



**Town of Cheswold
LAND USE ORDINANCE**

Adopted
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Prepared by

Town of Cheswold and the
Cheswold Planning Commission
691 Main Street
Cheswold, DE 19936
With assistance from the
University of Delaware
Institute for Public Administration

Based on a Model Ordinance
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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 of the Ordinance

- A. This Ordinance consists of the regulations written herein.
- 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."
- H. Gender references shall mean and include male, female and neuter.
- I. The term "includes" shall mean that there is no limit to a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character

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. Severability

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

Article 2. Definitions

Abandoned sign. A sign relating to or identifying a business or activity which has not been conducted on the premises for 90 days, or seven days after an election or event that the sign is advertising.

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 Day Care Center. A facility that provides care, protection, and supervision for individuals who are 18 years of age or older with special needs as a result of age or disability and who are dropped off and picked up each day and which, except in emergency situations, does not provide overnight accommodations on a regular and continuing basis.

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*.

Agricultural. The science and art of cultivating plants.

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 construction or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a mechanical system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit. There are three, (3), levels associated to alterations:

Level 1: Includes the removal and replacement for the covering of existing materials, elements, equipment or fixtures using new materials, elements, equipment or fixtures that serve the same purpose.

Level 2: Includes the re-configuration of space, the addition of any door or window, the re-configuration or expansion of any system or the installation of any additional equipment.

Level 3: Level 3 alterations apply where the work area exceeds 50% if the aggregate area of the building.

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 configuration of the roof or exterior walls.

Animal. Animal shall mean and include any and all types of animals, domestic, wild, farm, male and female.

Apparent sunrise. The instant at which the upper edge of the Sun appears over the horizon in the morning.

Apparent sunset. The instant at which the lowest edge of the Sun disappears over the horizon in the evening.

Applicant. Is the titled land owner according to Kent County Property Records; majority vote of the Town Council, or recommendation from either the Planning Commission or Land Use Administrator.

Architectural feature. An exterior component of the architecture of a building, which has a structural, functional or decorative purpose. This term shall apply to elements such as windows, doors, entry porticos, porte-cocheres, colonnades, cornices, porch columns, railings and balusters, band courses, quoins, water tables, exterior vents and louvers, moldings and other trim.

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 no more than 2 axles, usually used to transport passengers and licensed by the appropriate state agency as a passenger vehicle.

Awning sign. A wall sign that is a part of a fabric or other non-structural awning.

Banner. A light-weight fabric or similar non-rigid material, which is mounted to a pole or structure, either enclosed in a frame or mounted to allow movement caused by the wind.

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 “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.

Building Permit Authority. The Town of Cheswold Public Works Department, which includes among others, a Building Code Official responsible for building inspections and building code enforcement.

Building Setback Line. See definition of Setback Line.

Bulk Regulations. See Dimensional and Density Standards.

Canopy sign. A type of wall sign attached to a permanent, decorative porch or walkway cover, other than an awning, which is attached to a building or supported by columns, extending to the ground.

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.

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.

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 non-adhesive 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.

Changeable sign. A sign with the capability of content change by means of manual or remote input, includes the following types:

(1) **Manually activated:** Changeable sign whose messages, copy or content can be changed manually on a display surface.

(2) **Electrically activated:** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “Electronic message center.”

Clearance height. The distance from the ground to the bottom of the sign. The minimum clearance height shall be eight feet for a pylon sign, projecting sign, and/or any other sign that may impact pedestrian traffic.

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.

Code Official/Enforcement Officer. The employee who is charged with the administration and enforcement of this Ordinance, or any duly authorized representative.

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.

Comprehensive signage plan. A plan for all signs associated with a unified campus or complex.

Concept Plan. An informal sketch or drawing, (~~Property Sketch Plan~~), of a multi-lot; sub-division or site development plan submitted for review by the Planning Commission and/or Land Use Administrator, consisting of sufficient information and accuracy to be used for discussion and for non-binding comments, prior to the submission of a preliminary development plan. (See Section 4.3 and Table 4.1 as a guide for required information.)

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.

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.

Conditional Use. Is a use that is appropriate in a zoning district at a particular location only when certain criteria are met. (For additional information see Article 4. Section 4.7)

Conforming sign. Any sign that conforms to the provisions of this Article.

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

Construction sign. A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date.

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. It includes 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 – as specified in Table 4-4.

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.

Directional sign. A freestanding sign whose primary function is to give aid to motorists or pedestrians in locating buildings or roads.

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, Carriage. A building containing one (1) dwelling unit that may be connected to an adjacent dwelling unit through non-structural components such as a common accessed wall, arbor, fence or some similar structure.

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 it is built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976. Manufactured Homes must also be constructed to the requirements of the State of Delaware Division of Professional Regulations, as set forth in the Administrative Code, Title 24, Section 4400, §9.0, (Manufactured Home Installation Requirements).

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.

Dwelling, Modular. A dwelling fabricated in an off-site manufacturing facility in accordance with the current ICC Building Code of the Town of Cheswold. Modular homes also include, but are not limited to, panelized, pre-fabricated, and kit homes. Modular homes must be installed on a permanent, load bearing, perimeter support foundation, identical to the foundations used by conventional site-builders, designed not to be removed once it is installed.

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

Dwelling, “On-Frame” Modular Home. A home built in a manufactured housing factory on a permanent metal chassis and is built in accordance with the with the current ICC Building Code of the Town of Cheswold. Placement of On-Frame Modular Homes are only permitted in the R-4 Zoning District.

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.

Electronic message center or sign (EMC). An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMC's typically use light emitting diodes (LEDs) as a lighting source.

Enforcement Officer/ Code Official. The employee designated herein or otherwise charged with the responsibilities of administering this Ordinance, or the duly authorized representative by the Town Council of the Town of Cheswold.

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.

Exclusion zone. The area adjacent to an existing or proposed freestanding sign within which no other freestanding sign of a similar sign type shall exist or be placed. The exclusion zone shall be measured outward in all directions from the extreme limits of the sign structure a prescribed distance.

Exempt sign. is a sign that is not required to comply with the size, location and standards of all other sections of this Article but must comply with the applicable provisions governing the Prohibited Signs section.

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.

Farm. An area of land and its buildings used for growing crops and rearing farm animals, typically under the control of one owner or manager.

Farm Animal. shall mean those animals, both male or female, generally known to be kept or raised on a farm. The common ones are goats; pigs; sheep; cattle; camels; buffalo; horses; donkeys; mules; chickens; ducks;

turkeys and geese. Some are classified as micro-livestock and include rabbits; cane rats; guinea pigs, etc. They do not refer to domestic animals.

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.

Final Plan. A detailed document containing a map or maps of all the information approved as part of the Preliminary Plan review and containing the additional information set forth in Table 4-4.

Flag. A rectangular or pennant shaped piece of fabric of flexible material of distinctive design that is used as a symbol (as of a nation or state), as a signaling device, or as a decoration and is attached to a flag pole.

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.

Freestanding sign. A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Freestanding signs include monument, pylon, post and panel, and post signs.

Frontage. That side of a lot abutting on a street; the front lot line. For the purposes of signage found in Section 13, the term “frontage” shall mean the side of a parcel along a right-of-way, be it public or private, excluding alleys and service drives that are abutting residential properties. The parcel must be directly adjacent to the right-of-way for it to be considered to have frontage.

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

Grandfather Status. A term which represents a structure that may continue to exist as lawful and not be required to meet the standards of adoptions, revisions or amendments of the currently approved Town of Cheswold Land Use Ordinance.

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.

Historical or memorial sign. A sign or tablet attached to a building indicating the date of construction and/or the names of the building, the principals involved in its construction, or the history of the building or the site..

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.”

Illuminance. The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination”. Measured in foot candles (lumens/square foot) in the English system and lux (lumens/square meter) in the SI (metric) system.

Illuminated sign. A sign characterized by the use of artificial light, either projecting through its surface(s) internally or trans-illuminated; or reflecting off its surface(s).

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.

Inflatable sign. A sign that is designed to be filled to form a three-dimensional shape which is designed to be anchored to the ground.

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.

Kenel. 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, agricultural, industrial, and governmental 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.

Land Use Administrator. The person appointed by the Town Council of the Town of Cheswold to represent the Town in all matters concerning land use within the Town and the interpretation of the Land Use Ordinance plus the administration of appeals, plans, and applications.

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 sub-divided 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 Kent 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.

Luminance. The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area (square meters in SI measurement units or square feet in English measurement units). Expressed in SI units as cd/m², and in English units as foot lamberts. Sometimes also expressed as “nits”, a colloquial reference to SI Units. Can be measured by means of a luminance meter.

Lux. The SI (metric) unit for illuminance. One lux equals 0.093 foot candles.

Manager. The person responsible for maintaining or the administration of such property as described by being the possession of an owner and includes the management and upkeep of the animals on said property.

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.

Marijuana Cultivation Facility. An establishment operated by an entity licensed by the State of Delaware to cultivate, prepare, and package marijuana and sell marijuana to retail marijuana stores, to marijuana product manufacturing facilities, and to other marijuana cultivation facilities, but not to consumers. A marijuana cultivation facility may not produce marijuana concentrates, tinctures, extracts, or other marijuana products.

Marijuana Product Manufacturing Facility. An establishment operated by an entity licensed by the State of Delaware to do the following: purchase marijuana; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and retail marijuana stores, but not to consumers.

Marijuana Retail Store. An establishment operated by an entity licensed by the State of Delaware to purchase marijuana from marijuana cultivation facilities; to purchase marijuana and marijuana products from marijuana product manufacturing facilities; and to sell marijuana and marijuana products to consumers.

Marijuana Testing Facility. An establishment operated by an entity licensed by the State of Delaware to test marijuana for potency and contaminants

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.

Monument sign. A low freestanding sign that is affixed to a base that is equal to or wider than the sign itself. The height of the sign is to be measured from the finished grade to the top of the sign. (See figure 13-1.)

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.

Nit. A photometric unit of measurement referring to luminance. One nit is equal to one cdm^2 .

Non-conforming sign. Any sign which does not conform to the regulations of this ordinance, including any signs granted by variance where it can be demonstrated that the original hardship on which the variance was based no longer exists. This definition also includes the structure upon which the sign is erected, or the mounting hardware in the case of wall mounted signs.

Non-conforming Structure. Any structure that was lawful prior to the adoption, revision or amendment of the Town of Cheswold Land Use Ordinance, but as a result of the adoption, revision or amendment of said Ordinance no longer complies with the current provisions of said Ordinance.

Non-conformities. 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.

Off-premises sign (billboard, etc.). A permanent or temporary sign erected, maintained, or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of the property on which it is displayed. Also referenced as billboard or commercial outdoor advertising sign.

On-premises sign. A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

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.

Owner/s. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Municipality as holding title to the property; or otherwise having control of the property and the animals thereupon, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PC Memo. A Planning Commission Memo written by the Land Use Administrator to the Town Council to advise the status of applications reviewed and either recommended for approval or denial by the Town Council. The PC Memo assignment number is based on the current year and the current order of the memo being issued, for ex: PC Memo 2019-004 indicates that the Memo was written in 2019 and it is the 4th memo of that year.

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 ensure the use and area and bulk standards are in compliance with municipal regulations.

Person – shall mean and include any natural person, an individual, partnership, voluntary association, society, club, firm, corporation, business trust, or any other group acting as a unit or lease, agent, servant, partner, member, director, officer, or employee or any of them.

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.

Planning Commission. The Planning Commission of the Town of Cheswold.

Plat, Record. See Article 4, Section 4-1.

Political sign. A temporary sign intended to advance a political statement, cause, or candidate for office.

Pool. *See Swimming Pool*

Portable sign. Any sign not permanently attached to the ground or other permanent structure, including but not limited to signs with attached wheels, A- or T- frame signs, and menu and sandwich board signs.

Post sign. A freestanding sign that is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane. (See Figure 13-2.)

Post and panel sign. A freestanding sign that has a non-internally illuminated panel, not more than six inches in depth that is affixed to two posts and is not more than seven feet in total height. The sign shall not be higher than the supporting posts (*See figure 13-3.*)

Preliminary Plan. A detailed document containing a map or maps showing the proposed layout of a subdivision or site development, containing information as set for the in Table 4-1.

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

Prohibited sign. A sign that cannot be erected or maintained.

Projecting sign. A wall sign attached to a building with a bracket or other support projecting at a right angle from the building face. (*See Figure 13-4.*)

Property Line. The boundary of the outer limits of the property separating one piece of land from another,

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 sign. A sign erected by or on behalf of a governmental body to post a legal notice, identify public property or public buildings, convey public information, and direct or regulate pedestrian or vehicular traffic.

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.

Public Works. The structural, physical and administrative environment of the Town tasked with providing, processing, reviewing, approving or denying; and maintaining the records of construction processes as well as ensuring the safety of new and existing physical structures along with the compliance of the rules and regulations of construction as set forth by federal, state and municipal ordinances. The Department will typically consist of a Director; Building Code official; Maintenance Technician/s and clerical support.

Pylon sign. A tall freestanding sign that is held up by a pole or poles. The supporting structure must be equal to or narrower than the sign itself (See figure 13-5.)

Race weekend sign. Any sign erected seven days prior to a sanctioned automobile race for the purpose of advertising products and services to race fans.

Ready-Mix. See “Concrete.”

Real estate sign. A sign advertising the premises for sale, rent or lease.

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. (See Section 12-4.)

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

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 by the Town Council and/or recordation with Kent County.

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 non-profit organization and open only to bona fide members and guests of such non-profit organization.

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

Repair. The reconstruction or renewal of any part of an existing building for the purpose of its maintenance.

Replacement Cost. The amount of funds that an entity would have to pay to replace an asset at the present time, according to its current worth.

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
- 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.

Re-Zoning. An official change in the Zoning District of a property, allowing a change from the current land use, (Residential, Commercial, Industrial, etc.), and/or density, (number of buildings), requirements on that property.

Re-Zone. Is the change of a current Zoning District to another.

Riparian Buffer Area. Riparian buffers are vegetated areas adjacent to waterways that help filter rainfall and runoff, absorb and retain high stream flows, and provide important wildlife habitat. Buffers link terrestrial uplands to stream, river, or wetland ecosystems. Buffers include a variety of planted, restored, or enhanced natural habitats, hosting different types of vegetation. See Section 12-8.

Roof sign. A sign that is attached or painted on the roof, including porch roofs, dormer roofs, overhang roofs, canopy roofs or roofs of another architectural feature. Signs on the lower portion of a mansard or canopy are considered wall signs.

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 by the State of Delaware Department of Natural Resources and Environmental Control, and approved by the Kent Conservation District. *(See Section 12-6.)*

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 minimum distance which a building or other structure must be set back from a street or road, a river or other stream, a shore or flood plain, or any other place which is deemed to need protection. The Setback Line dictates how far a building or structure must be set back from the Property Line, and is not permitted to have construction between it and the Property Line, as established in Table 8-4, but certain projections and accessory structures may encroach into the setback lines as listed in Table 8-5.

Shared freestanding sign. A sign structure which is shared among multiple nonresidential properties or business interests for the purpose of displaying the name, logo type or other commercial message of multiple nonresidential occupants of said adjoining properties.

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.

SI (International System of Units). The modern metric system of measurement.

Sight triangle. A triangle at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of obstructions such as hedges so that people in one road can see cars approaching on the other. (See Land Use Ordinance – Section 8. Dimensional and Density Standards – Section 8.2 Supplemental Dimensional and Density Standards – Section C. Visibility at Intersections within “Sight Triangle for specific requirements

Sign. Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. See Article 13.

Sign area. is the entire portion of sign that can be enclosed within a single, continuous sign shape. 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.

