in height.
 - b. The remainder of the buffer zone shall be planted in suitable grass and kept mowed.
 - c. The landscape buffer for mobile homes shall be no less than twenty-five (25) feet wide, binding with the interior to the boundary line of the R-4 Zone on all lots whose rear property lines are contiguous with the R-4 Zone boundary line.

Table 8-1. Basic Development Standards in Residential Zones

	R-1	R-2			R-3				R-4
	Old Town	Single Family	Duplex	Triple Attached	Single Family	Duplex And Triple Attached	Town House	Multi - Family	Manufactured and Mobile Housing
Minimum living space (SF)	1,000	1,200	1,000 per unit	1,000 per unit	Same As R-2	Same As R-2	1,000 per unit	800 per unit	980 per unit
Tract Standards									
Tract Area	5,000 SF	7,000 SF	7,000 SF	8,000 SF			20,000 SF	40,000 SF	15 acres
Maximum DUs Per Acre	N/A	6.2	12.4	16.3			8.0	8.0	4.5
Lot Standards									
Lot Area Per DU (SF)	5,000	7,000	3,000	2,000			2,000	3,000	5,000
Street Frontage (feet)	30	30	30	Interior 20 End 30			Interior 20 End 30	125	30
Lot Width at Front Bldg. Line (feet)	30	75	60	Interior 20 End 30			Interior 20 End 30	N/A	50
Setbacks (feet)									
Front Yard	10	15	15	15			15	15	25
Side Yard	5 ⁸	10	10	10			10	20	10
One Sum of Both		20	20	N/A			N/A	40	20
Rear Yard	30	30	30	30			30	40	25
Maximum Building Height									
Stories	2 ½	2 ½	2 ½	2 ½			2 ½	2 ½	2 ½
Feet	35	35	35	35			35	35	35
Maximum Building Coverage (% of Lot)	50%	50%	50%	50%			50%	60%	60%
Minimum Lot Depth	100	100	100	100			100	100	100

Notes:

1. R-1 is a closed zone, that is no new lands shall be zoned R-1.
2. Living space is heated space, excluding for example but not exclusively, garage, attic or un finished basements.
3. Tract Area is the minimum acreage or square footage needed to develop land for each dwelling unit type.
4. Lot Area is the minimum lot size for each dwelling unit type.
5. DU means dwelling unit.
6. SF means square feet.
7. See building height note Section 6-2, H, 2.
8. There is a required 10' clearance between a new structure and an existing structure on an adjacent lot.

Table 8-2. Additional Standards for Manufactured Home and/or Trailer Parks

	Additional Requirements
Tract Standards	
Minimum Tract Area	Excludes all rights-of-way of existing public or private roads
Max DUs per Acre	See Note 6. below
Interior Access Drive Width	Must be properly lit and built and maintained in accordance with specifications for municipal streets
Landscape Buffer (minimum)	Structures and streets not permitted in buffer
Minimum Open Space per Home Site	Must be usable recreational space accessible to residents of the park
Lot Standards	Lots may not be offered for sale or sold.
Minimum Lot Area per Home Site	Permanent numbered, marker required at each corner
Maximum Lot Coverage	Includes manufactured home and accessory structures
Minimum Distance Between Manufactured Homes	20 feet
Extensions & Projections	Applies only to steps with related landing; must not exceed 28 SF; permitted in all yards
Additional Standards	Also see Subsection within this Article

Notes:

1. All dimensions are minimum standards unless specified otherwise.
2. N/A means not applicable.
3. DU means dwelling unit.
4. SF means square feet.
5. See Article 12 for standards governing structures in flood-prone areas.
6. Net density shall be calculated by subtracting the land area set aside for open space and stormwater management areas from the total land area for the project within the R-4 Zone and dividing the result by the total number of residential manufactured home foundation sites (sometimes called 'pads').

