

Ordinance # 2012-10-2012

AN ACT TO AMEND CHAPTER 9 OF THE CODE OF THE TOWN OF BETHEL, DELAWARE, RELATING TO LANDUSE, ZONING, SUBDIVISION, SITE PLANS AND DESIGN STANDARDS.

Be it enacted by the Town Council of the Town of Bethel:

Section 1. Amend the Town Code by deleting the "TOWN OF BETHEL, SUSSEX COUNTY, DELAWARE ZONING ORDINANCE" DATED 2009-10-06 Chapter 9 and substituting in lieu thereof the following:

“Town of Bethel, Delaware, Land Use Ordinance

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Chapter 9A - General Land Use Provisions

Article 1 - General

9A.1.0 – APPLICATION

The provisions of this Chapter 9A shall apply where applicable to each chapter within this Land Use Ordinance.

9A.1.2 – PURPOSE

The purpose of this Ordinance is to exercise the authority granted to the Town of Bethel by state Charter and state law, as amended, to promote the health, safety and well being of the Town and its citizens and to ensure and enhance the existing historic Town character through the regulation and restricting of the height, number of stories and size of buildings and other structures, percentage of a lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for small business, trade, industry, residence or other purposes, including:

A. To protect and provide for the public health, safety and general welfare of the Town and to preserve the historic character and beauty of Bethel.

B. To guide the future growth and development of the Town in accordance with the Comprehensive Plan and the Land Use Ordinance.

C. To provide for adequate light, air, noise reduction and privacy, to secure safety from fire, flood and other danger and to prevent overcrowding of the land and undue traffic congestion.

D. To protect the social and economic stability of all parts of the Town and encourage beneficial community development through planning for the design, timing and sequencing of development, orderly residential and non-residential growth, adequate public services and facilities, provision of open space and protection of natural, environmental and cultural resources.

E. To conserve the value of property throughout the Town, and to

minimize conflicts among the uses of land and buildings.

F. To protect the natural resources, waterways and topography of the Town.

G. To establish reasonable standards of design for subdivisions in order to further the orderly layout and compatible use of land and ensure proper legal descriptions for real property and proper monuments placed on site showing the boundaries thereof.

H. To ensure that public facilities and services are available concurrently or committed and scheduled in coordination with development and will have sufficient capacity to serve the project and that the community will not be required to bear more than its fair share of the cost of providing facilities and services by requiring the applicant to pay fees, furnish land, construct and dedicate public facilities or land areas and ensure that the developer and/or development provides its fair share of town-wide capital facilities needed by the project.

I. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table and to encourage the wise use and management of natural resources in order to preserve the integrity, stability, and beauty of the community and the value of land.

J. To provide for open space through creative and efficient design in strict accordance with the dimensional requirements and density control standards of this Ordinance.

K. To coordinate the subdivision ordinance with policies and procedures for annexation and the use of this Ordinance.

L. To consider and calculate the fiscal impact of new development on the costs of providing public facilities and services in the review and approval process.

9A.1.3 - INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance shall be construed broadly to promote the purposes for which it is adopted. It is not intended to interfere with, abrogate, or annul any other ordinance, rule or statute, or other provision of law except as provided in this ordinance. Where any provision of this ordinance imposes restrictions different from those imposed by any other provision of this ordinance or any other ordinance, rule or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

9A.1.4 - DEFINITIONS

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

ACRE - A measurement of land area equivalent to 43,560 square feet.

ADEQUATE PUBLIC FACILITIES - Facilities determined to be capable of supporting and servicing the physical area, density of development and designated requirements of the proposed subdivision as determined by the Town Council based upon specific levels of service.

ADJUSTED TRACT AREA (ATA) - The total area of an Applicant's site minus subareas occupied by wetlands, floodplains and any land with a slope of 15% or greater.

ADMINISTRATIVE OFFICIAL – An Administrative Official is an individual acting on behalf of the Town to implement Town Ordinances; it does not include Town Council, the Commission or the Board.

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

APPLICANT - The owner, developer, sub-divider of land proposed to be subdivided, zoned or developed or the owner's representatives who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises or any landowner or agent of a landowner who makes or causes to be made an application for approval of a subdivision plan.

BOARD - Board of Adjustment for the Town of Bethel.

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, ACCESSORY DETACHED - These uses may occur directly on or adjacent to any property line and may include any landscape, fencing or shed that is less than 400 square feet.

BUILDING, ACCESSORY FIXED - These uses must occur at least 10 feet from any property line and may include any structures such as sheds / garages with an area larger than 400 square feet and are permanently affixed to the lot through either industry accepted anchoring techniques or with a hardened stone or concrete foundation.

BUILDING, MAIN OR FIXED - 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. *Note: Any element of the structure that is required by State regulation to be at a variable height higher than the maximum buildable height as defined by this ordinance is exempted from the height restrictions identified in this ordinance, This may include such fixtures as historical building structures, chimneys, etc.*

BUILDING LINE - A line parallel to the street line touching that part of a building

closest to the street.

CALIPER – Term used to describe the measurement of diameter for smaller trees and shrubs taken at 6 inches from the root collar.

CLUSTERING – A development technique which concentrates buildings on a portion of the site to allow the remaining lands to be used for open space, recreation, or the preservation of cultural resources and the protection of the natural environment.

CODE ENFORCEMENT OFFICER - The Town of Bethel considers Sussex County and staff of relevant Sussex County Government Offices to be the Town's Code Enforcement Officer. This position is responsible for review of relevant construction practices, site plans and other related development activities.

COMBINING - Two or more lots of record that are combined by deed into one or more lots of record by deleting a boundary line.

COMMISSION – The Town of Bethel Planning and Zoning Commission.

COMPREHENSIVE PLAN – The Comprehensive Plan required for political subdivision by State law.

COUNCIL – The Bethel Town Council.

COUNTY – Sussex County, Delaware.

DENSITY – The number of residential dwelling units per acre, or amount of square footage of nonresidential and/or commercial development per acre.

DESIGNEE – Any person authorized by the Town of Bethel to represent its interest throughout the subdivision process. This may include the Code Enforcement Officer, Engineer, Town Staff, Town Solicitor, or any other designee. [See "PROFESSIONAL"].

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

DWELLING, SINGLE FAMILY DETACHED - A building containing 1 dwelling unit that is not attached to any other dwelling unit by any means and is surrounded by open space or yards.