Sign height. The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any berm, filling or excavating solely for the purpose of locating the sign shall be computed as a part of the sign height.

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.

Sign setback. The straight line distance measured in linear feet between the street right-of-way line and the nearest element of a sign.

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. A plan that shows the development of a single parcel or multiple joined/adjacent parcels and includes the existing physical features of the site and the proposed improvements. It includes the property boundaries, street frontage, building location, paving, sidewalks, driveways, setbacks, easements, environmental features, buffer areas, etc. It also includes the dimensional boundary lines of the proposed structure(s), construction/re-construction, conversion, structural alteration, re-location, or enlargement of any structure – containing information as set forth in Table 4-4 and submitted to the Land Use Administrator and Planning Commission for review and subsequently to the Town Council for approval.

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 is an existing State, County or Municipal roadway and:

(1) is shown upon an approved plat;

(2) is approved by other official action; or

(3) is shown on a plat duly filed and recorded in the Office of the Kent 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 sub-division 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 Plan. A plan that 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, re-sub-division, 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. Any above ground, in-ground or inflatable structure that contains water and includes hot tubs and spas, ponds and any other water features capable of holding 24 inches or more of water. All Pool Barrier requirements contained in the most recent ICC International Swimming Pool and Spa Code adopted by the Town of Cheswold shall apply.

Temporary sign. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, is considered a temporary sign.

Town Council. The six, (6), person governing body of the Town of Cheswold granted by the State of Delaware with the authority and responsibility to approve, deny, change and revise all Ordinances, Resolutions, processes and procedures associated with the administration of governance within the corporate limits of the Town.

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.

Unified campuses and complexes. The term “unified campuses and complexes” means:

- (1) Any “shopping center” as the term is defined in the Land Use Ordinance, OR
- (2) Any group of three or more principal structures under common management and operation, located on one or more contiguous properties; OR
- (3) Any single commercial or institutional parcel which has more than 400 linear feet of frontage on a principal arterial roadway which is occupied by a conforming commercial or institutional use. Unified campuses and complexes include, but are not limited to, shopping centers; entertainment, educational, medical, governmental, or religious campuses; office complexes; and industrial parks.

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. Relief from the strict application of the provisions of the currently approved Town of Cheswold Land Use Ordinance when, owing to special conditions or exceptional situations, a literal interpretation of the Ordinance will result in unnecessary hardship or exceptional practical difficulties to the owner of the property.

Vehicle sign. A sign displaying a name or names, logo types, graphics, commercial messages or any combination thereof, which is attached to, painted on, or otherwise applied to a motor vehicle.

Wall area. For purposes of calculating wall area, the calculations shall include the height of the wall from ground level to the roofline (mansard roofs also count as wall area), multiplied by the width of the wall (including all architectural features).

Wall sign. Any sign, other than a projecting sign, which is attached to or painted on any wall of any building and projects from the plane of the wall less than 18 inches. A sign attached to the lower slope or face of a mansard roof, canopy, or awning shall be considered a wall sign for purposes of this ordinance. For purposes of this section only, a “wall” shall include any permanent architectural extension of a wall, including parapets, even if such an extension projects beyond or above the enclosed portions of the building. Canopy, marquee, and awning signs are all types of wall signs. (See figure 13-6).

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.

Window sign. A sign affixed to the surface of a window with its message intended to be visible to the exterior environment.

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 ensure 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*, which include:
 - a. To review, hear, consider and make recommendations to approve or disapprove applications for zoning map and Land Use Ordinance text amendments.
 - b. To initiate, prepare or cause to be prepared a land use ordinance or amendments thereto, and make recommendations to Town Council as the Commission deems appropriate.
 - c. To prepare or cause to be prepared the Comprehensive Development Plan, or any element or portion thereof, and make recommendations to Town Council as the Commission deems appropriate.
 - d. To initiate, review, hear, consider and make recommendations to Town Council to approve or disapprove amendments to the Comprehensive Development Plan.
 - e. To adopt additional or amended rules of procedure consistent with this Section to govern the Planning Commission's proceedings.
 - f. To conduct studies of the Town's resources and needs and to report its findings and recommendations, with reference thereto, from time to time, to Town Council.
 - g. Any other power or duty provided for under State law.

Section 3-3. Board of Adjustment

- A. Created. 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. Land Use Administrator

- A. For the purposes of this Ordinance, the Land Use Administrator shall mean the Town Council's designee, representative, or department vested by the Council with the responsibilities described herein.

1. The Land Use 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 Land Use Administrator is responsible for the interpretation of and securing compliance with the provisions of this Ordinance.
3. The Land Use 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 Land Use Administrator shall perform other activities that the Town Council deems appropriate.

Article 4. Administrative Procedures

Section 4-1. General Provisions

A. General Procedures

1. Duties of the Land Use Administrator
 - a. The Land Use Administrator shall establish application forms and procedures, such as but not limited to the number of plat copies necessary for submission and the format of the submission.
 - b. The Land Use 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.
2. Final Recordation of Plats

As a prerequisite for the final recordation of sub-division 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 Kent County Recorder of Deeds.
3. 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 will inform the applicant that the project shall not be approved until such time as it is brought into compliance with the current approved Comprehensive Plan of the Town of Cheswold.

B. Guidelines for Development Review

These guidelines include the process, forms/applications, 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.
7. All applicable applications can be obtained from the Public Works Department at the Cheswold Town Hall or on the Town website: <https://cheswold.delaware.gov>
8. In addition, there are miscellaneous plans, processes, forms/applications and guidelines that are also required in the operation of land use and are included below.
9. To be considered for review an application must be submitted to the Land Use Administrator, at least fifteen, (15), normal business work days before a scheduled Planning Commission or Town Council meeting.

Section 4-2. Applications**A. General**

1. An application form has been created for each development plan and land use type associated with this Ordinance.
2. Each application form will be assigned an application name and upon receipt by the Land Use Administrator will be assigned an application number consisting of the year and consecutive number. EX: 2010-011, which interpreted means that the application was the eleventh application received in 2010.
3. Each application must be signed by the property owner.
4. Property Owner/s may authorize another to act as an agent, but they must first submit a written certified affidavit of such authorization to the Land Use Administrator.

5. Each application must provide at a minimum the following information:
 - a. Applicant's Name; Address; Phone #; E-Mail Address
 - b. Property Owner's Name; Address; Phone #; E-Mail Address
 - c. Property Address
 - d. Map ID
 - e. Service Providers: water; Sewer; Electricity; Gas
 - f. Current Land Use
 - g. Proposed Land Use
 - h. Current Zoning District
 - i. Requested Zoning District (*If new Zoning District is requested and it is different from the Current Zoning District, a Re-Zoning application must also be submitted*)
 - j. Concept Plan or Site Plan

Section 4-3 Development Plan Types

- A. Plan Types.** The following are Plan Types in the town of Cheswold:

1. Concept Plan
2. Preliminary Plan
3. Final Plan
4. Single Family/Lot Development Plan

Section 4-4. Concept Plan

- A. Purpose:** To ensure that all requests for property developments and land use of any type comply with the provisions of this Ordinance prior to the issuance of building permits.
- B. When Required**
1. If and when an applicant desires to determine the feasibility of requesting a property development or the potential approval of land use.
 2. Prior to the issuance of building permits on legal lots for all types of property developments.
 3. Prior to the issuance of building permits for accessory buildings on legal lots for all types of property developments.
- C. Application Process**
1. Prior to submitting any type of project Development Plan, which would require a Preliminary Plan and Final Plan process, an applicant may submit a Concept Plan application to the Land Use Administrator for submission to the Planning Commission to be used as the basis for discussion and to receive direction on preparation of the Site Plan or the Preliminary and Final Plan.

2. The Land Use Administrator will review the application for completeness and to ensure that the property owner has signed it.
3. No formal action may be taken on the part of the Planning Commission or the Land Use Administrator.
4. The Planning Commission and/or the Land Use Administrator may issue non-binding comments to the applicant based on the review of the Concept Plan.
5. Table 4-1 provides minimum requirements for submitting a Concept Plan.

Section 4-5. PRELIMINARY PLAN

A. Purposes

1. To guide the growth and development of the Town of Cheswold in accordance with the currently approved Comprehensive Plan.
 - a. To confirm land use compliance with this Ordinance for proposed projects prior to detailed design review.
 - b. 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 Final Plans.
3. Prior to the approval and recordation of subdivision plans

C. General

1. A Preliminary Plan application is required for all land use development types, excluding Single Family/Lot Development applications.
2. The following are the typical types of Preliminary Plan applications:
 - a. Sub-division (*less than 50 parcels*)
 - b. Sub-division (*51 to 150 parcels*)
 - c. Sub-division (*greater than 151 parcels*)
 - d. Commercial/Industrial (*up to 10, 000 sq. feet*)
 - e. Commercial/Industrial (*10,001 to 50,000sq. feet*)
 - f. Commercial/Industrial (*greater than 50,001 sq. feet*)
 - g. Site Plan
 - h. Other Residential Development Plan

D. The following application process applies to all Preliminary Plan applications:

1. Submission.
 - a. All applications must be submitted to the Land Use Administrator or his/her designee for review and processing.

- b. The Land Use Administrator will review the application for completeness and to ensure that the property owner has signed it.
- c. The application must contain information as requested per Article 4-2; Part 5.
- d. The application must be accompanied by a check in the appropriate associated amount per the Town of Cheswold Land Development and Use Fee Schedule.
- e. Checks must be made out to the Town of Cheswold

2. Land Use Administrator

- a. The Land Use Administrator then completes the application as follows:
 - (i) Record the check number; check or cash amount received; and date received in the “Town Use Only” area of the application.
 - (ii) In the Land Use Administrator Review Section, record the accuracy of the applicant information; project site; and information completeness.
 - (iii) If any area is incomplete, post the deficiencies and prepare a document recording them in the application folder; record the return date on the application; and then forward the deficiency document to applicant.
 - (iv) If and when applicant corrects and returns applications, record date received in the Land Use Administrator Review Section.
 - (v) The Land Use Administrator must ensure that the application is in compliance with the currently approved Comprehensive Plan and so note on the application.

3. Building Code Official/Code Enforcement Officer

- a. When the application is complete, the Land Use Administrator shall forward a copy to the Building/Code Official for review and comment. The date forwarded should be posted in the Land Use Administrator Review Section.
- b. The Building/Code Official will review the Preliminary Plan application as it applies to the currently adopted ICC Codes and references.
- c. If the Building/Code Official determines that there are concerns/issues that may affect approval of the Preliminary Plan they must document such concerns/issues and return them to the Land Use Administrator.
- d. The Building/Code Official must provide a review documentation to the Land Use Administrator within ten, (10) business days of receipt of the Preliminary Plan.

4. Planning Commission

- a. Upon written receipt of the review from the Building Official/Code Enforcement Officer, the Land Use Administrator shall prepare a written report of the status of the application; forward it to the members of the Planning Commission and the Town Engineer and record the forwarding date on the application.
- b. At a regularly scheduled meeting of the Planning Commission, the Planning Commission and Town Engineer will review the accuracy and completeness of the Preliminary Plan and all associated documentation as required by Table 4-1.
- c. The Planning Commissioners and Town Engineer will determine if the report from the Land Use Administrator is complete. If so, the review of the application may continue. If not, the application must be returned to the Land Use Administrator for corrections and re-scheduling for review. The application must be documented with the requirements for corrections.
- d. The applicant or certified representative will present an oral presentation of the land use plan associated with the application.
- e. The Planning Commissioners and Town Engineer will query the applicant on any and all aspects of the land use plan, as deemed necessary in order, to acquire clarity and understanding of the final disposition of the plan and to ensure adherence to all State, County and Town of Delaware land development rules, regulations, requirements, and ordinances, as they may apply.
- f. The Planning Commissioners and Town Engineer will also determine if the requested land use application may require Conditional Use approval as specified by the Town of Cheswold Land Use Ordinance.
- g. If Conditional Use approval is not required, the Commissioners may take a vote to recommend the application to the Town Council for review and potential approval.
- h. If a majority vote results in the recommendation of the application to the Town Council, the Land Use Administrator shall prepare a PC memo of such vote and recommendation to be signed by the Chairperson of the Planning Commission and forwarded to the Mayor and Town Council.
- i. If a Conditional Use approval is required, the Commissioners may take a vote to recommend the application to the Town Council for review and potential approval, with an addendum that a Conditional Use application must be submitted by the applicant and approved by the Town Council, prior to the approval of the Preliminary Plan.
- j. If a majority vote results in the recommendation of the application, with an addendum that a Conditional Use application must be submitted by applicant to the Town Council, the Land Use Administrator shall prepare a Planning Commission memo of

such vote and recommendation to be signed by the Chairperson of the Planning Commission and forwarded to the Mayor and Town Council.

- k. If the majority vote results in the denial of the application, the Land Use Administrator shall prepare a letter of denial, including the reasons for such denial and forward it to the applicant and the process must begin again at the point of correction for the denial.

5. Town Council. Should the application be recommended to the Town Council the following process occurs:

- a. The Land Use Administrator publishes the date for a Public Hearing (*See Town Charter for Public Hearing process*)
- b. The Land Use Administrator publishes date for Town Council review on monthly Town Council Agenda.
- c. The Land Use Administrator provides a description of the land use application to the Mayor and Council and addresses, with the support of the Town Engineer any questions or concerns.
- d. If a Conditional Use application is involved, the Council must vote to approve or deny it prior to voting on the Preliminary Plan application.
- e. If either the Conditional Use or Preliminary Plan application is denied by a majority vote, the Land Use Administrator must provide a written description of the reason for denial and forward it to the applicant.
- f. If the Conditional Use and/or the Preliminary Plan applications are approved by a majority vote, the Land Use Administrator must provide a written description of the approval and forward it to the applicant.

E. Required Information: The requirements for a Preliminary Plan are listed in Table 4-1. A completed Preliminary Plan Application Form with all required information which includes, but is not limited to:

- a. Development Type
- b. Applicant Information
- c. Owner Information
- d. Property Information
- e. Property Location Information
- f. Available Utilities to Property
- g. Proposed Land Use
- h. Zoning District Information
- i. Applicant/Owner Certification
- j. Land Use Administrator's Pre-Review
- k. Building Inspector/Code Enforcement Review

- l. Land Use Administrator's Post-Review
- m. Planning Commission Review
- n. Town Council Review/Approval

F. Duration, Revocation, and Extensions

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

Section 4-6. FINAL PLAN

A. Purposes

- 1. To complete the review and approval process of a previously approved Preliminary Plan.
- 2. To establish design standards and procedures for reviewing final sub-division plans.
- 3. To establish design standards and procedures for reviewing record plats.
- 4. To coordinate the review and approval of plans with other regulatory agencies.
- 5. To assure complete review and approval prior to the issuance of building permits.
- 6. To ensure that public utilities are available and of sufficient capacity to serve proposed developments.
- 7. To minimize and manage the impact of development on air, water, and other natural resources.

B. When Required

- 1. After the approval of Preliminary Plans.
- 2. Prior to the approval of Final Sub-division plans and recordation of record plats.