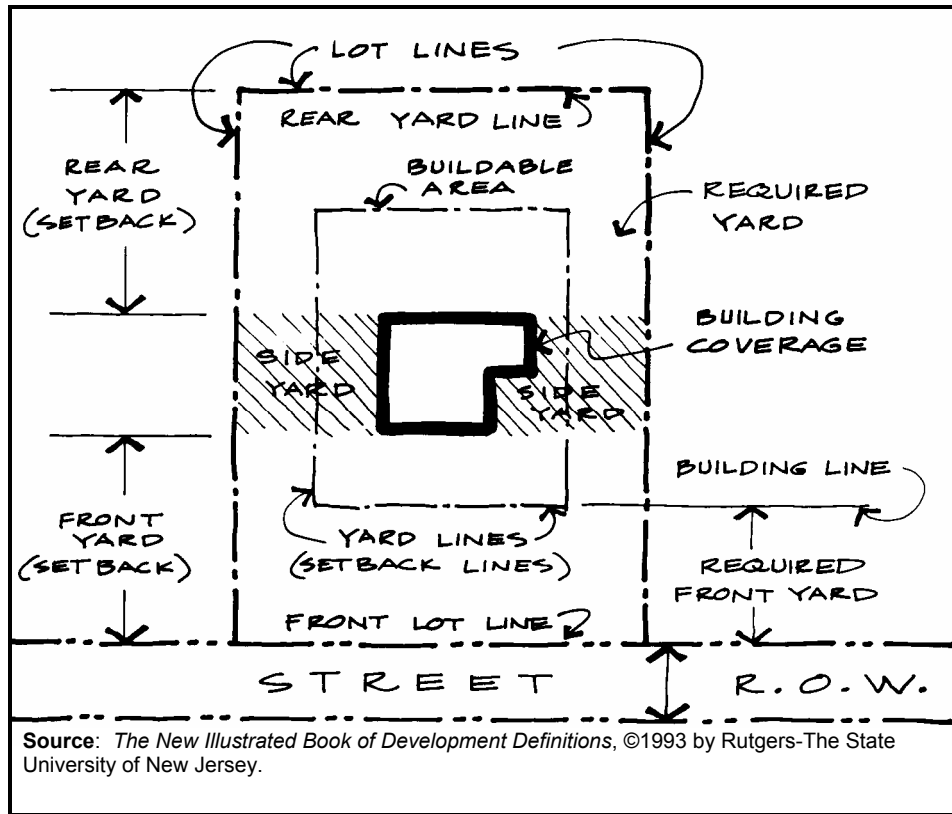


Figure 8-2. Setbacks, Building Coverage, Building Lines

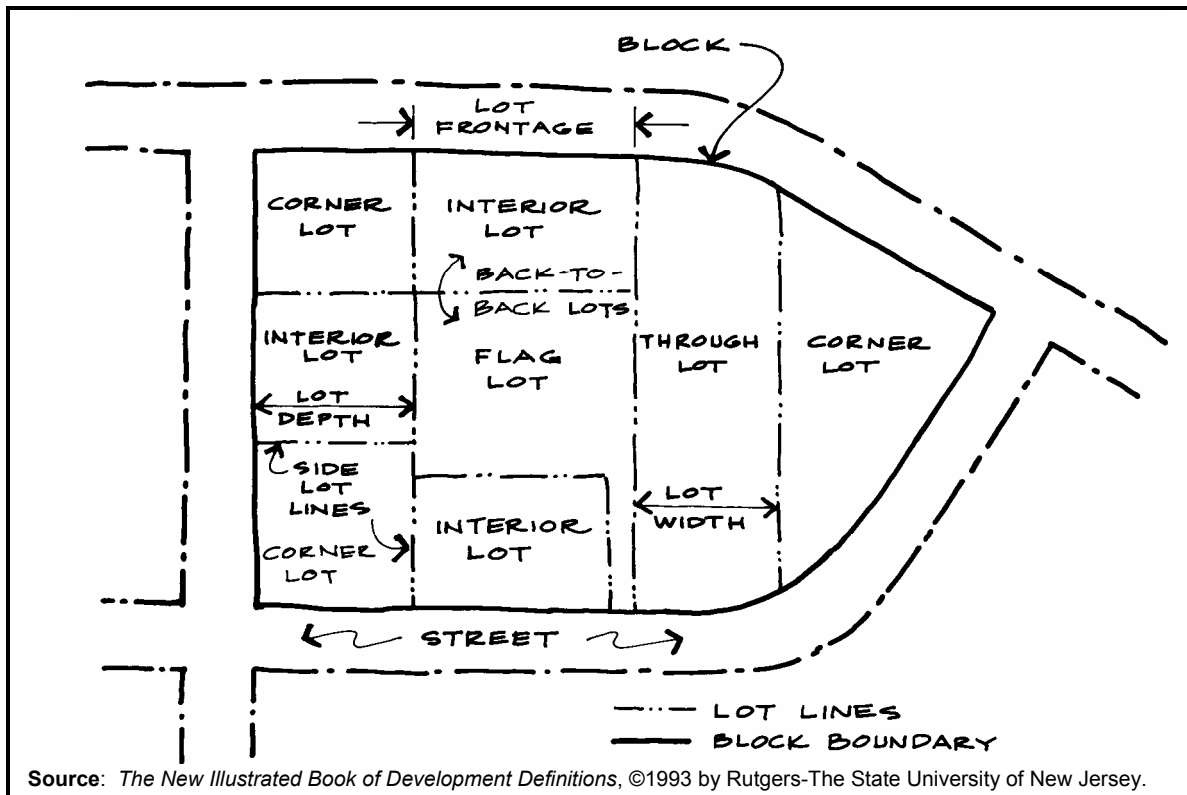


Figure 8-3. Types of Lots

Table 8-3. Dimensional & Density Standards in Non-Residential Zones

Standard	C-1 Zone	C-2 Zone	I-1 Zone	I-2 Zone
Minimum Tract Area (square feet/acres)			1.0	2.0
Street Frontage (feet)			50	50
Lot Width at Front Building Line (feet)	30	100	100	150
Lot Depth (feet)	100	100	100	250
Minimum Setbacks (feet)				
Front	25	30	40	40
Side				
One	10	15	10	None
Sum of Both	20	30	20	None
Rear	15	25	40	40
Adjoining Residential Zone				
Side	15	25	50	100
Rear	30	50	50	50
Maximum Building Height				
Stories	2	2	2	2
Feet	35	35	35	
Maximum Building Coverage (% of Lot)	40%	50%	50%	50%
Green Area (% of Lot)	30%	30%	30%	30%

Notes:

1. N/A means not applicable.
2. SF means square feet.
3. Except for building height, the Administrator with Planning Commission recommendation] shall determine the development standards and parking requirements for new, changed, or expanded uses in the C-1 Zone. In making such determinations, the Municipality shall make the following findings:
 - a. That the placement of buildings and structures is compatible with the neighborhood and with existing development in character and scale.
 - b. That proposed parking spaces, building coverage, and overall design are sufficient to avoid congestion and will not place unreasonable demands on public facilities.
4. The Development Standards of the R-3 Residential Zone shall be used for permitted residential uses in the C-1 Zone.
5. See Article 12 for standards governing structures in flood-prone areas.
6. In the C-2, I-1 and I-2 zones, for the purpose of expansion of existing uses, maximum building coverage shall include all outside storage.
7. In all of the above zones, the Municipal Governing Body shall determine if Fee In Lieu for Open Space/Recreation is applicable, or if the Town wishes to have those facilities located on the subject parcel.

All manufacturing operations and raw or finished materials storage must be within the confines of a building or structure. No outdoor storage is allowed.

Table 8-4. Dimensional & Density Standards for Accessory Buildings and Structures

Standard	Attached Accessory Buildings	Detached Garage	Other Detached Accessory Buildings	Service Station Pumps and Pump Islands
Location	Side and rear yards	Rear yard	Rear yard	Within any yard
Setbacks				
Front	Same as principal building	N/A	N/A	15 feet
Side-interior	Same as principal building	5 feet	2 feet	15 feet
Side-corner	Same as principal building	Same as principal building	Same as principal building	15 feet
Rear	Same as principal building	5 feet	2 feet	15 feet
Distance from main building	N/A	10 feet	10 feet	
Distance from dwelling on adjacent Residential Lot	N/A	20 feet	20 feet	N/A
Maximum Height	Same as principal building	15 feet	12 feet	N/A
Maximum Lot Coverage	Must be included in coverage for principal building	25% of rear yard	25% of rear yard	N/A

Table 8-5. Permitted Projections into Required Yards

Type of Projection	Front Yard	Interior Side Yard	Corner Side Yard	Rear Yard
Air conditioners and heat pumps either free-standing or wall-mounted	Not permitted	5 feet	5 feet	5 feet
Aluminum siding, brick veneer, and similar applications to existing structures	9 inches	9 inches	9 inches	9 inches
Awning in commercial or industrial zones	5 feet	5 feet	5 feet	5 feet
Balconies, bay windows, entrances, oriels, and vestibules less than 10 feet wide	3 feet	3 feet	3 feet	3 feet
Carports	5 feet	3 feet	3 feet	5 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 structure	Not permitted	Not permitted	Not permitted	6 feet
Fire escapes	5 feet	5 feet	5 feet	5 feet
Outside stairways	Not permitted	Not permitted	Not permitted	6 feet
Ornamental features, such as sills, leaders, belt courses	6 inches	6 inches	6 inches	6 inches
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

Notes:

1. N/A means not applicable.
2. SF means square feet.

3. See Article 12 for standards governing structures in flood-prone areas.
4. See Article 8 for Dimensional & Density Standards for accessory buildings and structures for R-4 Zone.

Article 9. Subdivision Design and Layout**Section 9-1. Applicability**

The provisions of this Article govern the preparation of site plans, development plans, and subdivision plats. It applies to all development plans regardless of whether they result in the subdivision of land.

Section 9-2. General Requirements**A Conformance to Applicable Rules and Regulations**

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

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

B Adequate Public Facilities

1. Requirement. No preliminary plan shall be approved unless the Planning Commission determines that public facilities are or will be adequate to support and service the area of the proposed subdivision.
2. Upon request, the applicant shall provide information needed by the Planning Commission to evaluate the adequacy of public facilities.
3. The following services shall be examined for adequacy:
 - Roads.
 - Solid Waste.
 - Sewage treatment.
 - Fire Protection.
 - Water service.
 - Emergency Services.

C 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 this Ordinance, such restrictions shall be indicated on the Subdivision Plan and/or restrictive covenants shall

be recorded with the Recorder of Deeds. The owner, applicant, or subdivider shall grant the Municipality the right to enforce the restrictive covenants in writing.

D 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 Municipal Governing Body shall have final authority to designate the name of a subdivision.

E 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.

F Character of Land

1. During the preliminary or final land development review process, the Planning Commission may ascertain land to be harmful to the safety, health or general welfare of the current or future inhabitants of the Town, and or its surrounding areas for any of the following reasons: Flooding, improper drainage, steep slopes, adverse earth formations or topography, utility easements, or other features which they may identify.
2. Those lands shall not be subdivided or developed unless generally acceptable methods are proposed by the developer, and reviewed and recommended by the Town Engineer and the Planning Commission to the Town Council. Otherwise, such land shall be set aside for uses that mitigate those characteristics that make the land unsuitable for development and they shall be placed in passive open space in perpetuity. These lands shall be in addition to any required open space calculation and shall not be considered part of any fee-in-lieu calculation.