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

FAMILY - means husband and wife; same sex couples who are related by civil union or same sex marriage; a man and woman or same sex couple cohabiting in a home in which there is a child of either or both; custodian and child; or any group of persons related by blood or marriage who are residing in 1 home under where 1 is related to the other by any of the following degrees of relationship:

- a. Mother;
- b. Father;
- c. Mother-in-law;
- d. Father-in-law;
- e. Brother;
- f. Sister;
- g. Brother-in-law;
- h. Sister-in-law;
- i. Son;
- j. Daughter;

- k. Son-in-law;
- l. Daughter-in-law;
- m. Grandfather;
- n. Grandmother;
- o. Grandson;
- p. Granddaughter;
- q. Stepfather;
- r. Stepmother;
- s. Stepson;
- t. Stepdaughter.

The relationships referred to in this definition include blood relationships without regard to legitimacy and relationships by adoption.

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

HISTORIC – Anything that the Council, Commission or Board determines is valuable because it has notable, significant or famous qualities that are rooted in the Town's past.

IMPERVIOUS SURFACE - A material through which water cannot pass, such as asphalt, brick, stone or concrete in streets, buildings, parking lots and sidewalks.

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.

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

LOT DEPTH - The average distance measured from the front lot line to the rear lot line.

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

LOT LINE - A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

LOT LINE, FRONT - The lot line separating a lot from a street right-of-way.

LOT LINE, REAR - The line opposite and most distant from the front lot line.

LOT LINE, SIDE - Any lot line other than a front or rear lot line.

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

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

MAJOR SUBDIVISION – Major Subdivisions are subject to the Subdivision Chapter 9C and are characterized by one or more of the following factors:

- 1) Six (6) or more lots would be created;
- 2) Are under the unified development control of a single development entity or two or more entities coordinated by written agreement;
- 3) Occur in two or more phases over a period of years;
- 4) Involve master plans which detail each phase of development within an overall master planning concept; and/or
- 5) Involve mixed-uses.

Major Subdivisions take the form of floating zones and overlay districts in

which the basic permitted uses are those allowed by the underlying zoning use districts. This development and zoning technique is voluntary and applied for by the development entity that controls the site.

MINOR SUBDIVISION - Minor Subdivisions are subject to the Subdivision Chapter 9C and are characterized by the creation of five (5) or fewer lots.

MIXED-USE DEVELOPMENT - Mixed-use development is characterized by combining two or more principal uses (such as retail, office, residential and civic/cultural/recreation) that are mutually supporting by a significant physical and functional integration of project components, including continuous roadway and pedestrian connections; development in conformity with a coherent plan that stipulates the type and scale of uses, permitted densities and related items.

NEO-TRADITIONAL DESIGN – A principle which uses a variation and clustering in densities, traditional street and block patterns, interior streets with smaller widths, more continuous and rectilinear street patterns, streetscapes with rows of facades and front porches close to the street, careful design of alleys and courtyards, continuity of sidewalks, walking trails, paths and other pedestrian-friendly ways, use of vertical curbs, planting of street trees in rows, traditional block configurations, use of town squares, plazas, commons and other open spaces, zero-lot line or small setbacks (as in older villages), transit stops and shelters, landscaped buffers, gateway entrances and treatment of development edges.

OPEN SPACE – Any parcel or area of land or water that provides light and air and is designed, dedicated or used for active or passive recreational, environmental, scenic farming, forestry and/or conservation purposes.

OWNER - The record owner or owners of land either in fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under the definition of Same Ownership as found within this ordinance.

PRELIMINARY IMPROVEMENT – Any activity performed by the owner or the agent to prepare the site for future development, this may include but is not limited to, survey, sampling, grading, tree clearing, ditching, etc.

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

PROFESSIONAL – Any engineer, lawyer, landscape architect, or any other licensed and or certified individual who may provide assistance or direction in the development of a given subdivision project. [SEE "DESIGNEE"]

PUBLIC IMPROVEMENT - Any drainage ditch, roadway, park, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, curbs, storm sewers, sanitary sewer facilities, water production, storage, treatment or distribution facilities, traffic control devices, street signs, any part or component thereof, or other facility.

RECORD PLAT - A map depicting the layout of a Major Subdivision, containing information as set forth in the Subdivision Chapter 9C and submitted for final approval.

RESUBDIVISION - Any change to an approved and/or recorded subdivision plan that affects any street, lot or facility layout on the plan or area reserved thereon for public use.

REZONING - Any change in the official zoning map for the Town of Bethel which will change the permitted use of land activities on the subject parcel.

RIGHT OF WAY – a public thoroughfare that affords the principle means of access, including vehicular or pedestrian, to abutting properties whether designated as an alley, street, lane or however otherwise designated.

RIPARIAN FOREST BUFFER - An area of trees and shrubs 35 to 300 feet wide located up gradient, adjacent, and parallel to the edge of a water feature.

SAME OWNERSHIP – Ownership by one or more individuals or entities or any

form of ownership of two or more contiguous lots, or ownership by any association of one or more lots.

SETBACK LINE - The line that is the required minimum distance from any lot line and that establishes the area within which the principal structure must be placed.

SITE PLAN - A plan for the subdivision, construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure.

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

STREET ACCESS - A street designed to provide vehicular access to abutting property and to discourage thru traffic.

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

STREET, CENTERLINE OF - The center line of any street shown on any official Municipal, County, or State records.

STREET, COLLECTOR - A street that collects traffic from local streets and connects with minor and major arterials.

STREET, DEAD-END - A street with a single common ingress and egress.

STREET, LINE - The line between a lot, tract, or parcel of land and an adjacent street.

STREET, PRIVATE - A street that has not been accepted by the Town or the State

STREETSCAPE – A design term referring to all of the elements that constitute the physical makeup of a street and that, as an entity, define its character, including paving, furniture, landscaping, trees, shrubs, flowers, building facades, porches,

awnings, marquees, signs, and lighting.

STRUCTURE – Any construction including buildings, sheds, barns, pools, decks, or solar panels or windmills located upon any parcel of land.

SUBDIVISION PLAN –The final plan, map or drawing, described in this ordinance, on which the applicant’s plan for a subdivision is presented to the Bethel Town Council for approval and which, if approved, may be submitted to the Sussex County Recorder of Deeds for recordation.

TOWN – The Town of Bethel, Sussex County, Delaware.

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.

UTILITIES – This includes but is not limited to, electricity, telephone, cable television, natural gas, private septic, central sewer systems, private wells, central water systems, storm-water facilities such as ponds and culverts, and tax ditches.