C. General

- 1. A Final Plan application is required for all land use development types, excluding Single Family/Lot Development applications, that have been processed and approved through the Preliminary Plan application process.
- 2. The following are the typical types of Final Plan applications:
 - a. Sub-division (*less than 50 parcels*)
 - b. Sub-division (*51 to 150 parcels*)
 - c. Sub-division (*greater than 151 parcels*)
 - d. Commercial/Industrial (*up to 10, 000 sq. feet*)
 - e. Commercial/Industrial (*10,001 to 50,000sq. feet*)
 - f. Commercial/Industrial (*greater than 50,001 sq. feet*)
 - g. Site Plan
 - h. Other Residential Development Plan (*for which an explanation is required*)

3. The requirements for a Final Plan are listed in Table 4-4.
4. The requirements for a Site Plan are listed in Table 4-1
5. The following application process applies to all Final Plan applications:
 - a. All applications must be submitted to the Land Use Administrator or his/her designee for review and processing.
 - b. The Land Use Administrator will review the application for completeness and to ensure that the property owner has signed it.
 - c. The application must contain information as required per Section 4-4.
 - d. The application must be accompanied by a check in the appropriate associated amount per the Town of Cheswold Land Development Use Fee Schedule.
 - e. Checks must be made out to the Town of Cheswold

D. Required Information

A completed Final Plan Application Form with the required information which includes, but is not limited to:

- a. Development Type
- b. Applicant Information
- c. Owner Information
- d. Property Information
- e. Property Location Information
- f. Available Utilities to Property
- g. Proposed Land Use
- h. Approved Zoning District
- i. Applicant/Owner Certification
- j. Land Use Administrator's Review
- k. Planning Commission Review
- l. Town Council Review/Approval

E. Final Plan – Application Review Process

1. Land Use Administrator
 - a. No plan shall be reviewed without a Preliminary Plan Approval unless it is a Record Plat or Site Plan review. *(See Section 4-4; Part C-2 or Table 4-1.)*
 - b. The Administrator shall establish a fee schedule for all technical reviews required for final Plan approval. *(See Ordinance 07-02-2018-051)*

- c. No review shall proceed without payment of a final review fee or without the applicant being confirmed by the Town Clerk or Administrative Clerk to have paid all taxes, fees, dues, or debts that may have been previously owed. *(See Clean Hands Ordinance 04-02-15-046)*
- d. Significant plan revisions that are required after review may be assessed another review fee prior to additional reviews.
- e. The Planning Commission and/or Land Use Administrator may request review and comments on a plan from the Municipal Engineer, pertinent State Departments such as DeIDOT, DNREC, Education, County departments and agencies particularly private infrastructure providers, adjacent municipalities, and any other appropriate agency or person.
- f. After technical review is complete the Land Use Administrator shall submit to the Planning Commission a report confirming that:
 - (i) The plan is consistent with the Preliminary Plan;
 - (ii) All conditions imposed under the Preliminary Plan approval have been met;
 - (iii) All applicable permits and approvals from outside agencies have been obtained for the project;
 - (iv) All technical reviewers' comments have been satisfied.

2. Planning Commission

- a. The Planning Commission shall review the plan and the Land Use Administrator comments in accordance with the Guidelines for Development Review found in Section 4-1 Item B of this Ordinance and develop recommendations for the Town Council.
- b. Upon approval of the Final Plan by the Planning Commission, the Land Use Administrator shall prepare a Memo to the Town Council from the Planning Commission advising of the review and recommendation of the Final Plan by the Town Council. The PC Memo should be signed by either the Planning Commission Chairperson or Vice-Chairperson and a copy filed in the Final Plan Application folder.
- c. The Land Use Administrator shall also prepare and forward a correspondence to the applicant which informs that the Final Plan has been reviewed by the Planning Commission and recommended for approval by the Town Council. The correspondence should include the date, time and place of the Town Council meeting at which the Final Plan will be reviewed by the Town Council and the applicant should be strongly encouraged to attend that meeting.

3. Town Council

- a. Prior to issuing a final approval, 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 Item B of this Ordinance.
 - (i) 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.
 - (ii) If the project is a sub-division, the applicant will provide a Record Plat printed on mylar with signature blocks for approval signature(s) representing the Town.
 - (iii) If the Town Council does not approve the final plan, a letter of explanation will be issued to the applicant from the Town.
- b. In either case, the Administrator shall prepare and forward a document to the applicant informing of the approval or denial as applicable and the steps to be taken in either case.
- c. If approved, the developer is responsible for complying with any and all conditions of approval set by the Town Council, as a prerequisite to obtaining the signature of the Mayor or designee on sub-division plans or for a Certificate of Zoning Compliance for site plans.
- d. The Town Council may assign responsibility for compliance with conditions of approval to the Administrator.

4. Duration, Revocation, and Extensions

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

Section 4-8. SINGLE FAMILY/LOT DEVELOPMENT PLANS

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 in existing Single-Family Detached Dwellings.

C. General

See Table 4-1, Information required for Single-Family Development.

D. Required:

All applicants must submit a Single-Family/Lot Development Plan Application to the Land Use Administrator or his/her designee.

E. SINGLE FAMILY/LOTS WITHIN A PREVIOUSLY APPROVED SUB-DIVISION:

1. 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 and Public Works, (*see b through f below*), regarding compliance with this Ordinance.
2. If the lot is contained within a sub-division previously approved under this Ordinance, the Administrator may forward his/her report to the Commission, but it is not a requirement.
3. The proposed setbacks for the lot shall be reviewed and confirmed by Public Works and if approved, a Certificate of Zoning Compliance may be issued along with a building permit without further review and the Land Use Administrator must be notified to approve and close the application.
4. If the proposed setbacks are not confirmed and approved by Public Works, a written report of non-conformance must be prepared and returned to the Land Use Administrator.
5. The Land Use Administrator must notify the applicant of the non-conformance and hold the application in abeyance until the non-conformance is rectified.
6. When the non-conformance is rectified the Land Use Administrator shall return the application to Public Works for review and confirmation of the proposed setbacks.
7. If the proposed setbacks are confirmed and approved a Certificate of Zoning Compliance may be issued without further review and the Land Use Administrator must be notified to approve the application.
8. If the proposed setbacks are not confirmed and approved by Public Works, a written report of non-conformance must be prepared and returned to the Land Use Administrator and the process continues from item e until the proposed setbacks are confirmed and approved or until the applicant withdraws the application.

F. SINGLE FAMILY/LOTS NOT ON A PREVIOUSLY APPROVED SUB-DIVISION:

1. If the lot is not contained within a sub-division previously approved under this Ordinance, the Administrator shall forward the application to Public Works to review and confirm the proposed setbacks for the lot and returns findings to the Land Use Administrator.

2. The Land Use Administrator reviews the Single-Family/Lot Development Application to confirm conformance with the Land Use Ordinance and the current Comprehensive Plan.
3. If the application is in conformance, the Land Use Administrator forwards a copy of the application to the Planning Commission for review, with a written acknowledgement that it conforms to the Land Use Ordinance, the current Comprehensive Plan and that Public Works has approved the proposed setbacks. The acknowledgement should also include the applicant's requested Zoning District.
4. The Planning Commission reviews the application to determine whether a conditional use review is necessary, and if they approve the applicant's requested Zoning District.
 - a. If the Planning Commission determines that a different Zoning District should be applied other than the one requested by the applicant the advised Zoning District must be included in the PC Memo to the Town Council.
5. If the application requires a Conditional Use approval, the Planning Commission will notify the Land Use Administrator to inform the applicant of such requirement and the approval of the Conditional Use process must be completed prior to the approval of the Single Family/Lot Application. *(See Section 4-5 Miscellaneous Plan Types)*
6. Once the Conditional Use Application has been approved, the Single Family/Lot Development Application process may continue by the Planning Commission providing a recommendation for approval or denial via a PC Memo to the Town Council.
7. The approval or denial of the Single-Family/Lot Development Application is completed by a public hearing of the Application by the Town Council during a monthly Town Council meeting.
8. The application process is complete by the Land Use Administrator notifying the Applicant of the approval or denial of the application in writing.
 - a. If approved, the notification includes the instructions for the Applicant to record the plan in the Kent County Office of Records and the notice that they may proceed with applying for a Building Permit from the Public Works Department of the Town of Cheswold.
9. If denied, the notification must include the reasons for denial and the right of the applicant to submit a new application to begin the process again.

G. Additional Requirements

1. **REPORT**
Public Works will provide a status report of all Single-Family/Lot Development Applications to the Town Council at the monthly Town Council meetings

2. **SEDIMENT and STORMWATER REGULATIONS**
Beginning January 1, 2017, per the Delaware Sediment and Stormwater Regulations, projects, (including Single-Family Development Plans), disturbing 5,000 square feet or more are required to have a Sediment and Erosion Control Plan approved by DNREC.

Section 4-9 SUBDIVISION PLANS

A. Subdivision Plan

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

2. When Required

- a. Prior to the approval of sub-division plans and recordation of sub-division plats.

3. Required Information

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

4. Review process

- a. The process includes a preliminary review by the Town for compliance with the Comprehensive Plan and the Ordinance and a final review.
- b. Approval of the Preliminary Plan is good for one year from the date of approval.
- c. The applicant is responsible for submitting a final Site Plan or Sub-division Plan to the Administrator, with all applicable final construction approvals and permits and utility service agreements within one year.
- d. 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.
- e. The Town Council may by a simple majority vote to approve a Sub-division Plan:
 - (i) If a Sub-division Plan is approved, then the Town Council shall direct the applicant to the process for Plat Approval as described in Section 4-9.B.

- (ii) The approval of a Sub-division 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.
- (iii) If a sub-division 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.

B. Sub-division Record Plat

1. Requirements

- a. The applicant shall prepare a Record Plat in accordance with Table 4-4 and submit the Record Plat to the Administrator.
- b. 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.
- c. The Administrator shall review the Record Plat for compliance with the regulations of this Ordinance.
 - (i) 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.
 - (ii) 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 the non-compliant elements of the Record Plat.
- d. Applicant shall be responsible for recording the Record Plat at the office of the Kent County Recorder of Deeds.
- e. No building permits shall be issued until the Plat is lawfully recorded.

E. Duration, Revocation, and Extensions

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

Section 4-10 SITE PLANS

A. Purposes

1. To establish design standards and procedures for reviewing site plans.
2. To coordinate the review and approval of plans 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.

C. Required Information

1. See Table 4-4, Information Required for Final Site Plans

D. Duration, Revocation, and Extensions

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

E. Review Process

1. The applicant is responsible for submitting a final Site Plan to the Administrator, with all applicable final construction approvals and permits and utility service agreements within one year.
2. 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.
3. The Town Council may by a simple majority vote to approve a Site Plan:
 - a. If the Site Plan has been 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 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.

Section 4-11. Miscellaneous Plan Types

Plan Type

Conditional Use

Variances, Appeals, and Administrative Variances

Re-Zoning

Lot Line Adjustment

Section 4-12. 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, over burden 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 4-13. Variances, Appeals, and Administrative 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. Appeal Process

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:
 - (i) information about the applicant's/property owner's situation, request, inquiry, etc. and;
 - (ii) 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 Board of Adjustment 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.** 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. **Application Fees**
Variance applicants are required to pay an application fee as specified in the current Land Use Development Fee Schedule.
3. **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.
4. **Board of Adjustment Hearing**
- a. **Schedule.** 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. *NOTE: Only date, time, location of meeting and referral to see website for additional information, is required for Newspaper posting if details of meeting are posted on a Town Website.*
 - (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/Town Posting.** Notice shall be posted at a public place in Town. (Typically, the Town Hall Bulletin Board and the Town website: cheswold.delaware.org)
 - (iv) **Posting Notice Details. Notice must include the following information:**
 - (a) Hearing Date, Time and Location
 - (b) Purpose of Hearing
 - (c) Instructions for Conducting Hearing
 - (d) Instructions for Receiving Comments
 - 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 in Article 3 of this Ordinance.
 - (ii) The Board of Adjustment may attach conditions to approvals of applications.

5. Relationship to Development Plan Review

- a. Approval of an application by the Board of Adjustment does not supersede or obviate the need for compliance with any other Development Plan Review standards or requirements.
- b. The Board of Adjustment may condition approvals on satisfactory compliance with applicable Development Review standards.

D. Duration, Revocation, and Extension

1. Duration.

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.

E. Administrative Variance

1. Eligibility Criteria

An administrative adjustment can be approved if all the following conditions are met:

- a. The adjustment is for an existing property or structure.
- b. The need for the variance was the result of good faith errors by the property owner and/or the property owner's builder or surveyor. The property owner shall have the burden of establishing the existence of such good faith error by substantial evidence
- c. The requested deviation does not exceed 1 foot.
- d. The adjustment does not adversely impact neighboring properties, public safety, or the character of the area.

- e. Such variance will not create unsafe conditions with respect to other property or public streets.
- f. Upon the approval of an administrative variance under this section for a particular building, the same shall be deemed to be a lawful building.

2. Application Requirements

Property owners seeking administrative adjustment must submit the following:

- a. A completed Administrative Adjustment Application form.
- b. A detailed site plan showing:
 - (i) Property boundaries/survey plan.
 - (ii) Existing proposed structure locations.
 - (iii) Setback lines and the proposed adjustment.
- c. Photographs of the property and adjacent properties, if applicable.
- d. A brief written explanation of the need for the adjustment and how it meets the criteria.

3. Review Process

- a. **Preliminary Review:** Staff will confirm completeness and eligibility of application within 5 business days.
- b. **Site Visit:** Planning staff may conduct a site visit to verify the accuracy of the application and assess any potential impacts.
- c. **Decision:**
 - (i) The Planning Department will issue a written decision within 15 business days of receiving a complete application and after the comment period.
 - (ii) The decision will include findings demonstrating how the adjustment meets the eligibility criteria.

4. Approval Standards

Administrative adjustments may only be approved if:

- a. The proposed adjustment is consistent with the intent of the Land Use Ordinance.
- b. The adjustment will not create a nuisance or impair the use of adjacent properties.
- c. The adjustment is the minimum necessary to address the property owner's situation.

5. Post-Decision Procedures

- a. **Approval:** If approved, the applicant will receive a signed Administrative Adjustment Certificate, which must be recorded with the property deed.

- b. **Denial:** If denied, the applicant may:
 - (i) Revise and resubmit the application for reconsideration.
 - (ii) Apply for a formal variance through the standard process.

6. Appeals

Decisions on administrative adjustments may appeal to the Board of Adjustment within 30 days of the decision.

Section 4-14. Re-Zoning

A. Purpose.

When a property owner or the Town of Cheswold desires to use land in a way that is not permitted by the current Zoning of the property, the applicant, (only a titled land owner may submit a Re-Zoning application), or the Town of Cheswold must request to Re-Zone the property to a classification which permits the desired use. Generally, Re-Zonings are permitted under one of the following three (3) circumstances:

1. When the requested Re-Zoning is consistent with the current Town of Cheswold Comprehensive Plan adopted by the Town of Cheswold and approved by the Office of State Planning Coordination, per the requirements of Delaware Annotated Code § 702, Title 22.
2. When there was an error or oversight in the original Zoning of a property.
3. When changes have occurred to conditions in the vicinity of the property which prevent the reasonable use of the property as currently Zoned.

B. Applicant Qualifications.

Re-Zonings can be initiated by the property owner, majority vote of the Town Council, or recommendation from either the Planning Commission or Land Use Administrator.