Section 9-3. Lot & Block Design

A Block Design

1. Spacing. Streets shall be spaced so that blocks meet the dimensional requirements of this Ordinance and to minimize the number of intersections with existing or proposed State-maintained roads.
2. Shape. The lengths, widths, and shapes of blocks shall be appropriate for the character of the Municipality, the surrounding neighborhood, and the proposed development.
3. Easements. The subdivision plan shall provide for the reservation of easements through a block to accommodate utilities, drainage facilities, open space 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. Lot Access. Every lot shall abut and have access to a public street, or a private street. Such public or private determination shall be made by the municipal governing body.
3. 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, including railroad, uses shall be sufficient to provide parking, loading, landscaping, and other facilities specified in this Ordinance, and other applicable requirements.
 - h. Double the Minimum Area. Where lots are more than double the required minimum area, the Municipality may require that these lots be arranged to permit further subdivision and the opening of future streets.
 - i. Drainage. Article 12 shall apply to all projects.

- (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 stormwater runoff from adjacent lots on to any single lot.
- 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. 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 thirty (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.
 - c. Flag Lots. There may be no more than two (2) adjacent flag lots; each shall have the minimum street frontage. The flag lot area shall be net of the access corridor/cartway. A flag lot shall not be permitted so as to avoid constructing or extending streets.

Section 9-4. Easements**A 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 ten (10) feet along a lot line common to two (2) 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 ten (10) feet in width on the interior side of the boundary.

B 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 easements along such waterways and drainageways.

C Permanent Obstructions Prohibited

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

D Recordation

All easements shall be recorded with the Recorder of Deeds office prior to start of construction.

Section 9-5. Plans & Profiles**A Approval Required Prior to Start of Construction**

1. Plans, profiles and specifications for the required improvements shall be prepared by the applicant or subdivider and submitted for review and approval by the appropriate public authorities prior to start of construction.
2. All plans, easements, dedications, etc. pertaining to the project shall be recorded with the Recorder of Deeds office and a minimum of two (2) recorded copies shall be returned to the Administrator or Town Clerk prior to start of construction.

B Required Information for Review

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 Town, the County, or the appropriate State agency
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 State Department of Health and Social Services, State Fire Marshal or appropriate agency.
5. Plans and specifications for (all, if required) forested buffer strips, buffers along trails, buffers between parcels or along water ways.
6. Stormwater management and sediment and erosion control plan approvals from Kent Conservation District or DNREC Soil Conservation as appropriate.
7. Location of all Wellhead Protection Areas.

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's 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. All as-built drawings shall be signed and sealed by as appropriate by an Engineer or Surveyor registered in the State of Delaware.

B Fees for Inspections

1. The Town of Cheswold 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. Costs reimbursed shall be only those actually incurred by the Town or their assigned Agent(s) in inspecting work for which the Town has the authority to establish design standards or has need to ensure that future efficient maintenance can be accomplished adequately.
2. Such fees shall be established by the Town Council by Resolution and may be changed from time to time.

Section 9-7. Bonds & Guaranties.

A Performance Bond or Guarantee Required

As a condition of approval of development plans, the Cheswold Town Council shall require the subdivider to post a performance bond or other form of guaranty for any improvements required by the application of this Ordinance in an amount sufficient to construct the improvements and in a form acceptable to the Town's Attorney.

- B** The amount of such bond shall be no less than 150% of the total cost of all 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 or any other improvements deemed necessary by the Municipality.

C 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 Town Council those guaranties are not adequate to ensure completion of improvements, the Town Council may require additional bonds or guaranties in accordance with the provisions of Subsection A of this section.

- D** Where the Town of Cheswold determines it is necessary to insure the maintenance of improvements, that may or may not be dedicated to them, they shall have the right to require the subdivider to post a performance bond or other form of acceptable guaranty, to insure that the maintenance is provided, for a minimum period of eighteen (18) months. Thereafter, should the improvement not be dedicated to the municipality, the subdivider shall, prior to the end of the guaranty period, provide written proof that a form of maintenance plan has been established that is acceptable to the Cheswold Town Council.

Article 10. Streets, Sidewalks, Curbs and Gutters**Section 10-1. Roads and Streets****A General Requirements**

1. Private Streets. Private streets shall be allowed only by Resolution of the Cheswold Town Council that includes review and comment on a plan for ongoing operations, maintenance and ongoing funding of private streets.
 - a. No private street shall be extended to either become a public street or intersect with a public street without a Resolution from the Cheswold Town Council.
 - b. The Resolution shall contain a functional classification for all private streets.
2. Public Streets. Public streets shall be allowed only by a Resolution of the Cheswold Town Council addressing dedication.
3. Streets accepted by the Town for public dedication shall require a Maintenance Bond.
4. Street Names.
 - a. All new streets shall be named.
 - b. Street names shall be selected as not to duplicate, or closely resemble, existing names within the Municipality, the same hundred, or postal district.
 - 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. All signs shall meet DelDOT signage standards for size, color, lettering and placement.
 - e. The Council shall have final authority over street names in every subdivision.
5. Grading and Improvement Plan. Roads shall be graded and improved in conformance with the construction standards of DelDOT or the Town of Cheswold, whichever is more stringent. Applicable government agencies shall review and approve design specifications prior to final plat approval and start of construction.
6. Classification. Each road shall be classified as either a State-maintained road, a privately maintained road/street or a municipal street. Municipal streets shall be

further classified (functional classification using DelDOT's Road Network Files for Kent County) as access streets or collector streets.

7. 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, habitats and viewsheds. All DelDOT standards required shall be to the most recent, revised, adopted DelDOT guidelines.
2. Access streets, intended primarily for access to individual properties, shall be arranged to discourage their use by through traffic.
3. Cul-de-sac streets shall not exceed six-hundred (600) feet in length.
4. Fire lanes shall be provided in all areas deemed necessary by the State Fire Marshal's office, based on State Fire Marshal review and comment of said plan.
5. Collector Streets.
 - a. Collector streets shall be laid out to continue existing, planned, or platted streets on adjacent tracts unless the Municipality determines:
 - (i) That topography or other physical condition prevents continuation.
 - (ii) That coordination between the two subdivisions is unnecessary.
 - (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 Municipal Engineer.
6. The maximum width of any subdivision streets shall be twenty-six (26) feet, unless approved by the Town Engineer.

C Construction Standards

1. Streets to be maintained by the State shall be constructed to all applicable State standards.
 2. Streets to be maintained privately or by the Municipality shall be constructed to all applicable State or Municipal standards, whichever is more stringent.
- D Manufactured Home Communities. All residential manufactured home developments shall be provided with safe and convenient vehicular access from abutting public streets or roads to each residential manufactured home lot. Such access shall be provided by streets or driveways.
1. Entrance streets to residential manufactured home developments shall have direct connections to a public street and shall be designed to allow free movement of traffic on such adjacent public streets.
 - a. No parking shall be permitted on any street.
 - b. Number of lanes, land widths and turning lanes shall be adequate for the anticipated traffic generated by the development during peak hours. A traffic study shall be part of the development plan submission.
 - c. Any signs, landscaping and lighting shall be integrated in a coordinated manner and harmonious to the entrance. Council shall have final approval.
 2. The street circulation system shall provide convenient and safe access to individual lots and community facilities, and ensure pedestrian safety within the living areas.
 - a. A hierarchy of entrance collector and local streets shall be provided, as specified below.
 - (i) Entrance points shall be well-defined, uncluttered, safe and attractive.
 - (ii) The street system shall take into account the topographic conditions of the site, and make every effort to avoid crossing wetlands, necessitating the cutting of trees and disturbing habitat areas.
 - (iii) Street systems should be developed in consideration of reasonable movement and placement of residential manufactured homes on individual sites.
 - (iv) Closed ends of dead-end streets, serving more than twelve (12) homes or having a length of greater than three hundred (300) feet in length shall be provided with an adequate paved vehicular turning circle (cul-de-sac) of at least thirty-eight (38) feet in diameter. Cul-de-sac streets shall serve no more than twelve (12) homes be no greater than four hundred (400) feet in length unless there are unusual site conditions or topography. Under no condition shall they be greater than six hundred (600) feet. Dead-end streets serving less than twenty (20) manufactured homes may

utilize parking courts with adequate provision or directional change.