VARIANCE - Permission to depart from the literal requirements of this Ordinance.

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

Article 2 - Enforcement and Administration

9A.2.1 - ZONING ENFORCEMENT OFFICER

The Council shall appoint a zoning enforcement officer to enforce the

provisions of this ordinance. It shall be the duty of this person to review all documents related to future growth or development to ensure compliance with this zoning code. In addition, this person shall review all documents and rulings provided to and made by the Board to ensure continued compliance with this zoning code for the Town .

9A.2.2 – BUILDING PERMIT REQUIREMENT

New structures shall comply with the Town of Bethel Construction Ordinance.

9A.2.3 - APPLICATION FOR PERMIT

Applications for rezoning and subdivisions or building permits shall be prepared by the Applicant with required fees pursuant to the applicable Town ordinance.

9A.2.4 - REQUIREMENT FOR CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy shall be required for any of the following:

1. Occupancy of any new construction or change in the use of an existing structure;
2. Occupancy and use of land or change in land use of a parcel; or
3. Any non-conforming use .

This certificate will indicate the proposed use and its conformity with this zoning code.

9A.2.5 - ISSUANCE OF A CERTIFICATE OF OCCUPANCY

Certificates of Occupancy shall be granted to the Applicant upon completion of all proposed activities, proof of all required inspections and evaluations by the appointed code enforcement officer and state and county agencies and proof of payment of all fees and penalties (if required) as outlined in this ordinance. Certificates of Occupancy shall be filed with the Town Council within thirty (30) days of issuance.

9A.2.6 - FEES

Fees for permits and certificates for new construction and/or rezoning, subdivisions and building shall be paid in accordance with the current fee schedule defined and adopted by the Town of Bethel as part of this code and found at the end of this Land Use Ordinance as Table 2.

9A.2.7 - EXPIRATION OF PERMITS

Unless otherwise provided for in the Town of Bethel Ordinances, any permit obtained by the Applicant is valid for one year and may be renewed by a designee of the Council prior to its expiration for one additional year. Any property subject to a lien or found delinquent in payment of property taxes shall not be issued a permit.

9A.2.8 - REMEDIES

A. For any and every violation of the provisions of this ordinance, the owner, general agent or contractor or Applicant shall be subject to a civil penalty for each day of violation not to exceed two hundred fifty (\$250.00) per day for each violation.

B. For any violations of the provisions of this Ordinance, the Bethel Town Council may require the violation be corrected and/or cease and desist and may seek equitable relief.

Article 3 - Area Requirements

9A.3.0 - LOT AREA, WIDTH, DEPTH, AND HEIGHT REQUIREMENTS

Lot size and dimension and setback and height limitations shall be established as defined and adopted by the Town code and found at the end of this Land Use Ordinance as Table 3.

9A.3.1 - CONSTRUCTION STANDARDS

The Town recognizes the same building standards as Sussex County, Delaware which are the International Building Standards as the formal construction code for any new construction .

9A.3.2 - OFF-STREET PARKING

Not less than one (1) off-street parking space with proper access to either a

street or alley shall be located near or on the proposed residential lot for construction. Any commercial activity will be required to show one (1) parking space for each 200 square feet of commercial use. This parking requirement may be reviewed and waived by an exemption granted by the Board.

9A.3.3 - STREETS.

No lands shall be sub-divided unless direct access is provided to every lot from a public right of way.

9A.3.4 - IMPERVIOUS SURFACE.

Any residential lot shall be covered with no more than 40% total impervious surfaces. Any commercial lot shall be covered with no more than 40% total impervious surfaces.

Article 4 - Signs

9A.4.1 – REQUIREMENT

Any sign erected shall conform with the provisions of this Article and any other pertinent ordinance or regulations of the Town .

9A.4.2 - USE AND LOCATION REGULATIONS

The following types of signs, and no other shall be permitted:

1. Official traffic signs.
2. Professional, accessory use, home occupation or name signs indicating the name, profession or activity of the occupant of a dwelling, and trespassing signs, or signs indicating the private nature of a driveway or premises, provided that the area on one side of any such sign shall not exceed two (2) square feet.
3. Identification signs for schools, churches, hospitals, or similar institutions, and for clubs, lodges, estates or similar uses, provided that the area on one side of any such sign shall not exceed 6 square feet.
4. Political or Real Estate signs including signs advertising the sale or

rental of the premises, provided the area on one side of any sign shall not exceed 4 square feet; and signs indicating the locations and direction of premises in the process of development provided the area on one side of any such sign shall not exceed 6 square feet.

5. Temporary signs of contractors, architects, mechanics removed promptly upon completion of the work.

6. Business signs may be erected and maintained in conjunction with a commercial use, provided (a) that the aggregate area on one side of all such signs erected on one street frontage of any one street frontage of any one premises, shall not exceed 9 square feet, unless authorized as a special exception by the Board, and (b) such sign, is erected only on the premises on which the use, to which the sign relates, is conducted.

9A.4.3 - GENERAL RESTRICTIONS

The following restrictions shall apply to all permitted sign uses:

1. No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring the view.

2. No sign other than official traffic signs shall be erected within the lines of any street unless specifically authorized by other ordinances or regulations of the Town .

Article 5 - Nonconforming Uses

9A.5.0 - CONTINUATION

Any, lawful use of a building or land existing at the effective date of this Ordinance may be continued although such use does not conform to the provisions of this Ordinance.

9A.5.1 - EXTENSION

A nonconforming use of a building or land may be extended up to 25 percent of the area occupied by such use at the effective date of this Ordinance. Any extension or enlargement shall be immediately adjacent to the existing nonconforming use and shall conform to the area and height regulations of the

district in which it is situated.

9A.5.2 – CHANGES

A nonconforming use of a building or land may be changed to a nonconforming use of the same or more restricted classification. Whenever a nonconforming use of a building or land has been changed to a use of more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.

9A.5.3 RESTORATION

A nonconforming building wholly or partially destroyed by fire, explosion, flood, or other phenomenon, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that the building reconstructed shall be commenced within one (1) year from the date the building was destroyed or condemned .

9A.5.4 – ABANDONMENT

If a nonconforming use of a building or land is voluntarily abandoned and ceases for a continuous period of one (1) year or more, subsequent use of such building or land shall be in conformity with this Ordinance.