C. Procedure.

Applicants wishing to petition for Re-Zoning must do the following:

1. Complete a Re-Zoning application to include at a minimum:
 - a. Current property owner identification information;
 - b. Map and parcel(s) number(s) of the property(ies) as listed with the Kent County Property Information System, (PRIDE), and their Geographic Information System (GIS Mapping), as well as the Tax Record of the Town of Cheswold;
 - c. The existing Zoning classification and requested Zoning classification change;

- d. The existing land use and proposed land use for the property;
 - e. Any additional information that may be requested on the Re-Zoning application.
 2. Provide a narrative listing the reason(s) for the Re-Zoning request including the following criteria:
 - a. Consistency with the currently approved Town of Cheswold Comprehensive Plan uses of your property.
 - b. Describe your parcel and how well the existing land uses assigned by the existing Zoning District suited the parcel.
 - c. Describe how well all the proposed land uses requested by the Zoning District change are suited to your property.
 - d. Describe how the existing Zoning is negatively affecting the marketability of your property.
 - e. Verify existence and sources of sewer, water, electrical and storm facilities.
- D. **Re-Zoning Fees**
 1. Re-Zoning applicants are required to pay an application fee as specified in the current Land Use Development Fee Schedule.
 2. All associated fees are to be paid at the time of the submission of the application.
 3. Re-Zoning requests submitted by the Town Council, Planning Commission or Land Use Administrator of the Town of Cheswold will be exempt from the administrative fees, however, engineering review fees may still be applied
- E. **Re-Zoning Application Filing Deadline.** Re-Zoning applications must be received 60 days prior to a regularly scheduled Planning Commission meeting, to allow for review and notifications to surrounding property owners.
- F. **Re-Zoning Administrative Review.** Review of Re-Zoning applications will be conducted as follows:
 1. **Land Use Administrator:**
 - a. After submission of a Re-Zoning application, the Land Use Administrator shall review for completeness, the application along with attached applicable documents and site plans.
 - b. An on-site assessment of the property and surrounding area shall be conducted to determine how the Re-Zoning could impact adjoining land uses.

- c. In conducting this assessment, the Land Use Administrator is obligated to consider the health, safety and welfare of the total community as well as the desires of the applicant and neighbors.
- d. The Administrator shall submit the application to the Planning Commission upon completion of the assessment.
- e. The Planning Commission will make a recommendation to the Town Council to either approve or deny the Re-Zoning application.
- f. The Town Council will make the final approval or denial decision.

G. Re-Zoning Public Notice. The Land Use Administrator will publish a Public Notice which shall specify the time, place and nature of a hearing to accept public comment on the Re-Zoning application, at least 15 days prior to the Public Hearing, including but not limited to:

1. **Newspaper Publications.** Legal notice in a newspaper of general circulation at least 15 days prior to a Public Hearing.
2. **Property Posting.** For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location.
3. **Municipal Hall.** Notice shall be posted at a public place in Town.
4. **Municipal Website.** Notice shall be posted at: <http://cheswold.delaware.gov>.

H. Re-Zoning Public Hearing

The Hearing shall take place no less than 15 days following publication of the legal notice.

Section 4-15. Lot Line Adjustment

Purpose

Lot Line Adjustments are required when a property owner desires to combine individual lots into one or more larger lots, or to correct the lot line measurements and/or distances as the result of a certified survey.

A. Applicant Qualifications

Lot Line Adjustments/Changes can only be initiated by the property owner, or a certified representative of the property owner.

B. Procedure

Applicants wishing to petition for Lot Line Adjustment or Change must do the following:

1. Complete a Lot Line Adjustment/Change application to include at a minimum:
 - a. Current property owner identification information;
 - b. Map and parcel(s) number(s) of the property(ies) as listed with the Kent County Property Information System, (PRIDE), and their Geographic Information System (GIS Mapping), as well as the Tax Record of the Town of Cheswold;
 - c. The existing Zoning classification and requested Zoning classification change;
 - d. The existing land use and proposed land use for the property;
 - e. Any additional information that may be requested on the Re-Zoning application.
 - f. The Application must include the applicable minimum fee. Applicants are required to pay an application fee as specified in the current Land Use Development Fee.
2. Provide a narrative listing the reason(s) for the Re-Zoning request including the following criteria:
 - a. Consistency with the currently approved Town of Cheswold Comprehensive Plan.
 - b. Describe the existing Zoning District and land uses of the surrounding property and how well suited the neighborhood will be to the proposed Lot Line Adjustment/Change and land uses of your property.
 - c. The application when completed must submitted to the Land Use Administrator.

C. Land Use Administrator

1. The Administrator will review the application and documents that are required to be attached, (*Plot Plan showing before and after adjustment measurements and any clarifying pictures or sketches*), for completeness, before forwarding them to the Planning Commission for review.
2. An on-site assessment of the property and surrounding area shall be conducted to determine how the Lot Line Adjustment could impact adjoining land uses.
3. In conducting this assessment, the Land Use Administrator is obligated to consider the health, safety and welfare of the total community as well as the desires of the applicant and neighbors.
4. Upon completion of the application review and assessment, the Administrator will forward the application and all attached documents to the Planning Commission.

D. Planning Commission

1. The Planning Commission will schedule a review of the Lot Line Adjustment application and the accompanying Administrative Report, to determine consistency with the goals and policies of the Cheswold Land Use Ordinance and the currently approved Cheswold Comprehensive Plan, at the next regularly scheduled Planning Commission meeting.
2. The review will include a publicly scheduled Planning Commission meeting, at which the applicant will have the opportunity to provide any additional information concerning the application and/or to answer questions and provide clarifications of the request.
3. Upon completion of the review the Planning Commission will issue a written memo of recommendation to either approve or deny the application to the Town Council.

E. Public Notice

1. The Land Use Administrator will publish a Public Notice scheduling a Public Hearing to receive public comment on the Lot Line Adjustment/Change request.
2. The Public Notice must be published at least 15 days prior to the Public Hearing, and shall include, but not be limited to:
 - a. Newspaper Publications. Legal notice in a newspaper of general circulation.
 - b. Property Posting. For an application concerning specific property, a sufficiently large sign shall be posted on the subject property in a visible location.
 - c. Municipal Hall. Notice shall be posted at a public place in Town.
 - d. Municipal Website. Notice shall be posted at: <http://cheswold.delaware.gov>.
 - e. Town Wide Locations. Notice shall be posted in at least five (5) public locations within Town limits, including the Post Office.

G. Public Hearing

1. The Hearing shall take place no less than 15 days following publication of the legal notice.
2. The Town Council shall sit to hear comments concerning the Lot Line Adjustment application from the public.
3. The Town Council *is not required* to respond or make comments during the Public Hearing.

H. Lot Line Adjustment Approval or Denial

1. The Town Council has final determination in approving or denying a Lot Line Adjustment application.

2. Approval or denial of a Lot Line Adjustment application by the Town Council will take place after the Public Hearing process, during the next regularly scheduled Town Council meeting.
3. The Town Council decision will be rendered within 45 days of the Public Hearing.

I. Appeals of Lot Line Adjustment Decisions

1. Applicants aggrieved by a decision of the Town Council of a Lot Line Adjustment application may appeal the decision to the Board of Adjustment.
2. An Administrative Review Request must be filed in writing with the Board of Adjustment within 30 days of the date of the Town Council decision.
3. The Administrative Review Request is to be submitted to the Land Use Administrator.
4. An applicable fee, specified in in the current Land Development Fee Schedule will be required with the submission of the Administrative Review Request.
5. Appeals of the Board of Adjustment decision are administered by Article 4-13, Section B of the current Land Use Ordinance.
6. An applicant submitting an Administrative Review Request shall have the burden of presenting all information required by the Board of Adjustment to make a decision.

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	
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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	60 days
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		
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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

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 non-conforming structure, or a non-conforming portion of a structure is destroyed, by any means by more than 50% of its replacement cost at the time of destruction, its legal, non-conforming status is terminated unless alternation/s of the structure commences within twelve, (12), month's time of said destruction and the alteration/s must be completed as specified in the currently approved and adopted International Residential and associated International Existing Building Codes.
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
Agricultural	A-1 Agricultural	All farming activities related to plant growth and farm related services. Low density residential development is permitted.
	R-1 Old Town Residential	Single family dwellings and home based or neighborhood businesses, located in the historic center of the original Town.
Residential	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
	R-5 Age-Defined Community	Single family, carriage, two-family, triple attached, townhouses, multi-family and other complementary uses outlined in Table 7.2 to provide for the special needs of seniors, including nursing care facilities, in residential subdivisions designated as “housing for older persons” as defined in Title 42, Section 3607 of the <i>Code of Federal Regulations</i> .
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. A-1 Agricultural

- To provide for a wide range of agricultural uses and farm related services, while providing for low density residential development in areas that are somewhat rural in character and where farming may be the optimal land use activity.

2. To foster environmentally sound development in areas of environmental concern,
3. To allow for a variety of low density planned residential and cluster developments in a rural setting.
4. To serve as a transitional/buffer zone between agricultural and residential uses.

B. 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.

C. 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.

D. 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.

E. 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.

F. R-5 Age-Defined Community

1. To provide for the special needs of seniors in residential developments that are specifically designated for “housing older persons” as defined in Title 42, Section 3607 of the *Code of Federal Regulations* through single family, two-family, triple attached, townhouses, carriage dwellings, and multi-family dwellings.
2. To provide for senior accessory uses to serve the needs of seniors such as limited commercial uses and nursing care facilities.

G. 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.

H. 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.

I. 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).

J. 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 features 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.

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.

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. Prohibited uses

A. Description of Prohibited Action/Activity

No owner, person or manager under any conditions, situations or circumstances keep, maintain, or breed any farm animal as defined in Article 2– Definitions or any animal commonly known as a farm animal within the corporate limits of the Town of Cheswold, unless specifically permitted by Section 7-2 of this Ordinance – Exceptions.

B. Determination of Prohibited Action/Activity

It shall be the sole responsibility of the Code Official of the Town of Cheswold to determine if an animal is classified as a farm animal and thus prohibited.

C. Description of Processes Required to Enforce Ordinance

The following procedure shall be employed to enforce the requirements and restrictions of this Ordinance:

1. As part of his/her regular work assignments the Code Official shall regularly scan properties within the corporate limits of the Town of Cheswold to ensure compliance with the Land Use Ordinances, Property Maintenance requirements and approved Ordinances associated with property maintenance.
2. If the Code Official/~~Enforcement Officer~~ should note through visual or audio observation that farm animals may be housed, maintained or being bred upon a property within the corporate limits of the Town of Cheswold, the Code Official shall have full and complete authority to notify the offending owner/manager of the violation of this Ordinance.
3. Notice of the violation shall be presented to the property owner/manager through a written notice submitted through certified mail and must include a statement that all farm animals must be removed from the Town of Cheswold property within 30 days of receipt of the written notice.
4. Failure to remove such farm animals within the specified 30 day period, will result in the processing of violation fees to the property owner/manager.
5. Should the owner/manager not comply with the removal of noticed farm animals within 30 days of the receipt of notice to do so, the Town of Cheswold will arrange for the removal of any and all such farm animals, without further notice to the property owner/manager.
6. If it should become necessary for the Town of Cheswold to remove farm animals from the property of an owner/manager at cost to the Town, the property owner will be assessed the cost of such removal plus a \$250.00 fine for failure to comply and a 10%

administrative fee of the total involved cost.

7. Subsequent violations will be at a cost of \$500.00 per each violation plus the cost of animal removal and a 10% administrative fee of the total involved cost.

D. Appeal Process

Each property owner/manager shall have the right to appeal the written notice requiring removal of farm animals from his/her property/properties. The appeal process shall be as follows:

1. Property owner/manager must submit a written request to halt farm animal removal procedure within the 30-day period of receipt of certified notice from the Code Official
2. The appeal must be submitted to the Land Use Administrator .
3. The appeal must include:
 - i. Property Owner's Name
 - ii. Property Owner's Town of Cheswold Address
 - iii. Property Owner's Mailing Address
 - iv. Property Owner's Phone Number
 - v. Property Owner's Email Address
 - vi. Property Manager's Information (*if applicable*)
 - a. Name
 - b. Address
 - c. Phone Number
 - d. E-Mail Address
4. Farm Animal Information
 - i. Type of Animals
 - ii. Number of Animals
 - iii. Housing Type used for Animals
 - iv. Any and all pertinent information that will assist the Administrator in reaching a decision concerning the appeal.

E. Exceptions

1. An exception to this Ordinance is granted to Mr. & Mrs. Jose & Fidelina Aponte, residing at 246 Main Street, Cheswold, Delaware 19936 for the ownership, housing and breeding of chickens. Such exception is granted as a result of the ownership, housing and breeding occurring before the inception and approval of this Ordinance.
2. Should Mr. & Mrs. Aponte cease to own, house and breed chickens after the approval and adoption of this Ordinance, their exception will immediately cease.
3. Should Mr. & Mrs. Aponte sell or transfer ownership of their property to another owner, their exception shall immediately cease.
4. Additionally, an exception is granted to the western end of property owned by Evans Jarrell, LLC located at 1070 Eddie Evans Lane and it is also identified as Map ID 3-03-04600-01-0300-000 for the housing and breeding of chickens, ducks and geese. Such exception is granted as a result of the ownership, housing and breeding occurring before the inception and approval of this Ordinance.
5. Should Evans Jarrell, LLC, cease to own, house and breed chickens after the approval and adoption of this Ordinance, their exception will immediately cease.
6. Should Evans Jarrell, LLC, sell or transfer ownership of their property to another owner, their exception shall immediately cease.

F. VIOLATION FEES

Any person violating any of the provisions of this ordinance shall for each such offense be punished by a fine of the following schedule:

1. First Offense: Failure to comply after 30 days - \$250.00 + cost of animal removal + 10% administrative fee of total cost
2. Each Subsequent Offense: \$500.00 per each offense + cost of animal removal + 10% administrative fee of total cost

G. Severability

If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance, which may otherwise be given effect and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 7-3. 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. **EXCEPTION:** The Town of Cheswold may approve (or deny) a Conditional Use application from a governmental entity to operate a facility using the outside-uncovered storage of materials necessary and convenient to maintain public roadways, such as gravel, rocks, sand, fill-dirt, black top, road ice melting compounds, etc.
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. 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. R-5 Age-defined Community

1. This district is intended to allow flexibility in the design of the number and type

of dwelling units.

2. All age-defined residential plans shall include a community center located within the community.
 - a. Community center shall be a minimum of 3,000 square feet with an additional 30 square feet per each residential dwelling unit over 100 units.
 - b. Community center shall be a fully accessible building as required under the Americans with Disabilities Act.
3. Off street parking requirements within the district are as follows, which parking requirements may be met by surface parking spaces, garages, carports and/or porta cheers:
 - a. Single Family Dwellings or – Two (2) per dwelling unit, in addition to overflow parking at the community center for guests and visitors.
 - b. Two-Family, triple-attached dwelling, carriage dwelling, multi-family or townhouses – Two (2) per dwelling unit, in addition to overflow parking at the community center for guests and visitors.
 - 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.
4. 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 homeowner’s 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.
5. Private streets may remain privately owned and privately maintained streets or may be dedicated as public streets.
 - a. Privately owned and maintained minor or local streets shall be a minimum of 24 feet wide from back of rolled curb to back of rolled curb, with a twenty (20) foot cartway. Collector or boulevard streets shall be a minimum of 28 feet wide from back of rolled curb to back of rolled curb, with a twenty-four (24) foot wide cartway.
 - b. Publicly dedicated streets shall be designed in accordance with all specifications for public streets.

6. Modular dwellings may be used for any of the residential uses permitted in this zoning district (single family, two family, multi-family, etc.).
7. Property may be held in single ownership with portions of the property being leased to individuals for any purpose permitted in this zoning district.

J. A-1 Agricultural
RESERVED

K. 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 7-4. 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 Land Use 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 Land Use 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, heat, smoke, odor, glare, or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added.
- (iii) That the use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added..

d. The determination of similar uses shall not apply to off-street parking or signs.

Section 7-5. Accessory Uses

A Definition

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

1. The use is incidental and subordinate to the principal use;
2. It is usual and customary to the principal use;
3. It is operated and maintained under the same ownership and on the same lot as the principal use;
4. It does not include structures or structural features inconsistent with the principal use; and
5. 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 7-6. 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.
3. Any licensed home-based business committed over the internet, by phone or by mail.