3. Pavement and ROW widths shall be of adequate width to accommodate the contemplated traffic, in accordance with the following minimum requirements:
 - a. The minimum paved width and minimum ROW for publicly-dedicated entrance streets shall be in accordance with DelDOT standards.
 - b. The minimum paved width of collector streets with no parking shall be twenty-four (24) feet, with the ROW minimum being fifty (50) feet.
 - c. The minimum paved width of a minor street or cul-de-sac street with no parking shall be twenty-two (22) feet, with the ROW minimum being forty (40) feet.
 - d. Measurements are face-of-curb to face-of-curb and upright (“rolled”) curbs are required.
 - e. There is no parking allowed within street right-of-ways.
4. All streets shall be designed and constructed to approved DelDOT standards with upright curbs being required, and suburban (rolled) curbs a pre-approved alternate.
5. All **collector** streets shall be subject to a fifteen (15) mile per hour speed limit, and all **minor** streets and **cul-de-sacs** shall be subject to a ten (10) mile per hour speed limit. The speed limit(s) shall be posted throughout the development and enforced by the manufactured home community park operator or management. Speed limit signs shall conform to DelDOT standards for size and placement.
6. Street lighting shall be designed to produce a minimum of 0.1 foot candle at the street level throughout the system. Potentially hazardous locations, such as major street intersections and steps or stepped ramps, or other locations identified by the Municipality, shall be individually illuminated with a minimum of 0.3 foot candle.
7. All utilities, other than electric power, except for short lateral spurs for connection to individual residential manufactured home units, shall be located within the street right of ways, unless directed otherwise by the Cheswold Town Council.

Section 10-2. Sidewalks

A Requirement

Sidewalks are required where any building or structure is newly constructed or erected, and in all subdivisions unless the subdivision is served by a classification street for which sidewalks are generally not provided or upon determination of the Cheswold Town Council

that sidewalks are not applicable. If requested by the Council, all sidewalks shall be dedicated as part of the right-of-way of all streets.

1. All sidewalks outside of any public right-of way (ROW) shall contain a perpetual offer of dedication to the Town for public use. Such dedication shall be recorded with the Recorder of Deeds as part of the approved Plan.

B Design

Sidewalk design shall be governed by the type of street on which the sidewalk borders. Council shall receive recommendation from the Municipal Engineer as to design and have the final determination.

C Construction Standards

1. All sidewalks shall be constructed to applicable State standards.
2. Maintenance of sidewalks, curbs and gutters is the responsibility of the owner or owners of each parcel of property. (See *Cheswold Town Charter, 20.*)

Section 10-3. 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. See *Section 10-1.* for Manufactured Home requirements.

C Construction Standards

1. All curbs and gutters shall be constructed to applicable State (DelDOT) standards.
2. Maintenance of sidewalks, curbs and gutters is the responsibility of the owner or owners of each parcel of property. (See *Cheswold Town Charter, 20.*)

Article 11. Utilities**Section 11-1. General Requirements****A Connections Required**

1. Provision shall be made for each lot and principal use in the Town to be connected to utility services.
2. Developers/subdividers shall provide required utilities at their expense and dedicate them to the Town, County, or other entity as applicable or requested.
3. No building or structure shall receive a Certificate of Occupancy or Use unless, if required for matters of health, safety and general welfare it should be connected to utility services.

B Location

1. All utility facilities shall be located underground.
2. Existing Facilities. Existing utility facilities, located aboveground, shall be removed and placed underground except those located on public roads and rights-of-way.
3. Connections. The subdivider shall install underground service connections to the street property line of each platted lot at his/her expense.

C Easements

1. Easements shall be provided for all (public and private) utilities.
2. Easements shall be a minimum of twenty (20) feet wide, with construction easements being a minimum of thirty (30) feet wide.
3. The subdivider or developer and the applicable utility companies shall coordinate the establishment of utility easements established in adjoining properties.

D Plans

All utility construction plans shall be presented to the municipality for review and comment prior to final approval. The subdivider shall bear the cost of all review(s). As-Built plans for all utilities shall be provided to the Town within thirty (30) days of construction of the last utility improvement within the development.

E Permits

It shall be unlawful for any person to make any opening on a municipally-owned or municipally-approved road or street without first securing a permit from the Town of Cheswold.

F Inspections

All utility construction shall be inspected by the Municipal Engineer, who shall meet with the utility prior to the start of construction to review a schedule for inspection. The subdivider shall bear the cost of all inspections.

G Maintenance Bonds and Degradation Fees

1. The subdivider shall bear the cost of providing a Maintenance Bond for utilities to be dedicated to the Town of Cheswold.
2. Degradation Fees shall be levied upon the subdivider for all costs associated with the remediation of degradation or deterioration of any municipally-owned road or street which was constructed, overlaid, paved or maintained in any way within eighteen (18) months of any utility excavation.

Section 11-2. Water Facilities

A Requirement

1. Each lot and each principal use in the Town of Cheswold shall be connected to either a Municipally-approved or Municipally-owned water supply and distribution system.
2. Every subdivision or re-development of a lot existing at the time of adoption of this ordinance shall be provided with a public water supply and distribution system and appropriately spaced fire hydrants that is connected to a Municipally-approved or Municipally-owned water supply and distribution system.

B Design and Construction Standards

1. Water facilities, including appropriately-spaced fire hydrants, shall be designed and constructed in accordance with standards and specifications established by the Town, the County, another municipality, or the State Department of Natural Resources and Environmental Control as applicable.
2. Required water supply systems shall be constructed without cost to the Town and shall become a part of the public or Municipal system (upon request and dedication) upon satisfactory completion of the work.
3. As-built plans of the final distribution and fire safety system shall be supplied prior to commencement of construction of any building or structure.

Section 11-3. Sanitary Sewer Facilities

A Requirement

1. Each lot and each principal use in the Town shall be connected to a Municipally-approved or Municipally-owned sanitary sewage collection and disposal system.
2. Every subdivision ordinance shall be provided with a sanitary collection system connected to a public conveyance and treatment system.

B Design and Construction Standards

1. Sanitary sewer facilities shall be designed and constructed in accordance with standards and specifications established by the Town , the County, or the State Department of Natural Resources and Environmental Control as applicable.
2. Required sewage facilities shall be constructed without cost to the Town and, if requested, shall become a part of the Municipal system upon satisfactory completion of the work.
3. As-built plans of the final collection and conveyance system shall be supplied prior to the commencement of construction of any building or structure.

Section 11-4. Lighting**A Requirement**

All streets, sidewalks, and other common areas or facilities within the Town of Cheswold shall be sufficiently illuminated to ensure the security of property and the safety of persons utilizing such streets, sidewalks, and other common areas or facilities.

B Design & Construction Standards

1. Lighting on facilities to be maintained by the State shall be constructed to applicable State standards.
2. Lighting on facilities to be owned and maintained by the Town of Cheswold shall be constructed to applicable Municipal standards.
3. Lighting of privately owned developments or facilities and private areas shall be provided in accordance with applicable Municipal standards.
4. Lighting of Manufactured Home Communities shall be in accordance with Article 10.

Article 12. Environment & Open Space

Section 12-1. Flood-prone Areas

A Definitions

Flood Boundary Floodway Map (FBFW). An official map of a community, on which the Federal Insurance Administration has delineated a regulatory floodway.

Flood Fringe. Those portions of the floodplain, outside the floodway, subject to inundation by the one hundred (100) year recurrence interval flood and generally associated with standing or slowly moving water, rather than rapidly flowing water. Flood fringe is determined by detailed study data and profiles found in the FEMA Insurance Study.