Article 6 - Planning and Zoning Commission

9A.6.0 - PLANNING AND ZONING COMMISSION

The Town hereby establishes a Planning and Zoning Commission that shall consist of a minimum of five (5) members and a maximum of nine (9). The Commission shall be an advisory commission, created pursuant to the Charter of the Town and state law for the purpose of advising Council on matters related to this ordinance, and any other matters referred to it by Town Council. The Commission's authority and procedures shall be governed by state law if not otherwise expressed by Town ordinance and not in contradiction to state law. The Town Council retains ultimate authority and control over land use decisions in the Town of Bethel.

Article 7 - Board of Adjustment

9A.7.0 - BOARD OF ADJUSTMENT

The Town hereby establishes a Board that shall consist of a minimum of three (3) members and a maximum of five (5) members. The Board of Adjustment's authority and procedures shall be governed by state law if not otherwise expressed by Town ordinance and not in contradiction to state law.

9A.7.1 Specifically, the Board may:

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

2. Hear and decide special exceptions to the terms of the ordinance upon which the Board is required to pass under such ordinance;

3. Authorize, in specific cases, such variance from any zoning ordinance, code or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinances, code or regulation will result in unnecessary hardship or exceptional practical difficulties to the owner of property so that the spirit of the ordinance, code or regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation or map; provided, however, that notwithstanding any provision of law to the contrary, the Council may, by ordinance, vest a designated Town official or department with authority to administratively grant a dimensional variance for existing conditions that do not exceed 1 foot of the required dimension restrictions without the application being considered by the Board, subject to the standards, procedures and conditions set forth in the ordinance granting such authority.

9A.7.2 BOARD ACTION

In exercising the powers provided section 9A.7.1 the Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

Chapter 9B – Zoning

Article 1 – Zoning District Map

9B.1.0 – ZONING MAP

The Town shall be divided into designated Zoning Districts established and depicted in the attached official Zoning Map for the Town of Bethel Land Use Ordinance as Table 1.

Article 2 – The Districts

9B.2.0 - AGRICULTURAL/ RESIDENTIAL (A/R)

The purpose of the Agricultural/Residential District is to maintain a buffer between the built portion of the Town and the potential for encroaching development.

1. Permitted Use. One single family home and all supportive structures approved by Council to support agricultural activities such as general minimum tillage of cropland, and other existing agricultural uses.
2. Non-Permitted Use. Activities to be considered industrial agricultural activities such as fertilizer storage or production operations, etc.; no keeping or growing of livestock or farm animals as defined by the Town of Bethel Ordinances; Chapter One, *Animals*.

9B.2.1 - RESIDENTIAL (R)

The purpose of the Residential District is to provide an area of the Town for maintenance and creation of single-family housing.

1. Permitted Use. Single-family residential structures, and those structures accessory to single-family residential structures.
2. Non-Permitted Use. Housing types such as mobile homes, condominiums, duplexes or town homes.

9B.2.2 - RESIDENTIAL/COMMERCIAL (R/C) [Repealed date: __10-2-2012]_____]

The purpose of the Residential/Commercial District is to provide flexibility to residents of the Town who maintain a single-family residential home, with the ability to utilize a portion of the home no greater than 600 square feet for uses directly tied to home based businesses.

1. Permitted Uses. All permitted uses in the "R" zoning district, as well as uses accessory to the primary residential use that can be directly tied to a desired business use defined within the Town's certified comprehensive land use plan that pose minimal impact to the environment.
2. Non-Permitted Use. Housing types such as mobile homes, condominiums, duplexes or town homes.

9B.2.3 - COMMERCIAL (C)

The purpose of the Commercial District is to maintain the existing commercial areas of the Town, as well as to consider additional vacant land in anticipation of appropriate future commercial development.

1. Permitted Use. All permitted uses within the Residential (R) District, non-residential, and non-institutional commercial uses, which may include those businesses under 2,500 square feet and are in keeping with the Town's comprehensive land use plan. These might include; small bakeries, boarding house (limited to the use of a bed and breakfast), small retail stores, bank, day care, lawyer, doctor, small markets, a single apartment in conjunction with a business.
2. Non-Permitted Use. Any commercial use over 2,500 square feet and those uses not in keeping with the Town Character as defined within the Town's certified Comprehensive Land Use Plan; these might include bars/pubs, adult bookstores, adult entertainment centers, chain stores, coin operated laundry centers, theaters, motels/hotels.

9B.2.4 - INSTITUTIONAL (I)

The purpose of the Institutional District is to maintain the existing public, non-commercial services of the Town.

1. Permitted Use. Any residential or non-residential, public or public/private group of a nonprofit nature, typically engaged in public service (e.g. houses of worship, nonprofit cultural centers, charitable organizations) that are exempt from the payment of property taxes to the Town.

Article 3 – Rezoning Procedure

9B.3.0- REZONING PROCEDURE

1. Applicants for rezoning, or zoning of land proposed for annexation,

shall submit a form to be provided by Council which includes the owner of the parcel, the tax identification and address of the parcel, the current zoning, the requested zoning and the required fees.

2. The Council shall refer properly submitted rezoning applications to the Commission who shall hold a public hearing on the application within 90 days of the referral.

3. The Commission shall recommend approval or denial of the application within 90 days of their public hearing and communicate that recommendation in writing with findings and reasons for the the recommendation to Town Council.

4. Within 90 days of the Commission's recommendation, Town Council shall hold a public hearing on the rezoning application.

5. Town Council shall approve or deny the rezoning application within 90 days of their public hearing.

9B.3.1 – REZONING BASIS

Decisions to rezone shall be based on satisfying the Purposes of this Ordinance as set forth in Section 9A.1.2, state law and the Town's certified Comprehensive Plan.

Article 4 Conditional Uses

9B.4.1 – Purpose and Criteria.

The purpose of this Article is to provide for certain uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare. Although these uses are not permitted uses in the zoning district, a conditional use may be adopted where the exercise of planning judgment on location and site plan recognizes the following criteria:

- A. The presence of adjoining or nearby similar uses;
- B. A need for the use in the area proposed;
- C. Minimal effect on neighboring properties;

D. Imposition of Sufficient safeguards, such as traffic control, parking, lighting, screening, hours of operation, number of occupants, and similar conditions, to protect property values and enjoyment.

9B.4.2 - Conditional uses may be applied for in all zoning districts.

9B.4.3 - Uses

The following uses may be permitted as conditional uses when approved in accordance with this chapter: residential, business, commercial or industrial uses when the purposes and criteria of this chapter are more fully met by issuing a conditional use.