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

Exception: On a case-by-case basis the above prohibited businesses may be permitted, if the function of the business is related totally to the internet, phone or mail services.

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 SP Site Plan Review Required. See Sec. 4-2 CU Conditional Use. See Sec. 4-7 O Overlay Zone Applies. See Sec. 6-2.	Zone A-1	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-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	P	P		
Greenhouse, Commercial	CU SP			CU SP		CU SP		P SP		
Residential Uses										
Apartment above commercial or office uses				CU SP		CU SP	P SP			
Bed & Breakfast		CU	CU	CU		CU SP	CU			
Dwelling, Two Family			P,SP	P,SP		P,S P				
Dwelling, Manufactured Home					P,SP					
Dwelling, Multi-Family				P,SP		P,SP				
Dwelling, Single Family including Modular Homes	P,SP	P,SP	P,SP	P,SP	P,SP	P,S P				
Dwelling, Single Family Manufactured Homes					P,SP					
Dwelling, Townhouse				P,SP		P,SP				
Dwelling, Triple-Attached			P,SP	P,SP		P,SP				
Dwelling, Carriage						P,SP				
Home Based Businesses. (See Sec. 7-5)		CU	CU	CU	CU	CU				
Sales & Rental of Goods, Merchandise, and Equipment										
Convenience Store						CU SP	P,S P	P, SP		
Retail Food Establishments (See Sec. 7-6)				P,S P		CU SP	P,S P	P,S P		
Retail Sales Establishments (See Sec. 7-6)				P,S P			P,S P	P,S P		
Retail Sales Establishments with Drive-Throughs (See Sec. 7-6)							CU, SP	P,S P		
Supermarket				CU SP			CU SP	P,S P		

Restaurant				CU SP		CU SP	P,S P	P,S P		
Restaurant with drive through							CU SP	P,S P		
Wholesale trade establishments (See Sec. 7-6)								P,S P	P,SP	
Shopping Center							CU SP	P,S P		

Blank Not Permitted P Permitted SP Site Plan Review Required. See Sec. 4-2 CU Conditional Use. See Sec. 4-7 O Overlay Zone Applies. See Sec. 6-2.	Zone A-1	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Office, Clerical, Research, Personal Service and Similar Enterprises Not Primarily Related to Goods and Services										
Business Service Establishments (See Sec. 7-6)							P,S P	P,S P		
Offices				CU SP		CU SP	P,S P	P,S P	P,SP	P, SP
Office complex of multiple buildings							CU SP	P,S P	CU, SP	
Miscellaneous Service Establishments (See Sec. 7-6)							CU SP	P,S P		
Personal Service Establishments (See Sec. 7-6)				CU SP		CU SP	P,S P	P,S P		
Retail Service Establishments (See Sec. 7-6)				CU SP			P,S P	P,S P		
Social Service Establishment (See Sec. 7-6)							P,S P	P,S P	CU, SP	P,SP
Banks							P,S P	P,S P		
Banks with Drive Throughs (See Sec. 7-6)							P,S P	P,S P		
Manufacturing, Assembling, Processing										
Manufacturing, Light									P,SP	
Manufacturing, Heavy										P,SP
Asphalt, Aggregate, Hot Mix										CU, SP
Concrete, Cement, Stone, Gravel Bulk Storage										CU, SP
Commercial Composting, Materials Re-Cycling										CU, SP

Sanitary Transfer Station											P,SP
Educational, Cultural, Religious, Philanthropic, Social, Fraternal											
Club, private such as Golf, Swimming and Tennis; 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	P,S P			
Community Center, Private			P,SP	P,SP	P,SP	P, SP	CU, SP	P,S P			

Blank Not Permitted P Permitted SP Site Plan Review Required. See Sec. 4-2 CU Conditional Use. See Sec. 4-7 O Overlay Zone Applies. See Sec. 6-2.	Zone A-1	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Institutional or Residential Care, Confinement & Medical Facilities										
Day Care Center				CU, SP			P,S P	P,S P		
Day Care Family (1-6 children)				CU, SP						
Day Care, Large Family (7-12 children)							P,S P	P,S P		
Adult Day Care						P,SP				
Hospital								P,S P		
Medical Clinic – No Over Night Facilities				CU, SP		CU, SP	CU, SP	P,S P	P,SP	
Nursing and Care Facilities				CU, SP		P,SP	CU, SP	P,S P	P,SP	
Surgical Center–No Over Night Facilities						CU, SP	CU, SP	P,S P	P,SP	
Transportation-Related Sales & Service										
Motor Vehicle – Filling Stations							P,S P	P,S P		
Motor Vehicle – Filling Station with Convenience Store							P,S P	P,S P		
Motor Vehicle Sales; Repair; Service; Storage							P,S P	P,S P	P,SP	

General Aviation Airport and airport related uses										CU, SP
Storage & Parking										
Distribution Center								P,S P	P,SP	P,SP
Garage, Public or Commercial Parking				CU, SP		CU, SP	CU, SP	P,S P	P,SP	
Self-Storage Facility						CU, SP		P,S P	P,SP	
Warehouse								P,S P	P,SP	P,SP
Portable Container, or PODS										
Public, Semi-Public, Emergency										
Government Facilities and Services - Municipal	P SP	P SP	P SP	P SP	P SP	P,SP	P SP	P SP		
Government Facilities and Services – County; State; Federal	P SP	P SP	P SP	P SP	P SP	P,SP	P SP	P SP		
Parks and Open Space	P SP	P SP	P SP	P SP	P SP	P,SP	P SP	P SP		
Private Utility Service Facilities						CU, SP	CU, SP	CU, SP	CU, SP	
Public Safety Facilities including Ambulance; Fire; Police; Rescue and National Security						CU, SP	CU, SP	P SP	P SP	

Blank Not Permitted P Permitted SP Site Plan Review Required. See Sec. 4-2 CU Conditional Use. See Sec. 4-7 O Overlay Zone Applies. See Sec. 6-2.	Zone A-1	Zone R-1	Zone R-2	Zone R-3	Zone R-4	Zone R-5	Zone C-1	Zone C-2	Zone I-1	Zone I-2
Public, Semi-Public, Emergency										
Public Utility Service Facilities						CU SP	P SP	P SP	P SP	P SP
Recreation Facilities			CU SP	CU SP		CU SP	CU SP	CU SP	CU SP	CU SP
Publicly owned and operated facilities using outside-uncovered storage of roadway maintenance materials									CU SP	
Not Grouped Elsewhere										

Accessory Uses, Generally	P SP	P SP	P SP	P SP	P SP	P SP	P SP	P SP	P SP	P SP
Cemeteries				CU SP		CU SP	CU SP	P SP		
Cell Towers	CU SP						CU SP	CU SP	CU SP	CU SP
Funeral Homes – without Crematorium				CU SP		CU SP	CU SP	P SP	P SP	
Marijuana Establishment	CU SP							CU SP	CU SP	
Mixed Use Developments – See "Overlay" Districts			CU SP	CU SP		CU SP	P,S P	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 as or zoned as Residential							CU SP	P,S P	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 feet 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).

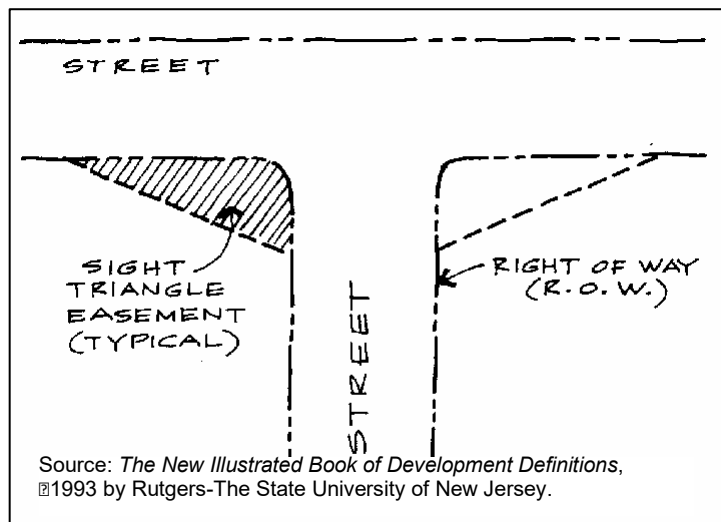


Figure 8-1. Sight Triangle

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 | Chimneys | Public Monuments |
| Cupolas | Flag poles | Radio and television antennas
for residential use |
| Ornamental towers | | Smokestacks |
| | | Spires |
| | | 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:
 - (a) 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.

(b) 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; Such permanent foundation shall:
 - (a) Be constructed in accordance with the prescriptive provisions of the adopted Kent County Building Code or, where required, designed by a licensed professional engineer.
 - (b) have attachment points to anchor and stabilize the home to transfer all code required loads to the underlying soil or rock. In either case, a permanent foundation shall be designed for the following:
 - (c) Vertical Stability:
 - (d) Footing sized to prevent overloading of the soil and to avoid excessive soil settlement.
 - (e) Minimum depth of footings below undisturbed ground surface shall be 12 inches or as required by the Kent County code, whichever is greater.
 - (f) Shallow foundation footings shall be constructed of cast-in-place concrete.
 - (g) Masonry walls and piers shall be mortared.
 - (h) Lateral Stability:
 - (i) Anchorage capacity to prevent uplift, sliding, and overturning in both orthogonal directions.
 - (j) Shall not utilize tension-only steel straps.
 - (k) Shall not utilize screw-in-soil anchors.
 - (l) Be constructed of durable materials, i.e., concrete,

- mortared masonry, or treated wood, (this includes pre-cast foundation systems).
- (m) A permanent foundation does not include any alternative systems or components labeled only for use under one or more of the following standards:
 - (n) 24 CFR 3280, Manufactured Home and Safety Standards (MHCSS)
(http://www.access.gpo.gov/nara/cfr/waisidx_09/24cfr3280_09.html)
 - (o) 24 CFR3286, Manufactured Home Installation Program (MIS)(http://www.access.gpo.gov/nara/cfr/waisidx_09/24cfr3286_09.html)
 - (p) NFPA 225 Model Manufactured Home Installation Standard
 - (q) ANSI A225.1 NFPA 501A Manufactured Home Installations
 - (r) International Residential Code, Appendix E
- (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 One	5 ⁸	10	10	10					10	20	10
Sum of Both	10	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 8-1. Basic Development Standards in Residential Zones (continued)

	R-5						
	Single Family	Carriage	Two Family	Triple Attached	Town House	Multi Family	Nursing Care Facility
Minimum living space (SF)	1,200	1,000	1,000 per unit	1,000 per unit	1,000 per unit	600 per unit	400 per independent unit
Tract Standards							
Tract Area	7,000 SF	4,500 SF	4,500 SF	6,000 SF	8,000 SF	40,000 SF	80,000 SF
Maximum DUs Per Acre	6.2	12.4	12.4	16.3	8.0	14.0	18.0
Lot Standards							
Lot Area Per DU (SF)	7,000	2,900	2,900	2,000	2,000	3,000	N/A
Street Frontage (feet)	30	30	30	Interior 20 End 30	Interior 20 End 30	125	200
Lot Width at Front Bldg. Line (feet)	60	40	40	Interior 20 End 30	Interior 20 End 30	N/A	N/A
Setbacks (feet)							
Front Yard	15	15	15	15	15	25	25
Side Yard One	5	5	0	10	10	20	20
Sum of Both	10	10	10	N/A	N/A	40	40
Rear Yard	10	10	10	10	30	40	40
Maximum Building Height							
Stories	2 ½	2 ½	2 ½	2 ½	2 ½	4	4
Feet Maximum Building Coverage (% of Lot)	35	35	35	35	35	64	64
	70%	75%	75%	75%	75%	70%	70%
Minimum Lot Depth	90	85	85	85	90	90	90

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').