Flood Hazard Area. A normally dry land area that has been and is susceptible to being inundated by surface or subsurface flow in addition to stream overflow. For regulatory purposes, the Flood Plain Management Act (Act of Oct. 4, 1978, P.L. 85 1, No. 166) and regulations pursuant to the Act define flood hazard areas as areas identified by FEMA as shown on the flood plain map.) as being subject to flooding by a one hundred (100) year flood.

Flood Insurance Rate Map (FIRM). An official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard and the risk premium zones have been defined.

Flood Insurance Study (FIS). The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

Flood, One Hundred Year. The highest level of flooding that, on the average, is likely to occur every 100 years, i.e., that has a one-percent (1%) chance of occurring each year, as delineated by maps and related materials developed by the Federal Emergency Management Agency (FEMA) for the National Flood Insurance Program.

Flood Plain (or Floodplain). A normally dry land area adjacent to stream channels that is susceptible to being inundated by overbank stream flows. For regulatory purposes the Flood Plain Management Act (Act of Oct. 4, 1978, P.L. 85 1, No. 166) and regulations pursuant to the Act define the flood plain as the area inundated by a one hundred (100) year flood and delineated on a map by the Federal Emergency Management Agency (FEMA).

Flood Plain Area, Identified. The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

Flood proofing. Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage to real estate, improved real property, lands, water and sanitary facilities, all other facility and utility systems, structures and contents of buildings.

Floodway. The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

Flood Zone. See *Flood Prone Lands*.

B Stormwater definitions

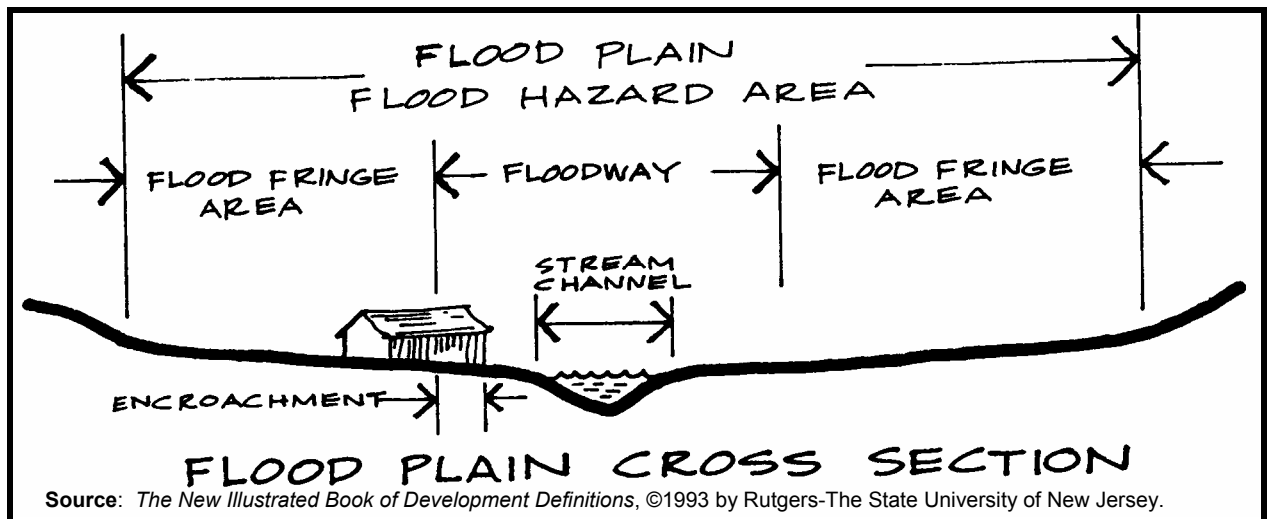
Stormwater. Drainage runoff from the surface of the land, resulting from precipitation or snow or ice melt.

Stormwater Management. Means:

For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of storm water (or stormwater) runoff, which may be caused by land disturbing activities or activities upon the land; and

For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

Figure 12-1. Floodplain Hazard Area



C Delineation Required on Site Plans and Record Plats

1. General. Plans for land development within flood-prone areas shall comply with applicable laws, regulations, policies, and standards of the County, State, or Federal governments and this Ordinance.
 - a. For all new subdivision proposals, the location of any one hundred (100) year floodplains must be shown on the site plan. Base flood elevations shall also be shown if already determined by the Federal Emergency Management Agency (FEMA), or determined by a professional engineer, registered in the State of Delaware, and approved by FEMA.
 - b. For all new subdivision proposals and other newly constructed buildings or structures, such buildings and structures shall be located outside of the one hundred (100) year floodplain whenever possible.
 - c. Any lot located within the one hundred (100) year floodplain shall include the following note on the plan: "Lot number '___' or Lots '___' through '___' are impacted by the one hundred (100) year floodplain. Notification of such shall be included on the sales contract(s), deed(s) and deed restriction(s) for the "so noted" or "above mentioned" lot(s).

2. Identification on Development Plans

- a. Development plans shall delineate the locations of both state and federal wetlands by legal description with bearings and distances and with each flag point numbered; signed, dated. A statement by Registered Surveyor licensed in the State of Delaware shall be provided verifying the accuracy of the delineation.
- b. If a tract proposed for development contains no wetlands, the plan must include a statement saying so from a qualified professional, experienced in wetlands delineation.
- c. Building lots containing wetlands shall be identified by a notation stating that "construction activities within these sites may require a permit from the United States Army Corps. of Engineers (ACOE) or the State of Delaware DNREC Wetlands and Subaqueous Lands Section."

D Construction Controls

The following construction controls shall be in effect throughout the flood-prone districts wherever more stringent controls do not prevail:

1. General. Plans for construction within flood-prone areas shall comply with applicable laws, regulations, policies, and standards of the County, State, or Federal governments and this Ordinance. Should any question arise as to which law, regulation, policy or standard shall apply, in all cases the most stringent shall be chosen.
 - a. Building shall not occur within the delineated 100-year floodplain, unless no other practicable alternative exists which would allow some use of the land by the property owner.
2. Floor Elevation.
 - a. If development or newly constructed buildings or structures are proposed within the floodplain, the lowest floor of the building shall be elevated on a properly designed foundation so that the bottom of the horizontal floor supports are at or above the one hundred (100) year flood level.
 - b. The lowest floor, including basement, of new construction or substantial improvement of nonresidential structures shall be:
 - (i) Elevated to or above the level of the one-hundred-year flood; or
 - (ii) Together with attendant utility and sanitary facilities, designed so that below the one-hundred-year flood level the structure is watertight and has structural components capable of withstanding hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (iii) In all instances, the lowest floor level shall be at or above the level of immediately adjacent roads to allow positive drainage.
 - c. The inside crawl space floor of buildings constructed on crawl spaces shall be at or above the lowest outside grade.

- d. Placement of structures. New structures erected within the flood-prone districts shall be aligned to offer minimum resistance or obstruction to the flow of the one-hundred-year floodwaters.
- e. Anchoring.
 - (i) New structures shall be firmly anchored to prevent lateral movement, flotation or collapse.
 - (ii) Air ducts, large pipes and storage tanks located at or below the first-floor level shall be firmly anchored to prevent lateral movement, flotation or collapse.
- f. For all new construction and substantial improvements, those fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of no less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (ii) The bottom of all openings shall be no higher than one foot above grade.
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- g. Interior floors, walls and ceilings.
 - (i) Wood flooring used at or below the first-floor level shall be installed to accommodate a lateral expansion of the flooring perpendicular to the flooring grain without incurring structural damage to the building.
 - (ii) All finished flooring used at or below the first-floor level shall be made of materials which are stable and resistant to water damage.
 - (iii) All carpeting or carpet cushions employed as a finished flooring surface at or below the first-floor level shall be made of materials which are resistant to water damage.
 - (iv) Plywood used at or below the first-floor level shall be of an exterior or marine grade and of a water-resistant or waterproof variety.
 - (v) Basement ceilings in nonresidential structures shall have sufficient wet strength and be so installed as to survive inundation.
- h. Electrical systems.