9B.4.4 – Site Plan

A site plan complying with the requirements of 9C.2.0.C. shall accompany an application for approval of a conditional use under this article. Either plan shall include such information as may be required for a determination of the nature of the proposed use and its effect on the Comprehensive Plan, the neighborhood and surrounding properties.

9B.4.5 - Procedure

A conditional use application shall be considered by the same procedure provided for in 9B Article 3, herein.

9B.4.6 - Expiration

Approval of a conditional use under this article shall be valid for a period of one year after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said one-year period or unless an extension of time, not exceeding one year, is approved by the Town, and for good cause shown, before the expiration of said one-year period. A maximum of two one-year extensions may be granted.

9B.4.7 - Revocation

The Town may recommend revocation of a conditional use and may revoke a conditional use after notice to the property owner and the public and after public hearings for violation of conditions of approval or violation of the approved use.

9B.4.8 - Conditional uses shall run with the ownership of the land but shall expire upon the abandonment of the use as provided for in 9A.5.4, herein.

9B.4.9 - Fees

The conditional use application filing fee shall be the same as for Minor Subdivisions unless otherwise established by the Town Council. Any additional professional service costs associated with the project will be billed to the applicant, if required.

Chapter 9C – Subdivisions

ARTICLE 1 - GENERAL PROVISIONS

9C.1.1 - POLICY

A. It is declared to be the policy of the Town to regulate the subdivision of land projects in accordance with the Town of Bethel Charter and the laws of the State of Delaware.

B. Land to be subdivided and developed shall be of such character that it can be used safely for the purposes proposed by the applicant without danger to health or peril from fire, flood, or other menace, and land shall not be subdivided until adequate public facilities and improvements exist or are committed to future existence, and provision has been made for the creation of open space and recreational facilities, conservation of natural and cultural resources, drainage and runoff, water, sewerage, schools, parks, preservation of historic structures, pedestrian and vehicular circulation and related services and improvements.

C. The existing and proposed public improvements shall conform to standards contained in the Town Charter, Comprehensive Plan, Zoning Chapter 9B, and applicable building, maintenance and housing codes and environmental ordinances of the Town of Bethel.

9C.1.2 – PLANNING AND ZONING COMMISSION AUTHORITY

Pursuant to the Town of Bethel Charter and the laws of the State of

Delaware, the Town Council hereby authorizes the Town of Bethel Planning and Zoning Commission to review and recommend approval, approval with modifications or disapproval of applications for the Subdivision of land, including sketch, preliminary and final plans, in accordance with this ordinance. Final approval of final plans for subdivisions projects shall be by resolution of Council.

9C.1.3 – JURISDICTION

A. This ordinance applies to all Subdivision of land, future lands that are properly annexed into the Town located within the corporate limits of the Town .

B. No land may be subdivided unless a final plan is approved by the Council in accordance with this Subdivision Chapter 9C. Any such Subdivision not approved by the Council shall be null, void, and without effect.

C. Subdivisions that created new roads approved prior to the enactment of this ordinance shall comply with this ordinance if Preliminary Plans have not received final approval, within two years of enactment and Final Plans have not been substantially under construction within one year of enactment.

9C.1.4 – AMENDMENTS

For the purpose of protecting the public health, safety, and general welfare, the Commission may from time to time recommend amendments to this Ordinance which shall then be submitted to the Council for approval, approval with modification or disapproval by ordinance at a public meeting following public notice.

9C.1.5 – PUBLIC PURPOSE

Control of the subdivision and development of land and the attachment of reasonable conditions to land subdivision and development is an exercise of valid police power delegated by the State of Delaware to the Town of Bethel. The applicant has the duty to comply with reasonable conditions set forth

9C.1.7 – State Laws and Regulations

Application for all subdivision shall comply with all applicable State laws and regulations.

ARTICLE 2 - MINOR SUBDIVISIONS

9C.2.0 – REQUIREMENTS FOR MINOR SUBDIVISIONS

A. Application for approval of a Minor Subdivision, as defined in Chapter 9A, shall be made on forms available from the Town and shall be submitted to the Council at least 20 days prior to the next regular meeting of the Council. The Council meets on the first Tuesday of every month. Any such forms submitted less than 20 days prior to the next regular meeting of the Council may not be considered until the next following Council meeting. Applicants are advised that in accordance with Delaware State law and a Memorandum of Understanding between the Town of Bethel and the Delaware Office of State Planning, a State review may also be required.

B. The application shall be accompanied by the fees in the amount specified in Table 2 to this Ordinance.

C. The Applicant shall provide the Town with 12 copies of the plan of the proposed Minor Subdivision with 4 signed originals (“the Plan”). The plan shall clearly show lot lines, building locations, landscaped areas, pedestrian walks, easements, abutting streets and special site features of the types identified in §9C.4.0. The copies of the Plan shall be submitted to the Council at the time of application for approval.

D. The Town shall retain two copies of the Plan for public review, one copy for the Town designee, one copy for the Town Solicitor, and shall submit the application and remaining copies to the Commission within 10 business days of first review of the application by the Council.

E. The Commission shall make its recommendations to the Town Council upon the application within 90 days of its submission to the Commission by the Council, unless the Commission decides to extend the deadline for justified reasons. Within 5 business days of making its recommendation to the Council, the Commission shall notify the applicant in writing by certified mail, with return receipt requested, of the recommendations. If an application is deferred, then it will be reconsidered by the Commission at the next scheduled meeting after the reasons for the deferral are addressed in writing by the applicant. Once the Commission's recommendations have been forwarded to the Council for final approval, the Council shall have 90 days from making its decision to notify the applicant of its decision. Upon approval of the Plan by Council, the Council shall sign 3 copies of the approved plan. A copy of the approved signed copy shall be returned to the Applicant, sent to the Commission and retained by Council.

F. The Applicant shall record the signed copy of Minor Subdivision Plans with the Sussex County Recorder of Deeds within 90 days from the date of approval. The Council for good cause, upon request of the Applicant, may extend the time for recording the plan for a period not to exceed another 90 days. If the approved Minor Subdivision plan is not filed with the Sussex County Recorder of Deeds within a 90 day period or an extended period agreed upon with Council for stated reasons, the approval shall become null and void.

G. If the Council disapproves the Plan, a copy of the reasons for disapproval together with a copy of the plan shall be returned by certified mail, return receipt requested, to the applicant. The reasons for disapproval shall be remedied prior to resubmission of the application.