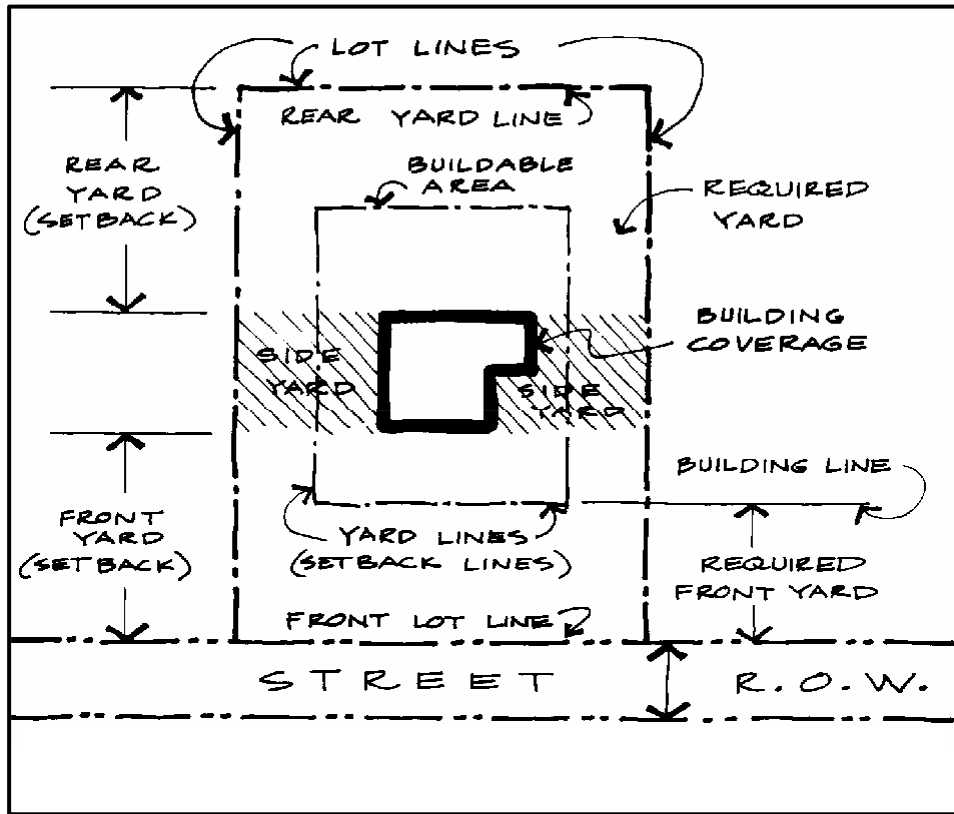


Figure 8-2. Setbacks, Building Coverage, Building Lines

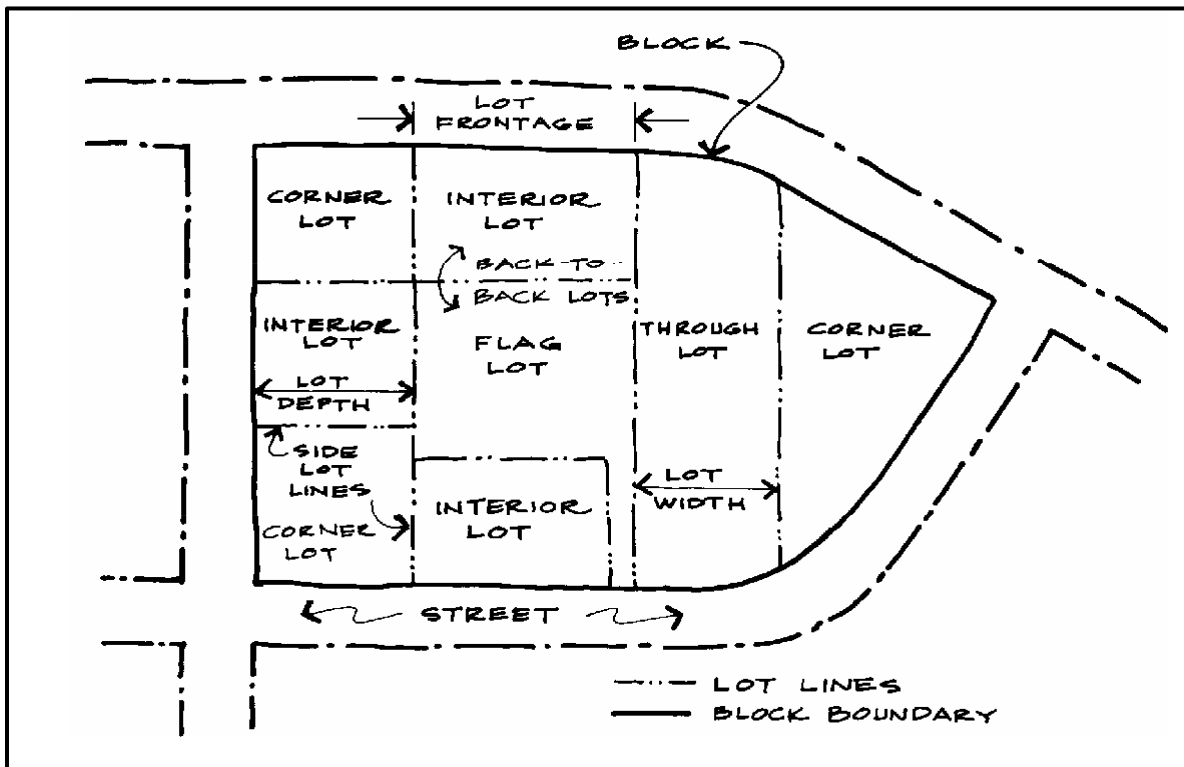


Figure 8-3. Types of Lots

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 and 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	5 feet or 10 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	5 feet or 10 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 and no more than	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 and generators	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 structures, pools; hot tubs	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 ensure 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 DeIDOT'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 DeIDOT standards required shall be to the most recent, revised, adopted DeIDOT 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 rights-of-way.
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 a 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.
3. Existing Wells Requiring Replacement – The replacement of an existing well, prior to the installation of either a Municipally-approved or Municipally-owned water supply and distribution system shall be exempt from the requirements of Article 11; Section 11-2; A-1 and A-2, above.
4. New and Existing Wells – Properties requiring the installation of new wells, without access to a Municipally-approved or Municipally owned water supply and distribution system shall be exempt from the requirements of Article 11; Section 11-2; A-1 and A-2. At such time as the installation of such water supply and distribution system becomes available, each lot and each principal use not previously connected shall be required to connect.

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

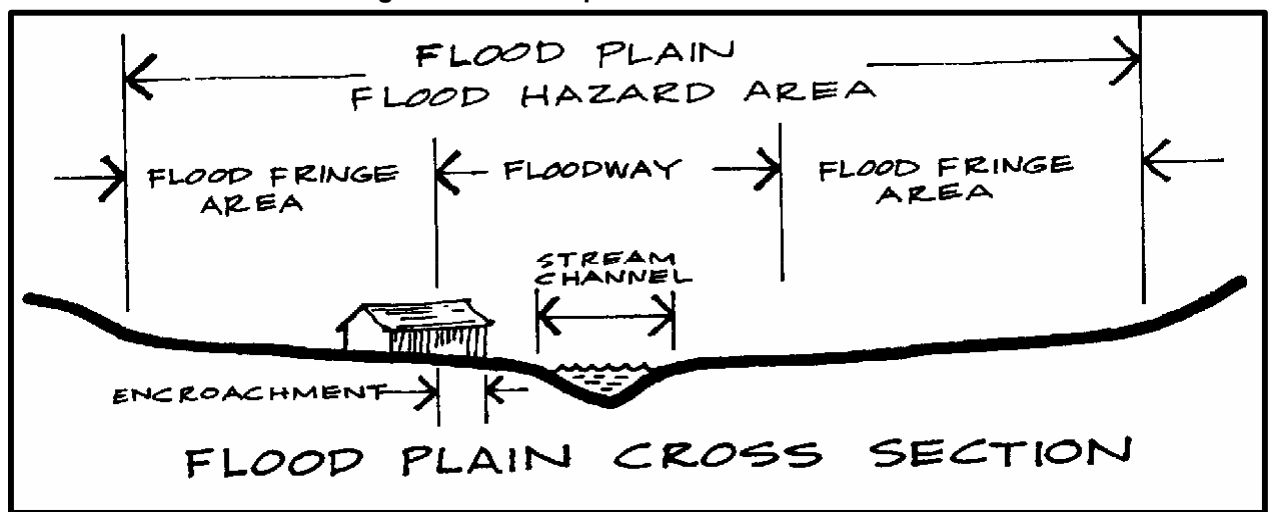
Stormwater. Drainage runoff from the surface of the land, resulting from precipitation or snow or ice melt.

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 whenever 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, Purposes & Intent

A Applicability

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

B Purposes

1. To create a legal framework for a comprehensive and balanced system of signs and other street graphics in the Town of Cheswold.
2. To encourage the effective use of signs as a means of easy pleasant communication in the Town of Cheswold.
3. To avoid visual clutter and competition among sign displays in their demand for public attention.
4. To promote the safety and convenience of pedestrians and motorists.
5. To minimize the adverse effects of signs on nearby public and private property.
6. To ensure the fair, equitable and non-discriminatory processes and procedures, as permitted by current Zoning assignments, for the placement of signs within the corporate limits of the Town of Cheswold.

C Intent

1. It is the intent of this Article to authorize the use of signs which are:
 - a. Compatible with their surroundings and their applicable zoning code
 - b. Appropriate to the activity that displays them
 - c. Expressive of the identity of individual activities and the community as a whole
2. It is the intent of this Article to acknowledge the understanding that it is important for the economic vitality of the community, as well as individual businesses and institutions, that they are clearly identified and their services are understood by the traveling public.
3. It is not the intent of this Article to violate any legality of free speech.

Section 13-2. GENERAL

All signs, which are regulated by this Article, shall conform to the following general guidelines:

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. **Basic Requirements:**
 - a. Refer to Table 13-1 for Sign measurements and placement requirements.
 - b. Near a Residence. Any sign on a lot or parcel within 150 feet of a residential use must be illuminate only during the hours the entity is open for public business.

C Legibility of Signs:

1. signs shall be legible under the circumstances in which they are primarily seen.
2. signs shall convey their message without being distracting or unsafe to motorists reading them.
3. the legibility of signs is related to:
 - a. the speed at which viewers are traveling while attempting to view the sign
 - b. the content and surroundings in which they are seen
 - c. the design, colors, and contrasts of the sign copy and sign face

D Materials and Craftmanship of Signs

1. Signs shall be durable, and consistent with the quality and permanence of the buildings and sites that they identify. Lettering shall be of a professional quality.

E Traffic Safety

1. A sign must not use color combinations that may be confused with a traffic sign or signal or be shaped to resemble a traffic sign or signal.

2. A sign must be erected not to direct or reflect light causing a harsh brilliance that may cause the observer to squint or shield the eyes from the light.

F **Movement**

1. A sign must not be set in motion or powered by the wind.
2. A sign must not have moving parts.

G **Shapes**

1. A sign must not be shaped like a traffic sign or traffic signal, or use wording similar to traffic signals or interfere with traffic safety.
2. A sign must not be shaped to resemble any human or traffic form but must be constructed as a geometric shape.

H **Illumination**

1. Any sign on a lot or parcel within 150 feet of a residential use must be illuminated only during the hours the entry is open for public business.
2. A sign must not be illuminated by flashing, revolving or intermittent lights, or lights that change intensity.
3. A sign must not be illuminated with a pattern or lighting combination that resembles a traffic signal.
4. 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.
5. A sign may be illuminated at night. Signs that are illuminated at night may not exceed a maximum luminance level of 750 cd/m² or Nits, regardless of the method of illumination.
6. Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel shall have lighting fixtures or luminaries that are fully shielded.
7. All illuminated signs must comply with the maximum luminance level of 750 cd/m² or Nits at least one-half hour before Apparent Sunset. All illuminated signs must comply with this maximum luminance level throughout the night, if the sign is energized, until Apparent Sunrise.

Section 13-3. GENERAL ADMINISTRATION

A. Permitting

1. All signs, except exempt signs, shall require a permit, (see *Ordinance 07-02-18-051 Fee Schedules*), as required per this Ordinance as identified in Table 13-1.
2. **NO sign**, advertising display or structure, poster or device shall be erected, moved, enlarged or reconstructed except in accordance with this Article.

B. Authority and Procedure

1. Administration, interpretation, and enforcement of the provisions of this Article shall be under the authority of the Land Use Administrator or Authorized Designee.
2. The Land Use Administrator or Authorized Designee shall evaluate signs and applications for sign permits for conformity with the design guidelines, standards, fees and specifications contained herein.
3. **Appeals** – appeals from the application or interpretation of any provision of this Article may be processed in accordance with the provisions of Article 4. Administrative Procedures – Section 4.8. Variances, Administrative Reviews and Appeals of the Land Use Ordinance.
4. **Administrative Waiver** – For existing developed properties where placement of the sign in accordance with the required setback would interfere with existing required parking, fire lane, or other site improvements, the Land Use Administrator or the Authorized Designee shall have the authority to waive the setback requirement/s.

Section 13-4. DEFINITIONS

Abandoned sign: A sign relating to or identifying a business or activity which has not been conducted on the premises for 90 days, or seven days after an election or event that the sign is advertising.

Adjacent to residential: Property lines which are situated within 200 feet of and which front on the same street as a parcel, or group of parcels containing residential uses; or that are zoned for residential uses, excluding residential uses and districts fronting on principal arterial roads.

Apparent sunrise: is the instant at which the upper edge of the Sun appears over the horizon in the morning.

Apparent sunset: is the instant at which the lowest edge of the Sun disappears over the horizon in the evening.

Architectural feature: An exterior component of the architecture of a building, which has a structural, functional or decorative purpose. This term shall apply to elements such as windows, doors, entry porticos, porte-cocheres, colonnades, cornices, porch columns, railings and balusters, band courses, quoins, water tables, exterior vents and louvers, moldings and other trim.

Awning sign: A wall sign that is a part of a fabric or other non-structural awning.

Banner: A light-weight fabric or similar non-rigid material which is mounted to a pole or structure, either enclosed in a frame or mounted to allow movement caused by the wind.

Canopy sign: A type of wall sign attached to a permanent, decorative porch or walkway cover, other than an awning, which is attached to a building or supported by columns, extending to the ground.

Changeable sign: A sign with the capability of content change by means of manual or remote input, includes the following types:

- (1) **Manually activated:** Changeable sign whose messages, copy or content can be changed manually on a display surface.
- (2) **Electrically activated:** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “Electronic message center.”

Clearance height: The distance from the ground to the bottom of the sign. The minimum clearance height shall be eight feet for a pylon sign, projecting sign, and/or any other sign that may impact pedestrian traffic.

Comprehensive signage plan: A plan for all signs associated with a unified campus or complex.

Conforming sign: Any sign that conforms to the provisions of this Article.

Construction sign: A sign which identifies architects, engineers, contractors and other individuals or firms involved with construction on the premises, the name of the building or development, the intended purpose of the building, and/or the expected completion date.

Directional sign: A freestanding sign whose primary function is to give aid to motorists or pedestrians in locating buildings or roads.

Electronic message center or sign (EMC): An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC. EMC’s typically use light emitting diodes (LEDs) as a lighting source.

Exclusion zone: The area adjacent to an existing or proposed freestanding sign within which no other freestanding sign of a similar sign type shall exist or be placed. The exclusion zone shall be measured outward in all directions from the extreme limits of the sign structure a prescribed distance.

Exempt sign: is a sign that is not required to comply with the size, location and standards of all other sections of this Article but must comply with the applicable provisions governing the Prohibited Signs section.

Flag: A rectangular or pennant shaped piece of fabric of flexible material of distinctive design that is used as a symbol (as of a nation or state), as a signaling device, or as a decoration and is attached to a flag pole.

Freestanding sign: A sign that is not attached to a building and is permanently attached to the ground by one or more supports. Freestanding signs include monument, pylon, post and panel, and post signs.

Frontage: For the purposes of this section, the term “frontage” refers to a parcel’s property line along a right-of-way, be it public or private, excluding alleys and service drives that are abutting residential properties. The parcel must be directly adjacent to the right-of-way for it to be considered to have frontage.

Historical or memorial sign: A sign or tablet attached to a building indicating the date of construction and/or the

names of the building, the principals involved in its construction, or the history of the building or the site.

Illuminance: The amount of light falling upon a real or imaginary surface, commonly called “light level” or “illumination”. Measured in foot candles (lumens/square foot) in the English system and lux (lumens/square meter) in the SI (metric) system.

Illuminated sign: A sign characterized by the use of artificial light, either projecting through its surface(s) internally or trans-illuminated; or reflecting off its surface(s).

Inflatable sign: A sign that is designed to be filled to form a three-dimensional shape which is designed to be anchored to the ground.

Luminance: The light that is emitted by or reflected from a surface. Measured in units of luminous intensity (candelas) per unit area (square meters in SI measurement units or square feet in English measurement units). Expressed in SI units as cd/m^2 , and in English units as foot lamberts. Sometimes also expressed as “nits”, a colloquial reference to SI Units. Can be measured by means of a luminance meter.

Lux: The SI (metric) unit for illuminance. One lux equals 0.093 foot candles.

Monument sign: A low freestanding sign that is affixed to a base that is equal to or wider than the sign itself. The height of the sign is to be measured from the finished grade to the top of the sign. (See figure 13.1.)

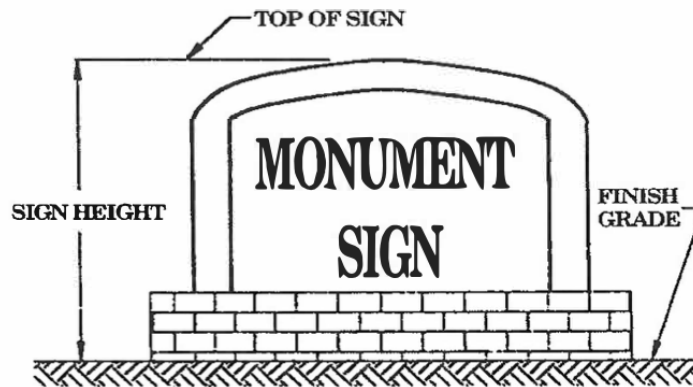


Figure 13-1: Monument Sign

Nit: A photometric unit of measurement referring to luminance. One nit is equal to one cd/m^2 .

Non-conforming sign: Any sign which does not conform to the regulations of this ordinance, including any signs granted by variance where it can be demonstrated that the original hardship on which the variance was based no longer exists. This definition also includes the structure upon which the sign is erected, or the mounting hardware in the case of wall mounted signs.

Off-premises sign (billboard, etc.): A permanent or temporary sign erected, maintained, or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of the property on which it is displayed. Also referenced as billboard or commercial outdoor advertising sign.

On-premises sign: A sign which advertises or directs attention to a business, commodity, or service conducted, offered, or sold on the premises, or directs attention to the business or activity conducted on the premises.

Political sign: A temporary sign intended to advance a political statement, cause, or candidate for office.

Portable sign: Any sign not permanently attached to the ground or other permanent structure, including but not limited to signs with attached wheels, A- or T- frame signs, and menu and sandwich board signs.

Post sign: A freestanding sign that is attached to the underside of a horizontal plane or arm and is supported by the horizontal plane. (See Figure 13.2.)