- (i) All electric water heaters, electric furnaces and other permanent electrical installations shall be permitted only at or above the level of the one-hundred-year flood.
 - (ii) All electrical distribution panels and breaker boxes shall be elevated to or above the level of the one-hundred-year flood (base flood elevation).
 - (iii) All mechanical equipment, and HVAC components shall be located above the base flood elevation.
 - (iv) Separate electrical circuits shall serve lower levels and shall be dropped from above.
- i. Plumbing. Water heaters, furnaces and other permanent mechanical installations shall be permitted only at or above the level of the one-hundred-year flood.
- j. Storage. No materials that are buoyant, flammable, explosive or, in times of flooding could be injurious to human, animal or plant life, shall be stored below the level of the one-hundred-year flood.

Section 12-2. Wellhead Protection Areas

A Definition.

Wellhead protection areas are surface and subsurface areas surrounding public water supply wells or wellfields where the quality of groundwater moving toward such wells or wellfields may be adversely affected by land use activity. Such activity may result in an introduction of contaminants to groundwater used for public supply ("wellhead").

B Regulations Governing Development

1. Land use within one hundred and fifty feet (150) feet of the well shall be regulated as follows:
 - a. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in a designated wellhead area.
 - b. Hazardous Waste Storage, Treatment and Disposal Facilities, and sanitary, and Industrial Facilities as defined in *the Delaware Regulations Governing Hazardous Waste* shall not be permitted in wellhead areas.

Section 12-3. Source Water Areas

A Defined.

Areas that include groundwater particles and dissolved constituents which may be drawn to a public water well withdrawing water from an unconfined aquifer within a 5-year time period. Such areas are delineated by the Delaware Geological Survey or DNREC and published as Source Water Assessment reports.

B Regulations Governing Development.

1. Prohibited land uses within a Source Water Area:
 - a. Underground storage tanks containing petroleum or any hazardous substances listed in 40 CFR 116 in an aggregate quantity equal to or greater than a reportable quantity as defined in 40 CFR 117 shall not be permitted in a designated wellhead area.
 - b. Hazardous Waste Storage, Treatment and Disposal Facilities, and sanitary, and Industrial Facilities as defined in *the Delaware Regulations Governing Hazardous Waste* shall not be permitted in wellhead areas.
 - c. Stockpiles of raw or composted manure, fertilizer or other materials that are readily soluble for the purposes of fertilizing plants.
 - d. Stockpiles of salts or chemicals that are readily soluble for the purposes of de-icing or road maintenance.

Section 12-4. Excellent Recharge Areas

- A Definition. A recharge area is a water resource protection area designated as having the best potential for groundwater recharge. Recharge Areas possess high percentages of sand and gravel that have "excellent" potential for recharge as determined through a Stack Unit Mapping Analysis performed originally by the Delaware Geological Survey. Recharge areas were delineated using methodology described in a report prepared by the Delaware Geological Survey entitled "Delineation of Ground-Water Recharge Resources Protection Areas in the Coastal Plain of New Castle County, Delaware," dated January 1993 ("recharge resource area").
- B Regulations Governing Development

1. Identification on Plans

- a. Development Plans shall delineate the locations of excellent recharge areas. This delineation shall be based upon mapping available through the Delaware Geological Survey, or a report by a Delaware registered Professional Geologist verifying the accuracy of the delineation.
 - b. If a tract proposed for development contains no excellent recharge areas, the plan shall include a statement affirming this from an experienced, qualified professional.
2. The developer shall provide documentation as to measures taken to safeguard excellent recharge areas.

Section 12-5. 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.
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.

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..

C Permanent Stormwater Management

Developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such development.

1. All stormwater management systems shall be approved by the Kent Conservation District and constructed in accordance with Delaware state regulations.
2. No development or property may be constructed or maintained in a way that such development or property unreasonably hampers the natural flow of water from higher adjacent properties across the development or property thereby causing substantial damage to the higher adjacent property.
3. No development of 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 adjacent properties.

D Design and Construct

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 Kent Conservation District.
3. Off-Site Runoff.
 - a. Standards for assessing the adequacy of off-site drainage systems shall be those established by the Kent Conservation District or by the State Department of Transportation where it has jurisdiction.
 - b. 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.

Section 12-6. 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

All development or land disturbing activity is subject to the requirements of the Delaware Erosion and Sediment Control Handbook, latest edition.

- C 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 12-7. Landscaping and Tree Preservation**A Landscape Screening.**

1. Landscaping required throughout this ordinance shall be designed to support the purpose intended by the requirement, such as visual screening, landscape shade or environmental protection.
2. The Town Council may, through the development review process, require the reasonable provision of screening greater than the minimums provided, in order to shield neighboring properties from the adverse effects of a development. Required minimum screening for C-1, C-2, I-1 and I-2 is in Section 7-2.

B Trees Along Dedicated Streets

1. **Municipal Streets.** On streets to be maintained by the Town, the developer shall plant or retain sufficient shade 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 30 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.
 - c. **Other Streets and Roadways.** Trees shall be planted or retained in accordance with the specifications of the government or entity that will own or be responsible for the street or roadway.

C Protection & Retention of Large Trees

1. Every development shall retain all existing trees 10 inches in diameter or more, measured 5 feet above the ground level, unless the retention of such trees would, according to the Town Council's determination, unreasonably burden the development.
2. No excavation or subsurface disturbance may be undertaken within the drip line of any tree 10 inches in diameter or more, and no impervious surface may be located within 12.5 feet, measured from the center of the trunk, of any tree 18 inches in diameter or more unless compliance with this subsection would, according to the Town Council's determination, unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.
3. The developer shall plant at least two trees on each new lot. These trees shall be in place before the time that a certificate of occupancy is issued for the structure on that lot.

Section 12-8. Riparian Buffer Areas (RBA) (RESERVED)**A Defined.**

A naturally vegetated or re-vegetated margin adjacent to a water way. The buffer is generally wide enough to intercept, slow and filter sediments from stormwater runoff and capable of biologically utilizing a portion of the dissolved nutrient load of the runoff.

Section 12-9. Active Open Space and Recreation

- A Definition. Active Open Space excludes areas in lots, or stormwater management ponds, but may include floodplains, buffers or other vegetated areas if provided with playgrounds, footpaths, bike paths, boardwalks or other amenities for the community.
- B Active Open Space Requirements
 - 1. In new residential developments (Districts R-2, R-3 and R-4) up to five acres in size, active open space shall be provided at a rate of 275 square feet per unit, or a minimum of one half (0.5) acres, whichever is greater.
 - 2. In new residential developments of more than five acres in the R-2, R-3, and R-4 zones active open space shall be provided at a rate of 275 square feet per unit.
- C Passive Open Space. All lands in any new development project in any zone that are constrained by site limitations, environmental features, dedicated to stormwater management or unimproved 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.
- D Fee-in-Lieu of Active Open Space (RESERVED)
- E. Land Dedications
 - 1. Each dedication shall be usable open space that is of suitable size, dimension, topography and general character for the purpose. Land is considered usable open space if it meets the following criteria.
 - a. It is not encumbered with any substantial structure.
 - b. It is not encumbered by use restrictions imposed after any state or federal environmental clean up actions that would prevent use of the area.
 - c. It is not devoted to use as a roadway, parking area or sidewalk.
 - d. It is left in one or more of the following states at the time of development.
 - (i) If wooded, it is left in its natural, undisturbed state. This does not include management measures to remove exotic or invasive species or hazardous trees and/or the cutting of trails for walking, jogging or biking.