ARTICLE 3 - MAJOR SUBDIVISION SUBMISSION REQUIREMENTS

Major Subdivision Applicants are required to submit the following material.

9C.3.0 – SKETCH PLAN SUBMISSION

by the Council for the design, dedication, improvement, guarantee of improvements, and restrictive use of the land to conform to the physical and economic development of the Town and the health, safety, and general welfare of future lot owners in the subdivision and the community in general.

9C.1.6 – ENFORCEMENT, VIOLATIONS, AND PENALTIES

A. General

Notwithstanding any other Chapter in this Ordinance, it shall be the duty of the Town of Bethel to enforce these requirements.

1. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel, or contract to do the same, before a final plan of the subdivision has been approved by the Council in accordance with the provisions of this Ordinance and filed with the Sussex County Recorder of Deeds. If a subdivision is being developed in phases, the final plan requirements of this Ordinance shall apply. If an owner seeks to sell the whole parcel, or some portion of it, to another party, the final plan requirements shall also apply.

2. The subdivision of any parcel being considered for subdivision review is prohibited from sale, transfer, lease, or development prior to approval by Council.

3. No building permit shall be issued for the construction or alteration of any building or structure located on a lot or within a plan subdivided or sold developed in violation of the provisions of this ordinance, nor shall the Town have any obligation to issue certificates of occupancy or to extend utility services to any project created in violation of this ordinance.

B. Violations and Penalties.

Any person who violates this Ordinance shall be subject to 9A.2.8 of this Ordinance.

A. A Sketch Plan shall be submitted by the applicant for discussion to Council and then forwarded to the Commission and Town Designee at the Council's discretion. Sketch Plan submission is intended to help develop a better understanding of the property and its proposed development at an early stage, prior to detailed engineering. Applicants are advised that in accordance with 29 Del. C. § 9201 et seq., a Delaware Office of State Planning Coordination "PLUS" (Preliminary Land Use Service) Committee review will be required prior to the formal submission of a Sketch Plan as required by this Ordinance.

B. A Sketch Plan shall include the following information:

1. Name and address of the owner and, if different, the name and address of the applicant;
2. Name and address of the professional engineer, surveyor, planner, architect, landscape architect or site designer responsible for preparing the plan;
3. Graphic scale (not greater than 1" = 200 ft) showing general dimensions and a north arrow;
4. Tract boundaries sufficient to locate the tract on a map of the Town;
5. The zoning use affecting the development of the property and its immediate environs;
6. Streets and utilities on and adjacent to the tract, both existing and proposed;
7. The approximate location within 500 feet of the proposed project boundary line of any wetlands, approximate location of any endangered or threatened plant and animal, and forest lands, areas within the 100-year floodplain or areas with slopes greater than 15%;

8. Any archeological, historic, and topographical features (as identified by the State), including fields, pastures, meadows, wooded areas, soil classifications, ponds, ditches, and streams located on and within 500 feet of the tract;

9. A diagrammatic layout showing the concept for land development and conservation of open space;

10. A diagrammatic street and lot layout;

11. The proposed locations of buildings and structures, access, circulation and parking and other improvements;

12. A description of the proposed provision for utilities;

13. If annexation is proposed, a location map which shows the tract in relationship to current Town boundaries.

Section 9C.3.1 - PRELIMINARY PLAN SUBMISSION REQUIREMENTS

Preliminary Plans are required for Major Subdivisions. The Preliminary Plan shall provide the name, address, phone and email address of the owner of the property and the applicant, if different, plus the following:

A. Preliminary Plan Submission Requirements

The Preliminary Plan shall include the following elements, which may be combined:

1. A site map showing the project's location in relationship to the overall Town;

2. A site analysis describing existing resources;

3. A conservation and open space plan;

4. A streets and trails plan including all driveways and parking spaces;
5. A house and buildings plan with possible locations of all utilities;
6. A lots plan;
7. A preliminary improvements plan; and
8. Any supporting studies and reports.

B. Drafting Standards

1. The plan shall be drawn to a scale of as set forth in paragraph C.1. below;
2. Dimensions shall be in feet;
3. Each sheet shall be numbered and shall provide a legend indicating existing and proposed features including street, parking and driveway location and all existing structures and utilities;
4. All plans submitted shall be on sheets no larger than 34" x 44" or smaller than 17" x 22", and preferably on standard sized sheets 24" x 36";
5. One scaled, dimensioned and surveyed original, and 12 copies, 4 of which are signed copies, shall be provided to the Town.

C. Plan Requirements

The following plans and maps shall bear the name, signature, address, and telephone numbers of the professionals responsible for preparing the

plan or map.

1. Site Map

A map developed by the applicant that shows the location of the proposed subdivision in context to the Town . For sites under 100 acres in area, the site map shall be at a scale not less than 1"= 200' and shall show the relationship of the property to natural and man-made features within 500 feet of the site's boundary line. For sites of 100 acres or more, the scale shall be 1" = 400', and shall show the above relationships within 500 feet of the site's boundary line. The features that shall be shown on the Site Map include topography (from U.S.G.S. maps), streams, wetlands, ditches and creeks (from maps published by the U.S. Fish & Wildlife Service, the U.S.D.A. Natural Resources Conservation Service, DNREC or the Army Corps of Engineers) and their relations to Broad Creek, woodlands over one-half acre in area (from aerial photographs), public roads and marked and identified trails, public lands and land under conservation easements.

2. Site Analysis

A site analysis shall be prepared, including appropriate maps, plans, photos and text, to describe existing conditions, both on the proposed site and within 500 feet of the site's boundary line. The Town shall review the analysis for accuracy, conformity with ordinances and impact upon physical and cultural resources. Such analysis shall be prepared at the scale as set forth in paragraph C.1. above. Standard sized sheets are preferred. The following information shall be included:

a. A vertical aerial photograph enlarged to a scale of no less than 1 inch = 400 feet, with the site boundaries clearly marked;

b. Topography, determined by photogrammetric or interpolated from U.S.G.S. maps. The determination of contour intervals shall be made by the applicant's engineer. Slopes steeper than 15% shall be indicated;

c. The location and delineation of wetlands, 100-year floodplains, ponds, streams, ditches, drains, and drainage swales and predicted outfall to Broad Creek;

d. Vegetative cover conditions on the property according to cover type, including cultivated land, meadows, pastures, fields, hedgerows, woodlands and wetlands and trees with a caliper that measures 3 inches or greater;

e. Soil types, as mapped by the Sussex Conservation District in the published most current Sussex County, Delaware Soil Survey, and accompanying data for each soil type including its drainage characteristics, drainage potential and direction to Broad Creek and suitability for construction;

f. Watershed boundaries;

g. Significant man-made features including streets, driveways, farm roads, forest roads, structures and utilities;

h. Locations of historically and archeologically significant sites or structures, possible active earth sites and graves; and

i. Locations of trails that have been in public use.