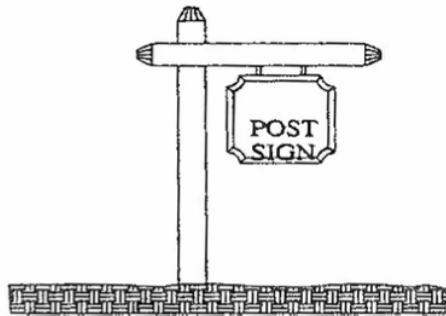


Figure 13.2: Post Sign

Post and panel sign: A freestanding sign that has a non-internally illuminated panel, not more than six inches in depth that is affixed to two posts and is not more than seven feet in total height. The sign shall not be higher than the supporting posts (See figure 13.3.)

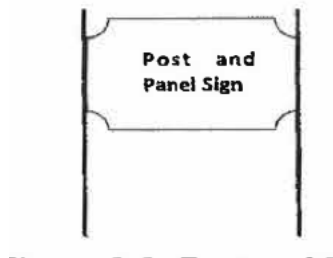


Figure 13.3: Post and Panel Sign

Prohibited sign: a sign that cannot be erected or maintained.

Projecting sign: A wall sign attached to a building with a bracket or other support projecting at a right angle from the building face. (See Figure 13.4.)

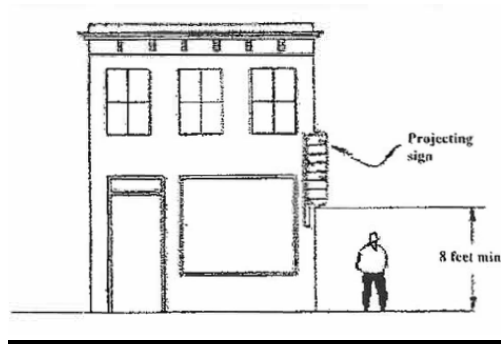


Figure 13.4: Projecting Sign

Public sign: A sign erected by or on behalf of a governmental body to post a legal notice, identify public property or public buildings, convey public information, and direct or regulate pedestrian or vehicular traffic.

Pylon sign: A tall freestanding sign that is held up by a pole or poles. The supporting structure must be equal to or narrower than the sign itself (See figure 13.5.)

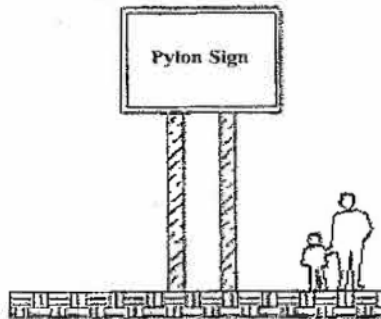


Figure 13.5: Pylon Sign

Race weekend sign: Any sign erected seven days prior to a sanctioned automobile race for the purpose of advertising products and services to race fans.

Real estate sign: A sign advertising the premises for sale, rent or lease.

Roof sign: A sign that is attached or painted on the roof, including porch roofs, dormer roofs, overhang roofs, canopy roofs or roofs of another architectural feature. Signs on the lower portion of a mansard or canopy are considered wall signs.

SI (International System of Units): The modern metric system of measurement.

Shared freestanding sign: A sign structure which is shared among multiple nonresidential properties or business interests for the purpose of displaying the name, logo type or other commercial message of multiple nonresidential occupants of said adjoining properties.

Sign: Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or

representations.

Sign area: is the entire portion of sign that can be enclosed within a single, continuous sign shape. 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.

Sign height: The height of a sign shall be the vertical distance from normal grade to the highest point of the sign. Any berm, filling or excavating solely for the purpose of locating the sign shall be computed as a part of the sign height.

Sign setback: The straight line distance measured in linear feet between the street right-of-way line and the nearest element of a sign.

Sight triangle: A **triangle** at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of obstructions such as hedges so that people in one road can see cars approaching on the other. (See Land Use Ordinance – Section 8. Dimensional and Density Standards – Section 8.2 Supplemental Dimensional and Density Standards – Section C. Visibility at Intersections within “Sight Triangle for specific requirements.

Temporary sign: A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, is considered a temporary sign.

Unified campuses and complexes: The term “unified campuses and complexes” means:

- (1) Any “shopping center” as the term is defined in the Land Use Ordinance.
- (2) Or, any group of three or more principal structures under common management and operation, located on one or more contiguous properties;
- (3) Or, any single commercial or institutional parcel which has more than 400 linear feet of frontage on a principal arterial roadway which is occupied by a conforming commercial or institutional use. Unified campuses and complexes include, but are not limited to, shopping centers; entertainment, educational, medical, governmental, or religious campuses; office complexes; and industrial parks.

Vehicle sign: A sign displaying a name or names, logo types, graphics, commercial messages or any combination thereof, which is attached to, painted on, or otherwise applied to a motor vehicle.

Wall area: For purposes of calculating wall area, the calculations shall include the height of the wall from ground level to the roofline (mansard roofs also count as wall area), multiplied by the width of the wall (including all architectural features).

Wall sign: Any sign, other than a projecting sign, which is attached to or painted on any wall of any building and projects from the plane of the wall less than 18 inches. A sign attached to the lower slope or face of a mansard roof, canopy, or awning shall be considered a wall sign for purposes of this ordinance. For purposes of this section only, a “wall” shall include any permanent architectural extension of a wall, including parapets,

even if such an extension projects beyond or above the enclosed portions of the building. Canopy, marquee, and awning signs are all types of wall signs. (See figure 13.6).



Figure 13.6: Wall Sign

Window sign: A sign affixed to the surface of a window with its message intended to be visible to the exterior environment.

Section 13-5. DESIGN REQUIREMENTS

a. Free Standing – A sign that is not attached to a building and is permanently attached to the ground by one or more supports.

1. Freestanding signs include monument, pylon, post and panel, and post signs.
2. Freestanding signs may be mounted directly to a base made of masonry or other materials.
3. Freestanding signs and attendant structures and bases shall be designed as an integral part of the site development and shall be coordinated and compatible with site grading, utility placements, landscaping and architectural elements.
4. Freestanding signs and associated landscaping shall be situated and maintained so as not to impair or block visibility of motorists and/or pedestrians traveling within the public street right-of-way or entering, exiting or crossing vehicular site entrances. No sign or landscaping in excess of three feet in height above the adjacent street grade, shall be erected, placed or maintained on any corner within the triangular area formed by intersecting right-of-way lines. Two sides of the triangular area shall be 20 feet in length and measured from the point of intersection of the right-of-way lines.
5. Freestanding signs shall be situated on the site and dimensioned so as not to substantially impair or block the visibility of adjacent buildings and/or existing signs.
6. All freestanding signs shall respect the exclusion zone. When a sign is not permitted within the exclusion zone, one additional and sign may be permitted in accordance with the wall sign regulations.

7. When the presence of an existing freestanding sign on an adjoining property precludes a property from placing a freestanding sign due to exclusion zone provisions, the adjoining property owners and/or business interests may share a single freestanding sign structure in accordance with the provisions of Sub-Section 13.10–Supplementary sign provisions, and b, below - Shared freestanding signs, of this section.
8. Location of monument signs and post and panel signs may be approved by the Land Use Administrator or Authorized Designee unless the requested sign location does not adhere to the requirements of this Article, at which time, the Planning Commission will decide the sign location, if it is part of a Site Development Plan Approval process.
9. If the requested monument sign, post and/or panel sign placement location is not a part of a Site Development plan process, then the applicant shall be required to seek location placement approval from the Board of Adjustment.

b. Shared Freestanding Signs – The permit application for a shared freestanding sign shall be accompanied by a binding legal agreement between the multiple adjoining property owners and/or businesses which describes the ownership and maintenance obligations for such shared sign.

c. Wall – A sign, other than a projecting sign, which is attached to any wall of any building and projects from the plane of the wall less than 18”.

1. A sign attached to the lower slope or face of a mansard roof, canopy, or awning shall be considered a wall sign for purposes of this Ordinance.
2. For purposes of this section only, a “wall” shall include any permanent architectural extension of a wall, including parapets, even if such extension projects beyond or above the enclosed portions of the building. Canopy, marquee, and awning signs are all types of wall signs. (See Figure 5-8).
3. When wall signs are planned, such signs shall be designed as an integral component of the building facade architectural composition.
4. Wall signs shall be limited in area and number in accordance with the provisions of Section 13.6, – Permitted Signs, of this section.
5. Wall signs shall be situated so as not to cover or overlap decorative architectural elements such as cornices, belt courses, and window and doorframe moldings.
6. In cases where only one wall sign is permitted because the lot has one frontage, the business may choose to locate the sign on any exterior wall of the building to afford the best possible visibility for the traveling public.
7. In cases where more than one wall sign is permitted, the Land Use Administrator or their Authorized Designee may allow the business to locate the additional wall sign on a different exterior wall of the building to afford the best possible visibility for the traveling public.
8. Applications to paint on any outside wall of any building must be submitted to the Planning Commission for review and recommendation for receive approval from the Town Council.

d. Permanent – 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.

e. Temporary – 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.

1. Temporary signs shall be removed within 14 days after the event that they are advertising has concluded.
2. Temporary signs for special events including inflatable signs with a surface area of less than 100 square feet and not more than 25 feet tall, may be erected on the premises of any establishment conducting a special event, provided that such signs do not exceed a total of two signs with a total of 100 square feet in sign area.
3. For grand openings, the maximum number, sign type, and allowable area may be waived by the Land Use Administrator or authorized designee. Permits for such signs are required and shall be accompanied by a fee as provided for in Building Permit Fee Schedule – PW 09-13-2010-005.
4. The Land Use Administrator or authorized designee may waive the time period, not to exceed an additional 30 days, if they determine that there are extenuating circumstances requiring further time for a temporary sign.

f. Changeable – is a sign which may be incorporated into a sign when the component of the sign which can be altered occupies less than 70 percent of the total area of that sign.

1. Changeable sign area shall be integrated into the sign face and shall be enclosed by a border or similar enclosure, so as, to form one sign panel.
2. Electronic message centers (EMC):
 1. The following EMC display features and functions are permitted: scrolling, fading and dissolving while transitioning between messages.
 2. EMCs shall have a minimum display time of eight seconds. The transition time between message and/or message frames is limited to one section.
 3. The following EMC display features and functions are prohibited: traveling, flashing, spinning, rotating, any other moving effects, and all dynamic frame effects or patterns of illusionary movement or simulated movement.

Section 13-6. ALLOWED SIGNS – PERMITS REQUIRED

See Table 13-1 for the identification and specifications for Permitted Signs

Section 13-7. ALLOWED SIGNS – PERMITS NOT REQUIRED

- A. Signs advertising the sale, lease, or rental of the premises upon which the sign is located, which sign shall not exceed six and one-fourth square feet in residential districts and 32 square feet in all other districts and shall comply with setback regulations. One such sign shall be permitted for each 200 linear feet of street frontage for the parcel.

- B. Signs designating the name and address of the occupants, hours of operation, security notices, and business policy statements and may not exceed four square feet.
- C. Signs denoting the architect, engineer, developer, or contractor placed on the premises where construction, repair, or renovation is in progress, which signs shall not exceed 32 square feet in area. No more than two signs of any type are permitted for any one property or building project. Signs shall be 50 feet from other signs on the site, except where it is not physically possible, then the signs shall be as far away from the other sign as much as possible.
- D. Directional signs limited in area to no more than five square feet per sign, plus one square foot for each additional tenant. A permit is required for directional signs identifying the entrance or exit of a site if over five square feet in sign area. The sign area for these larger directional signs shall not exceed eight square feet and shall not be over four feet in height.
- E. Public signs.
- F. Historical and memorial signs.
- G. Any sign located in an internal location on a site, campus, or complex and that cannot be seen from any public right-of-way or adjacent property.
- H. People wearing costumes of the logo or character associated with a company must be on the property of that business location, at all times.
- I. Political signs shall not be over six square feet in sign area in all Residential Zones and Districts and all other zoning districts shall comply with the size regulations in Sub-Section 13.6 Allowed Signs, of this section. All election signs shall be removed no later than seven days after the election.
- J. Signs noting a tenant, store, building, etc. is “coming soon”, which sign shall not exceed 32 square feet and only one sign is permitted on the site. The sign shall be 50 feet from other signs. The sign shall not be placed on the site for more than six months. After six months the sign shall be removed even if the tenant, store, building etc. has not opened or been constructed.
- K. Portable signs designed to be transported, including, but not limited to, A-frames, sandwich boards, and umbrellas. These types of signs shall not obstruct pedestrian or vehicular access. No more than one sign is permitted per business and shall not exceed four feet in height.
- L. Signs required by federal or state law or by a municipal authority.
- M. Signs carved into a building or raised in integral relief on a building.
- N. Flags on flag poles.
- O. Public art.
- P. “Open” signs for business not to exceed two per business.

Section 13-8. PROHIBITED SIGNS

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

- A. Signs which emit audible sound, vapor, smoke, odor, particles or gaseous matter.
- B. Any sign which competes for attention with, or may be mistaken for, traffic signals. Also, any sign that is determined by the city planner to constitute a traffic hazard by reason of size, location, content, color, or type of illumination.
- C. ***Off-premise sites*** – signs of any type (billboards, temporary signs, directional signs for developments, etc.), except for shared freestanding signs as provided in Sub-Section 13.5–Design Requirements, A.5., and F of this section.
- D. ***Inflatable signs***, - except as specifically permitted in Sub-Section 13.10–Supplementary Sign Provisions, Part 4 - Inflatable.
- E. ***Vehicle signs***, - including changeable signs, attached to or painted on an inoperable vehicle for the sole purpose of being used as signage; or attached to or painted on inoperable vehicles.
- F. ***Signs painted*** on or attached to trees, fence posts, natural features, or telephone or utility poles.
- G. ***Flashing or Rotating Signs*** - that give the appearance of movement, or are illuminated by flashing or intermittent lights, or lights of changing degrees or intensity, except as permitted under Sub-Section 13.5–Design Requirements, of this section.
- H. ***Window signs*** - covering more than 50 percent of a window or a door, or mounted above the first floor, except those permitted in Sub-Section 13.10–Supplementary Sign Provisions, Part 1 - Window.
- I. ***Pennants, Balloons, Streamers, Flags, etc.*** - except when permitted in Sub-Section 13.6–Signs Permitted in all districts and not requiring permits and in Sub-Section 13.10–Supplementary Sign Regulations.
- J. ***Obscene Signs*** – A obscene sign contains statements, words, or depictions that are construed to offend public morals or decency.
- K. ***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 the placement or function of an any traffic control device.
- L. ***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.

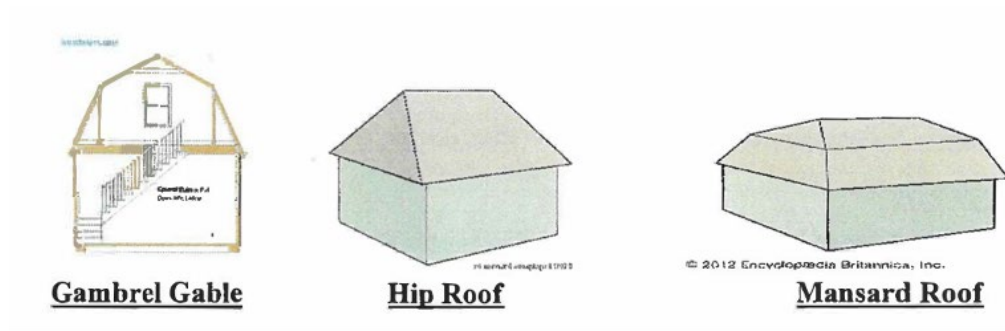


Figure 13.7: Roof Types

- M. **Unsafe Signs** – Signs are considered to be unsafe which meet the following standards:
1. A sign which creates a safety hazard due to structural or electrical conditions, or by reason of inadequate maintenance.
 2. A sign that becomes unsafe after erection must be repaired to meet safety requirements or removed within 10 days of notice of the unsafe condition.
- N. **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.
- N. **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 government agency or utility company in the performance of its official public duties.
- N. **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.
- N. **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 six, (6), months or more.