- (ii) If not wooded, it is properly inspected by a qualified professional for open space land use suitability and landscaped with the objective of creating a wooded area, ball fields, picnic areas, or similar facilities.
- (iii) It is capable of being used and enjoyed for the purposes of informal and unstructured recreation and relaxation.
- (iv) It is legally and practically accessible to the residents of the development out of which the required open space is taken.
- (v) No more than 25% of the land lies within a 100-year floodplain or floodway.

2. The dedicated area shall be shown and marked on the subdivision plat "Dedicated for Park and Recreation Purposes."

Section 12-10. Open Space Standards

- A In new residential developments in the R-2, R-3, and R-4 zones active open space shall be designed to be centrally located and accessible to all residents in a community.
- B Active open space may be in the form of one large area, or numerous smaller areas interspersed throughout the community.
- C Preliminary plan approval may include required improvements (example: playground equipment) in the active open space areas which are appropriate to the intended future residents of the community.
- D Active open space should be integrated with passive open space (stormwater management ponds, for example) and natural areas when ever it is practical to do so.
- E 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.
- F Recreational walking trails may count towards to active open space requirement at the discretion of the planning commission.

Section 12-11. Maintenance of Open Space and Recreation Areas

A. Generally Not Dedicated to the Town

- 1. The recreation facilities and open space to be dedicated under this Article shall generally not be dedicated to the public (See Article 12, Section 12-11 (C) for when public dedication is appropriate).
- 2. Recreation facilities and open space not dedicated to the public shall remain under the ownership and control of the developer, his/her successor, a homeowners' association or similar legal entity.

B. Homeowners' Associations

1. Before any lot in a development is sold, provision shall be made for the establishment of a homeowners' association or similar legal entity that:
 - a. Has clear legal authority to maintain and exercise control over common areas and recreational facilities, and .
 - b. Has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of the common areas and facilities.
2. The Town shall review documents pertaining to the establishment and maintenance of each homeowners' association or similar legal entity, as part of the development approval process.

C. When Public Dedication is Appropriate

1. The Town may require land dedication for public purposes, including but not limited to, parks, schools and fire stations.
2. The Town shall use the following criteria to determine when land shall be dedicated to public use.
 - a. When a need has been specifically included in the Cheswold Comprehensive Plan.
 - b. When the Town's adopted capital improvements plan or budget has identified a need.
 - c. When the type of development proposed in a subdivision requires such a facility.
 - d. When land of a public facility is recommended for location within the Town of Cheswold by the adopted plans or capital improvements programs of the State of Delaware, Kent County or federal governments.

Article 13. Signs

Section 13-1. Applicability and Purposes

A Applicability

These sign regulations 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 of Cheswold.
2. To avoid visual clutter and competition among sign displays in their demand for public attention.
3. To promote the safety and convenience of pedestrians and motorists.
4. To minimize the adverse effects of signs on nearby public and private property.

Section 13-2. General

A Sign Area Measurement

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

B Placement

1. Setbacks. Setbacks are measured from the portion of the sign nearest to the property line.
2. Height. Height is measured from the portion of the sign which is vertically the farthest from the ground.
3. Requirements
 - a. Refer to Table 13-1 for Sign measurement and placement requirements.
 - b. Color and Interference with Traffic Safety. A sign must not use color combinations that may be confused with a traffic sign or signal
 - c. Prevention of Glare. 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.
 - (i) Prevention Requirement. Signs 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.

- d. Interference with Traffic Safety. A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.
- e. Flashing. A sign must not contain or be illuminated by flashing, revolving, or intermittent lights, or lights that change intensity.
- f. 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.
- g. Structural Limitations
 - i. Interference with Traffic Safety. A sign must not be shaped like a traffic sign or traffic signal, or use wording similar to traffic signals, or interfere with traffic safety.
 - ii. Shaped Like Humans or Animals. A sign must not be shaped to resemble any human or animal form, but must conform to a geometric shape.
 - iii. Wind Activated. A sign must not be set in motion or powered by wind.
 - iv. Moving Parts. A sign must not have moving parts.

Section 13-3. Permanent Signs

A Definitions

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.

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.

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

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

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

B General Requirements

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

C Additional Requirements by Sign Type

RESERVED

Section 13-5. Temporary Signs**A Definition**

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

B Requirements for Temporary Signs

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

Section 13-6. Prohibited Signs**A Definition.**

A prohibited sign is one that cannot be erected or maintained.

- B** The Board of Adjustment is not authorized to grant a variance permitting the erection of a sign that this Article prohibits.

C List of Prohibited Signs

1. **Obscene Signs.** A obscene sign contains obscene statements, words, or depictions that are construed to offend public morals or decency.
2. **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.
3. **Roof Signs.** A sign mounted on the roof of a building or that is dependent upon a building for support, but projects above the top wall or edge of a building with a flat roof, the eve line of a building with a gambrel gable, or hip roof, or the deck line of a building with a mansard roof.
4. **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.
5. **Moved by the Wind.** A sign in the form of a banner, pennant, streamer, ribbon, spinner, balloon, string of lights, or other device which will move in the wind.
6. **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.
7. **Attached to the Property of Others.** A sign must not be attached or affixed to a structure or property such as a fence, wall, antennas, other signs, trees or other vegetation, or to any public structure such as a utility pole without permission of the owner.
8. **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.
9. **Off-Site Sign (Billboard).** A sign directing attention to a business, commodity, service, or entertainment conducted, sold, ordered at a location other than the premises on which the sign is located.

Section 13-7. Exempt Signs**A Definition**

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

B List of Exempt Signs

1. Two Square Feet or Less
2. Residential Living Sign. A sign on private property, customarily associated with residential living or decoration.
3. Newspaper and Mailbox. A sign that is part of a mailbox or a newspaper tube and conforms with applicable government regulations.
4. Warning Signs. A sign warning the public about trespass, danger, or safety considerations.
5. Regardless of Size:
 - a. Not Visible Outside of Property. A sign not visible beyond the property lines of the property on which the sign is located.
 - b. Official Duties of Government or Utilities. A sign used by a government agency or utility company erected by, or on the order of, a public officer or utility official in the performance of official duties, such as controlling traffic, identifying streets, warning of danger, providing information.
 - c. Required by Law. A sign whose display is required by law or regulation.
 - d. Flags on Flagpoles. A flag displayed on a flagpole.
 - e. Commemorative Sign. A sign that is cut into the masonry surface or constructed of bronze or other material and made an integral part of the structure like a cornerstone, memorial, plaque or historical marker.
 - f. Part of a Dispenser. A sign that is an integral part of a dispensing mechanism, such as a beverage machine, newspaper rack, or gasoline pump.
 - g. Holidays. A sign, including lighting in accordance with applicable electrical requirements, displayed in connection with the observance of any holiday, provided that it must be removed within 10 days following the end of the holiday.
 - h. Adornments and Decoration. Any adornments or seasonal decorations.

Section 13-8. Non-Conforming Signs

See *Article 5, Nonconforming Situations*.

Section 13-9. Administration

A Permits Required.

See Table 13-1.

B Application Procedure

1. Applications shall be submitted to the Planning Commission.
2. The Administrator shall review the sign request and prepare a report for the Planning Commission regarding compliance with this Ordinance, prior to issuing a Certificate of Zoning Compliance.
3. Sign requests shall follow the procedures described in Figure 4-1 of this Ordinance.

C Permit Fees

The Town of Cheswold may adopt fees for the processing and issuing of sign permits.

Table 13-1. Sign Measurement Requirements

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

Table 13-2. Sign Setback and Height Requirements

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

Article 14. Parking Standards

Section 14-1. Purposes & Scope

A Purposes

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

B Scope

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

Section 14-2. Parking Standards

A Definition

Off-street parking space. Aa 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. Aa temporary unit for one motor vehicle that is located within the street right-of way.