3. Design Process

In preparing Preliminary Plans, applicants are required to follow a four-step design process to lay out proposed conservation and open space lands, streets and trails, house and building sites, lot lines and all utilities, as described below.

Step 1: Conservation and Open Space Lands

a. The percentage and acreage of conservation and open space land shall be calculated by the applicant and submitted as part of the Preliminary Plan in accordance with this Ordinance, and the Town's certified Comprehensive Plan.

b. The delineation of conservation and open space land shall reflect the principles of the Town's Comprehensive Plan and this Ordinance and shall include wetlands, floodplains, steep slopes (15% or greater), drainage ditches and, if applicable, riparian buffers to protect the edges of watercourses.

c. It shall be encouraged in subdivision plans for sites of 5 acres and larger to set aside some part of the Adjusted Tract Area as conservation and open space lands.

Step 2: Streets and Trails

A streets and trails plan shall be designed to provide vehicular, bicycle and pedestrian access to the subdivision or development. Crossing environmentally sensitive areas such as wetlands, steep slopes and floodplains is prohibited. Streets shall be designed to be consistent with the traditional streetscapes of the Town; to create new parks, squares, vistas and open spaces; to accomplish continuity with the Town's existing street system; to facilitate access to homes in other parts of the tract; to interconnect neighborhoods with each other and with Main Street.

Step 3: House and Other Building Sites

No house and other building sites shall be located on the proposed conservation and open space lands, streets and trails, views and topography, soil type and historical and cultural resources. Houses and other building sites shall be located a minimum of 50 feet from wetlands, watercourses and floodplain areas, but may be required to be wider depending on natural conditions.

Step 4: Lot Lines

Upon completion of the preceding steps, any lot lines should be drawn in keeping with the overall design and the use, density and dimensional requirements of this Ordinance.

4. Preliminary Improvements Plan – A Preliminary Improvements Plan shall be prepared for all major subdivision that require the development of improvements. The Improvements Plan shall include:

a. Proposed structures, any lot lines, lot areas, existing and proposed easements and rights-of-way and the boundaries of existing and proposed conservation and open space lands;

b. The location, alignment, width and tentative names of proposed streets and rights-of-way, including all street extensions or spurs and supporting drainage structures that are reasonably necessary to provide adequate connections with adjoining developed or undeveloped areas and preliminarily engineered profiles for proposed streets;

c. The location of proposed storm water management control practices which may include swales, drainage easements, tax ditches, ponds, and other drainage management facilities;

d. The proposed configuration of private wells and septic systems, community water system or public water system, including the conceptual layout of proposed distribution facilities including wells or other water sources, water mains, fire hydrants, treatment facilities or storage tanks. A description shall be provided as to how the water facilities may be integrated with a possible future public water system;

e. A limit-of-disturbance line of a minimum of 50 feet designed to protect existing vegetation;

f. The locations and dimensions of any proposed

open space, playgrounds, public buildings, public areas and other parcels of land proposed with appropriate landscape features to be dedicated or reserved for public use;

g. If land to be subdivided lies partly in or abuts unincorporated portions of Sussex County, the applicant shall submit information concerning the location and conceptual design of streets, the layout and size of lots and proposed improvements on the unincorporated land, if any. The design shall provide for a smooth and practicable transition between incorporated and unincorporated land. Documented evidence of discussions with Sussex County shall be submitted indicating street connections to Sussex County and/or State Roads designed in a grid like pattern.

h. If the applicant proposes to construct improvements in phases, a delineation of proposed sections and a schedule of proposed phases with deadlines for completion;

i. Typical street cross-section drawing(s) for all proposed streets shall be provided, including details describing pavement thickness, rights-of-way, utilities, sidewalks, crowning, curbing, signage, drainage and construction materials;

j. The approximate location of all utilities;

k. The approximate location of proposed shade trees and shrubs, plus locations of existing vegetation to be retained; and

l. A signature block for the Council shall be provided on the right-hand side of the Preliminary Improvements Plan.

5. Studies and Reports – If required by the Council, the Preliminary Plan submission shall include one or more of the following studies to assist in determining the impact of the project:

a. A sewer/septic and/or water/well engineering report;

- b. A groundwater protection and/or aquifer recharge study;
- c. An erosion and sedimentation control plan to Broad Creek;
- d. A traffic impact study; and
- e. Any other recommendation identified by the Commission and then required as part of the approval process by the Council.

D. Certification from the Town Solicitor

Prior to approval of the Preliminary Plan, the applicant shall submit to the Council a written certification from the Town Solicitor stating that the proposed layout of conservation and open space lands, streets and trails, houses and other buildings and lots and utilities complies with This Ordinances. This certification requirement provides the Council with assurance stating that, except for any waivers, variances or special exceptions noted in the certification, the proposed plan will be accomplished within the Town's current ordinances. The Solicitor's fee for this review will be paid by the applicant and will be billed at the Solicitor's normal hourly rate. The Solicitor's normal hourly rate for this review may be higher than the Solicitor's contractual rate with the Town.

Section 9C.3.2 - FINAL PLAN SUBMISSION REQUIREMENTS

The Final Plan shall conform to the Preliminary Plan, including any conditions specified by the Council in Preliminary Plan approval. The following requirements apply to Final Plans.

A. Drafting Standards

The drafting standards specified in Section 9C.3.1 B. shall

apply to the Final Plan.

B. Site Analysis

The Site Analysis specified in Section 9C.3.1.C.2 shall be modified as necessary in the proposed Final Plan, consistent with the conditions of Preliminary Plan approval.

C. Final Conservation and Open Space Plan

The Conservation and Open Space Plan shall be modified as necessary in the Final Plan consistent with the conditions of Preliminary Plan approval.