Section 13-9. EXEMPT SIGNS

The following is a list of signs and sign types that are exempt in the Town of Cheswold from the provisions of this Ordinance, unless they are expressly prohibited by Section 13.8 – Prohibited Signs:

1. **By Size** – Two, (2), 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 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:**

1. **Not Visible Outside of Property** – A sign not visible beyond the property lines of the property on which the sign is located.
2. **Official Duties of Government or Utilities** – A sign used by a government agency or entity or utility company which was erected by, or on the order of, a public office or utility official in the performance of official duties, such as controlling traffic; identifying streets; warning of danger or providing information.
3. **Required by Law** – A sign whose display is required by law or regulation.
4. **Flags on Flagpoles** – A flag displayed on a flagpole.
5. **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.
6. **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.
7. **Holidays** – A sign, including lightning in accordance with applicable electrical requirements displayed in connection with the observance of any holiday – **but** - it must be removed within 14 days following the end of the holiday.
8. **Adornments and Decorations** – Any adornments or seasonal decorations.

Section 13-10. SUPPLEMENTARY SIGN PROVISIONS

1. ***Window***

1. Three window signs shall be permitted as additional signage on walls fronting on the public right-of-way.
2. Window signs shall not cover more than 50 percent of any window exclusive of the window and/or door frame.
3. Windows principally viewed from drive aisles and parking lots and not prominently visible from the public right-of-way shall be exempt from restrictions on the number of signs and may be approved by the Town Council for a window coverage area greater than 50 percent when the business elects to have less window signage than permitted on the windows fronting on, or prominently visible from, the public right-of-way.
4. Window signs shall be permitted on windows on the first floor of a building only.
5. The Town Council may waive the provisions of this Sub-Section when it has been demonstrated that the proposed window signs are of a unique or superior quality and style, and are intended to compliment the architectural design of the building, or when the business elects to use less wall signs than permitted for the purpose of complimenting the architectural design of the building. Signs granted this waiver are not exempt from the requirement to obtain a sign permit.

2. *Historic District*

1. Upon the creation of a Historic Sign, all signs in that district must meet the standards laid out in the Design Standards and Guidelines for the State of Delaware Historic Preservation Society.
2. Any and all standards found elsewhere in this section may be waived as part of the architectural review approval when proposed signs are determined to contribute to or improve the historic context of the building.

3. *Gas Station*

1. *Canopy signs.*

- (1) Canopy sign height shall not exceed 30 feet.
- (2) Canopy sign copy shall be directed toward a public street.
- (3) Canopy sign area shall be limited to no greater than 20 percent of the area of the canopy face to which the sign is applied.

b. *Exempt signs.*

- (1) State or federal required price per gallon signage shall not count towards overall sign area for the site, unless they exceed 32 square feet in size.
- (2) Price per gallon signs not exceeding two square feet, located on the pump itself.

4. *Race/ Fire Fly Weekend*

During any seven-day period prior to the Saturday or Sunday that auto racing or Dover Downs outdoor concerts are occurring, temporary signs may be erected without a permit and with no restrictions on the number or size of the signs.

5. *Inflatable*

Permits for such signs are required and shall be accompanied by a fee as provided for in the Building Permit Fee Schedule PW 09-13-2010-005.

- a. Inflatable signs with a surface area equal to or less than 100 square feet and not more than 25 feet tall as permitted by Sub-Section 13.10. Supplementary Sign provisions D.1., of this section and shall meet the following requirements:
 - (1) The inflatable sign shall be setback from the edge of the right-of-way a minimum of 25 feet.
 - (2) The inflatable sign shall be securely anchored to the building or ground.
 - (3) Inflatable signs with a surface area over 100 square feet and not more than 25 feet tall are permitted only during grand opening events, community festivals, and during race weekends in accordance with Sub-Section 13.10 Supplementary Sign provisions, D.1. and D.2., of this section and shall meet the following requirements:

- A. The inflatable sign shall be setback from the edge of the right-of-way a minimum of 25 feet.
- B. A plot plan/survey is required showing the placement of the inflatable sign in respect to utility lines and traffic.
- C. The inflatable sign shall be securely anchored to the building or ground.

6. *Motor Vehicle Sales Lot*

- a. This Sub-Section allows motor vehicle sales lots to compensate for the likelihood to be mistaken for ordinary parking lots unless additional signs or other attention getting devices are placed in the sales area. It has also been demonstrated that these businesses tend to have smaller buildings relative to their land area diminishing their ability to effectively use wall signs.
- b. Banners are permitted on motor vehicle sales lots with a permit.
- c. Such banners may be permitted at a rate not to exceed one banner for every ten, (10), motor vehicle parking/storage spaces on the premises, and any such banner shall not be situated closer than 50 feet of any other banner on the premises.
- d. Parking spaces required for employees, customers, and service department uses shall not be counted to calculate the number of banners.
- e. The term "banner" does not include pennants, streamers, balloons, or other temporary or permanent signs.
- f. Banners shall not exceed a width of three feet.
- g. All banners must be securely attached to light standards, poles, or other substantial mounting hardware.
- h. Except for temporary signs permitted under the provisions of Sub-Section 13.5 – Design Requirements. All banners must be constructed of a permanent, weather resistant material.

Section 13-11. REAL ESTATE, DEVELOPMENT & CONSTRUCTION SIGNS

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.

1. 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; within 30 days of the completion of a land development project, or within 30 days of the termination of an individual's construction activity.

2. **Materials:**

Real estate, development and construction signs must be made of materials sufficiently durable for the time period that they are to be displayed.

Section 13-12. ADDITIONAL REQUIREMENTS by SIGN TYPE RESERVED

Section 13-13. CONDITION of SIGNS

A. Unsafe, Dilapidated and Illegal Signs

1. If it is determined by the Land Use Administrator or Authorized Designee that any sign is unsafe; presents a hazard to the safe operation and movement of motorized or non-motorized vehicular traffic, or to pedestrians; or is in a dilapidated condition; or is in a state of disrepair; or is otherwise in violation of any provision of this section; the owner of such sign shall be responsible for removal of such sign and supporting structure within 10 days of receipt of written notification by the Land Use Administrator or Authorized Designee.
2. In cases where signs are determined to be unsafe or present a hazard, the Land Use Administrator or Authorized Designee may order their removal in a shorter period of time. Responsibility for removal shall be in accordance with Sub-Section 13.12 and with Sub-Section C - Abandoned and Damaged signs.

B. Non-Conforming Signs

1. **Exclusions.** Non-conforming signs which are within ten percent of compliance of any height, area or location requirement and which conform to all other provisions of this Ordinance shall be considered legal signs for the purposes of these regulations, except as provided in Sub-Section 13.12–Non-conforming signs. (*See B.5, below.*)
2. **Removal or Compliance Required.** Non-conforming signs shall be removed from the premises or otherwise made to comply with these regulations in the following instances:
 - a. When there is a renovation to more than 75 percent of the exterior of the principal building measured in square feet of exterior wall surface area, or expansion of more than 20 percent of the floor area of the principal building measured in square feet of floor area on the premises on which such non-conforming signs are present, except that freestanding signs that are non-conforming as specified shall not be required to conform;
 - b. However, the degree of non-conformity shall not increase.

c. When, within any given two-year period, individual renovation projects involving less than 75 percent of the building exterior and/or individual building additions involving less than 20 percent of the floor area of the principal building on the premises would in aggregate exceed the 75 percent renovation and/or 20 percent expansion thresholds set forth herein, all such non-conforming signs shall be brought into conformity with these regulations or shall be removed from the premises.

d. Prior to the issuance of any permit for the placement of any additional signage on the property. **NO** new signs of any type shall be added to the property until the non-conforming sign is removed.

3. **Structures and Mounting Hardware** - which have been abandoned shall be removed from the premises or otherwise made to conform within one year from the date of abandonment.
4. **Re-Facing** - the sign in accordance with other requirements of this section does not absolve an owner from complying with this Sub-Section. In certain instances where it is evident that the reoccupation or reuse of a premises which contains an abandoned non-conforming sign is imminent, the Land Use Administrator or Authorized Designee may grant an extension of time within which to reestablish the use of such non-conforming sign.
5. **Removed Signs** - Any non-conforming sign which has been removed from the premises shall be considered discarded, and replacement shall constitute a new sign, and require new permits.
6. **Notification and Responsibility** - It shall be the responsibility of the owner of record of such property to cause the removal of such non-conforming signs in accordance with these provisions.
7. **Land Use Administrator Action**

When any of the above-listed conditions exist, the Land Use Administrator or Authorized Designee is authorized to issue written notice to the owner of record of such property, stating that such signs shall be removed within two calendar weeks of the date of receipt of the written notice.

a. In cases where signs are determined to be unsafe or present a hazard, the Land Use Administrator or Authorized Designee may order their removal in a shorter time period.

b. Failure to comply with these regulations, after due notice, shall be deemed a violation of this Section and is punishable in accordance with the provisions of Article 17. Violations and Penalties of this Land Use Ordinance.

c. In the event, that compliance is not achieved within the stated period, the Land Use Administrator or Authorized Designee may remove or cause to be removed from the premises any such signs in violation of this section.

d. All expenses incidental to such removal shall be charged to the owner of record of such property and shall constitute a lien upon such property.

C. Abandoned and Damaged Signs

1. ***Abandoned.*** All signs that conform to the current regulations which are deemed abandoned shall either be refaced with a blank or blacked out face or removed totally (including the supporting structure and/or mounting hardware) within 90 days of abandonment. Covering sign copy with tarps, paper, tape, cardboard or other non-permanent materials is not an acceptable method of re-facing.
2. ***Removal.*** Any conforming sign, which has been removed from the premises, shall be considered discarded, and replacement shall constitute a new sign, and require new permits.
3. ***Repair.*** All signs that are damaged (no longer working, cracked, missing pieces, etc.), shall be repaired within 30 days. A permit is not required, as long as the sign will look exactly the same as it did before the sign was damaged. If there are any changes (color, script, etc.) to the sign a new permit will be required.

D. Historic or Significant Sign - *Preservation of historic or significant signs.*

1. Signs that are at least 50 years old and considered historic or to have cultural/aesthetic significance shall be protected and preserved.
2. If these signs are legally non-conforming they shall maintain their non-conforming status indefinitely.
3. The determination of the historic or cultural/aesthetic significance of the sign shall be determined by the Historic District Commission, should one exist, or in their absence a majority vote of the Town Council of Cheswold.
4. The owner of the premises on which these signs reside shall maintain the signs to ensure they are in good condition.

Section 13-14. APPLICATION PROCESS

- A. **Sign Applications** shall be submitted to the Public Works Department and processed by the Code Official, acting as the Authorized Designee of the Land Use Administrator.
- B. The Code Official shall be responsible for processing the application in accordance with the instructions of this Article and determining fees; sign size; sign type; exclusions and requirements for conditional use and setback requirements as specified by Table 13-1.
- C. Should the Code Official determine that a Conditional Use situation applies to the sign application the applicant will be informed that a Conditional Use application must be submitted to the Land Use Administrator.
- D. The Land Use Administrator will process the Conditional Use application through the Planning Commission and Town Council. as required.

- E. Upon approval of the Conditional Use application the Land Use Administrator will inform the Code Official of the status of the application and the Officer will complete processing the sign application with the stipulations set forth by the Council, if there are any.
- F. Upon denial of the Conditional Use application the Land Use Administrator will inform the Code Official of the status of the application and the Officer will inform the applicant that the sign application cannot be approved, as submitted, and any fees paid will be returned to the applicant.

Section 13-15. SIGN PERMIT FEES

- A. Fees associated with the application for a Sign Permit shall be calculated as \$7.00 per square foot.
- B. This fee amount is applicable until such time as it may be revised by recommendation of the Planning Commission; Land Use Administrator or Town Treasurer and a majority vote approval by the Town Council.

**Section 13-16. SIGN TABLE-
MAXIMUM AREA and SET BACK REQUIREMENTS**

Maximum Area and Setback Requirements - All signs, including those which do not require a permit, shall be setback from the right-of-way in accordance with the provisions in the attached table, including maximum heights and sizes, unless otherwise specified in this Ordinance, and shall not interfere with aboveground or underground utilities.

Table 13.1 SIGN TABLE
Locations, Types, Measurements, Setbacks & Exclusions

Location/Subject of Sign	Sign Types Allowed	Maximum Area (sf)	Permit Required?	Setbacks	Maximum Height	Exclusion Area
Home Based Businesses (Residential Zones)	Post	32 sq. ft.	YES	10'	5'	20'
	Post and Panel	32 sq. ft.	YES	10'	5'	20'
	Pylon	32 sq. ft.	YES	10'	5'	20'
Businesses or Commercial Use [Neighborhood Zones (C-1)]	Monument	40 sq. ft.	YES	10'	8'	20'
	Post	32 sq. ft.	YES	10'	8'	20'
	Post and Panel	32 sq. ft.	YES	10'	8'	20'
	Pylon	32 sq. ft.	YES	10'	N/A	20'
	Wall	< = 15%*	YES	N/A	N/A	N/A
	Window	< = 15%*	YES	N/A	N/A	N/A
Businesses or Commercial Use [Highway Zones (C-2)]	Monument	40 sq. ft.	YES	10'**	10'	20'
	Post	32 sq. ft.	YES	10'**	30'	20'
	Post and Panel	32 sq. ft.	YES	10'**	30'	20'
	Pylon	32 sq. ft.	YES	10'**	30'	20'
	Wall	< = 15%*	YES	N/A	9'	20'
	Window	< = 15%*	YES	N/A	9'	N/A
Real Estate/Temporary (All Zones)	Freestanding	16 sq. ft.	NO	10'	4'	20'
Conditional Use (Residential Zones)	ALL	32 sq. ft.	YES	10'	4'	20'
Sub-division Entry (Residential; Business or Commercial)	Monument	40 sq. ft.	YES	10'	5'	10'
	Post	32 sq. ft.	YES	10'	5'	10'
	Post and Panel	32 sq. ft.	YES	10'	5'	10'
	Pylon	32 sq. ft.	YES	10'	7'	10'
	Wall	< = 10%*	YES	N/A	7'	10'
	Window	< = 10%*	YES	N/A	7'	N/A

NOTE:

- **Free Standing Signs** are:

- Post
- Post and Panel
- Pylon
- Monument

- **Residential Zones** are:

- **R-1** Old Town
- **R-2** 1 & 2 Family Dwellings
- **R-3** 1, 2 & 3 Family Dwellings & Townhouses
- **R-4** Manufactured Homes & Mobile Parks
- **R-5** Age-Defined Community

* =% of wall space where sign is to be installed

** =660' of closest right-of-way edge of U.S. Rte. 13

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.

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, unless a specific fine amount has been assessed in a separate approved Ordinance.

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 \$10.00 each day without the necessity of a separate citation or summons issued by the Town of Cheswold, unless a specific daily fine amount has been assessed in a separate approved Ordinance. Such fine shall not, however, require a separate citation or summons regardless of the amount fined.
3. Penalty. Penalties for violations shall apply as specified in this ordinance except where provided differently in other ordinances. The lesser penalty shall apply.

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.