B General Requirements

1. New residential developments in the R-2, R-3, and R-4 zones shall be designed to have adequate parking for both residents of the housing units, and on-street parking or overflow parking available to accommodate visitors, service delivery vehicles, and families with more than two vehicles.
2. Parking shall be arranged in a manner so as not to block the travel lanes or impede access to rear access areas and to not obstruct cul-de-sacs and other designated turning areas.

C Computation of Required Number of Spaces

1. General. The minimum number of required off-street parking spaces shall be determined according to the Table 14-1 *Required Off-Street Parking Spaces*.
2. Fractional Spaces. Where the computation of spaces results in a fractional space, the fractional space shall be counted as 1 additional required space.
3. Number of Employees. The number of employees shall be based on the maximum number of persons employed on the premises at one time on a typical day or night, whichever is greater. Seasonal variations in employment may be considered in determining an average day or night.
4. Joint Use. Where more than one use occupies a single structure, the parking requirements shall be computed by adding together the number of required parking spaces for each use.
5. Shared Facilities. Houses of worship, auditoriums or educational institutions may make arrangements with business establishments, which normally have different days or hours of operation, for sharing up to 100% percent of their required parking facilities. Such amendments must be approved by the Planning Commission and Town Council through site plan as conditional use as described in Section 4-1.
6. Uses Not Specifically Listed. The required number of parking spaces for uses not specifically listed in the table titled *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 the Governing Body determines that the requirements are clearly excessive and unreasonable.

D Location

1. General.
 - a. Parking facilities shall be located on the same lot with the building or use served.
 - b. Parking facilities may be located within required side and/or rear yard setback areas.
 - c. Parking spaces or zones for use by persons with disabilities shall be provided in accordance with the International Building Code as amended and adopted by the County.
2. Exception. Required parking facilities may be located within 300 feet from the building or use served when:
 - a. A change in use or an enlargement of a building requires an increase in the number of parking spaces, or
 - 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.
 - c. Interior Drive Aisle Width. 25 feet.
2. 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.

3. 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.
4. Drainage. Off-street parking facilities shall be drained to eliminate standing water and prevent damage to abutting property and/or public streets and alleys.
5. Surface Material. Off-street parking facilities shall be surfaced with erosion-resistant material in accordance with applicable to the Town's specifications.
6. 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.
7. 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.
8. 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.
9. Screening. See Article 12.
10. Interior Parking Lot Landscaping. See Section 7-2.
11. Maintenance. Off-street parking areas shall be maintained in a clean and orderly condition at the expense of the owner or lessee.
12. 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 feet from grade but no more than seven 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.
- 13. In units with rear access alleys, the parking spaces must be located in the rear of the units off of the alley.
- 14. If garages are provided, one space may be counted in the garage provided that the garage is at least 12 feet in width.
- 15. On street parking spaces must be situated so as not to obstruct any driveway, alley, walkway, pathway or any other curb cut.
- 16. Overflow parking may take the form of parking lots, curb bump outs, or other innovative design measures. Approval of overflow parking is at the discretion of the planning commission.
- 17. Driveways which are one car wide may 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

- 1. Definition. Includes boats, boat trailers, travel trailers, pick-up campers or coaches designed to be mounted on motor vehicles, motorized dwellings, tent trailers, 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.
- 2. Regulation. On a lot in a residential zone, major recreational equipment:
 - a. May be parked anywhere for a maximum of 24 hours while loading and unloading.
 - b. May not regularly or routinely be parked within the front yard setback.
 - c. May not be used for living, sleeping, or other housekeeping purposes.
 - d. Major recreational equipment may be parked in R-1, and R-4, in the side or rear yard provided it does not take up required parking for that lot and is a minimum of 5 feet from the property line.
 - e. No major recreational equipment shall be parked on townhouse lots regardless of zone.
- 3. Unlicensed Vehicles and Trailers. On any residentially zoned property, a vehicle or a trailer that is not used in support of customary farming operations and does

not have current license plates may be parked or stored only in a completely enclosed building.

Table 14-1. Required Off-Street Parking Spaces

Use	Parking Spaces Required
Dwellings: Single-family dwellings	2 per unit
Dwelling, Multi-Family	2 per unit
Home-based businesses	1 per non-resident employee in addition to requirements for resident parking
Non-residential uses on non-residential lots	1 per 300 square feet of floor area
New Residential development in R-1, R-3 and R-4 zones	0.75 on-street or overflow ¹ parking per unit.

1. See Section 14-2, E, 16 for overflow requirements.

Article 15. Architecture Design Standards (Reserved)

Article 16. Text & Map Amendments

Section 16-1. General

The Town Council may amend, supplement, change, or modify the number, shape, area, or boundaries of the zoning districts or the text of the regulations contained in this Ordinance. Screening may consist of landscaping, berms, fences, or a combination of these elements.

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 Administrator to Accept Applications.

An application for map or text amendment shall be submitted for review by the Planning Commission at least 15 days prior to the Planning Commission's next regular meeting. The Administrator shall prepare a technical review and administrator shall present comments to the Planning Commission.

B Planning Commission Recommendation

The Planning 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. Cheswold Town Council Review

A Cheswold 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 including the date, time and location of the hearing 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
3. The applicant shall be responsible for placing and paying for the advertisement. Proof of the public notice must be submitted to the Administrator.

C Timing of Public Hearing

The public hearing shall be held after at least 15 days from 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 Cheswold Town Council shall consider the Town's comprehensive plan, public testimony, and recommendations of the Administrator and Planning Commission in making decisions regarding text and map amendments.
2. Text Amendment. The 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 original application and presented in the public hearing.
 - 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 Cheswold Town Council for a period of one year following the decision in the matter by the Town Council.

Section 16-6. Vested Rights in Prior Approved Development Plans

A Purpose and Scope:

1. It is necessary and desirable, as a matter of public policy, to recognize vested property development rights in order to ensure reasonable certainty, stability, and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment-backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning.
2. These provisions shall only apply to those lots, parcels or tracts of land created by development plans previously approved by the Town of Cheswold under the Zoning Ordinance in effect prior to the adoption of this Ordinance and where such development plans were recorded in the land records of Kent County prior to the adoption of this Ordinance. The following development plans satisfy the provisions of this section as vested in development plans:
 - a. Record Plan of Central Delaware Business Park, recorded on September 17, 1990 in Plat Book 26, Page 89, as amended, in the Office of the Recorder of Deeds in and for Kent County, Delaware.

B Vested Right to Continue Development Under Original Approvals:

1. A vested property right shall be deemed established with respect to any lot, parcel or tract of land created as part of a land development plan approved by the Town of Cheswold under the Zoning Ordinance in effect prior to the adoption of this Ordinance and where such land development plan was recorded prior to the adoption of this Ordinance.
2. Such vested property rights shall attached to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property in accordance with the provisions of the recorded development plan and the Zoning classifications for the property in effect on the date of such development plan was recorded.
3. A vested property development right, once established as provided in this Article 5A, precludes any zoning or land use action by the Town of Cheswold which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property subject to Section 16-6, except with the written consent of the owner of such land.

C The provisions of Section 16-6 shall supersede any other provisions of this Ordinance.

Article 17. Violations and Penalties**Section 17-1. Authorized to Institute Action**

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

Section 17-2. Penalties for Violations**A Initial violation.**

1. Defined. An initial violation is the first time a person or corporation:
 - a. Shall violate any provision of this Ordinance, or
 - b. Shall fail to comply with any requirements of this Ordinance, or
 - c. Shall fail to comply with the conditions of approval of site or subdivision plans, variances, conditional uses, of other development-related permits, or
 - d. Shall build alter or use any building in violation of any detailed statement or plan submitted and approved under this Ordinance.
2. Penalty. An entity or person that commits an initial violation, shall be charged with such violation and shall be liable to a fine of not more than \$7,550.00

B Subsequent Violation

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

Section 17-3. Responsible Parties

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