D. Final Improvements Construction Plan

Where public or private improvements other than monuments and street traffic signs are to be required for any major subdivision, a Final Improvements Construction Plan and Specifications prepared by a registered professional shall be filed setting forth the precise nature and location of the work and engineering data necessary for its completion. The Final Improvements Construction Plan and Specifications shall be subject to review and recommendations to Council developed by the Commission and approval by the Council as a prerequisite to approval of the Final Improvements and Construction Plan. The Final Improvements and Construction Plan shall conform to the following standards and contain the following information:

1. All required information relating to existing features and resources on the site.
2. A grading plan and detailed profile sheets for all proposed streets and trails within the tract.
3. Details and specifications for streetlights to be installed, together with the necessary contract for street light installation for approval by

the Council.

4. Final design of all water facilities, including location of private wells and septic systems or on- or off-site community water and or waste water systems, central water and or sewer service if public water supply is to be provided, including, but not limited to, wells, storage tanks, treatment facilities, pumps, mains, loops, valves, and hydrants.

5. Detailed designs for all other improvements as required by this ordinance.

E. Final Storm-water Management and Erosion Control Plan

Plans and specifications for storm-water management including drainage patterns within the site and to Broad Creek and treatment, erosion control and aquifer recharge, as required by the Delaware Department of Natural Resources and Environmental Control (DNREC) shall be provided.

F. Final Landscape Plan

A final Landscape Plan shall be provided indicating types, sizes greater than 2.5 inches in caliper and species of native trees and plants to be used for landscaping and their placement, installation, warranty and maintenance and replacement in accordance with the ANSI A-300 Standards. The plan shall warrant that invasive species will not be used in landscaping and that measures will be taken to eliminate invasive species if discovered during construction or thereafter.

G. Additional Approvals, Certificates and Documents

1. All offers of dedication of land or structures and all declarations, easements and covenants governing the reservation and maintenance of undedicated open space shall be in a form satisfactory to the Council.

2. A copy of such deed restrictions, easements, covenants

and declarations that are to be imposed upon the property. All such documents shall be in a form satisfactory to the Council.

ARTICLE 4 – MAJOR SUBDIVISION PROCESSING PROCEDURES

Section 9C.4.0 – MAJOR SUBDIVISION PROCESS

A. General

1. All preliminary and final major subdivision plans shall be referred to and reviewed, and subsequently approved, approved with conditions or disapproved, by the Council. Any application not processed as required herein shall be null, void, and of no effect.

2. Overview of Procedures: These following steps shall be taken. They may be combined at the discretion of the Council:

- a. Pre-Application Meeting;
- b. Site Analysis;
- c. Site Inspection;
- d. Sketch Plan Submission and Review;
- e. Preliminary Plan;
- f. Determination of Completeness;
- g. Preliminary Conservation and Open Space Plan;
- h. Private well and septic type and location;
- i. Review by the Town Designee; DelDOT; Sussex County Conservation District; DNREC; the Delaware State Fire Marshall and

the Local Volunteer Fire Company; and Local Law Enforcement;

j. Recommendation for Approval by the Commission.

k. Review by the State of Delaware Office of State Planning Coordination and its PLUS Committee is required;

l. Final Plan Preparation: Incorporation of all Preliminary Plan Approval Conditions and documentation of all other agency approvals, as applicable;

m. Final Plan, Submission: Determination of Completeness, Review, and Approval;

n. Council signatures; and

o. Recording of approved Final Plan with the Sussex County Recorder of Deeds.

B. Review

1. Major Subdivisions are subject to all review procedures specified in this article.

2. When an application includes only a portion of a landowner's tract, or when such portion is contiguous to an adjoining tract under separate ownership by the landowner, a sketch layout shall be included showing the future potential subdivision of the contiguous lands to ensure that future subdivision can be accomplished in accordance with current codes. Submission and review of this sketch layout shall not constitute approval of the future subdivision.

9C.4.1 – SKETCH PLAN REVIEW

A. Applicability

A sketch plan is required for subdivision a land area of 6 lots or greater. Sketch Plans shall be submitted to the Council and then forwarded to the Commission for review. Such plans are for the purpose of informal discussion prior to preparation of engineering drawings.

B. Pre-Application Meeting

A pre-application meeting is required between the applicant, the site designer, and the Commission to introduce the applicant to the Town's Comprehensive Plan and this Ordinance, discuss project objectives and schedule a site inspection, future meetings and submission deadlines.

C. Site Analysis

The purpose of the Site Analysis is to familiarize all parties with existing conditions. Applicants are required to provide the Site Analysis prior to the site inspection. It should provide a basis for the design to be shown on the Sketch Plan.

D. Site Inspection

After preparing the Site Analysis, a site inspection shall be conducted by the Town Designee. Applicants, their site designers, and the owner, if different from the applicant, are required to participate in the site inspection.

E. Sketch Plan Review

1. Copies of a diagrammatic Sketch Plan should be submitted to the Council for distribution to the Commission and Town Designee. This should occur at least 45 days prior to the Commission meeting at which the Sketch Plan is to be placed upon the Commission's agenda.

2. The Commission shall review the Sketch Plan in

accordance with the Comprehensive Plan and this Ordinance. Its review shall informally advise the applicant of the extent to which the proposed subdivision conforms to the goals and standards of Town Ordinances. The review shall include:

a. The location of all areas proposed for land disturbance (all structures and utilities) with respect to features of natural or cultural significance;

b. The goal for continuous streets constructed to State standards and maintained by the State which connect to existing streets, other proposed streets and potential future development on adjacent parcels; and

c. Proposed building density and impervious coverage, not to exceed existing impervious requirements.

9C.4.2 - PRELIMINARY PLAN DOCUMENTS

A. Preliminary Plan

1. The applicant shall complete and sign the application form provided by the Town and shall accompany such application form with the type and number of plans, documents and other submissions required and the appropriate filing fee(s) established by the Council. The applicant must identify the name, address and telephone number of the record holder of legal title to the land involved (if different from the applicant), the nature of the applicant's interest in the land (whether holder of legal title or otherwise), and the name, address, and telephone number of the agent, if any. No application shall be deemed filed unless all requirements have been met and all fees paid in full.

2. The deadlines for submission of Preliminary Plans shall be as follows; Applicants shall submit 12 copies, 4 of which are signed, of a Preliminary Plan to the Council at least 45 days prior to being placed on the

agenda for the next Council meeting. All applications shall be accompanied by full payment of required fees as required by the Council. The Town shall note the date of receipt of the application and fees deposit and shall forward copies to the Commission and regulatory agencies within 10 days.

3. The Council shall review the application for completeness and determine if all required materials have been submitted. If the application is not complete, the applicant shall be notified in writing within 90 days and the application shall be deemed withdrawn by the applicant. If no such notice is given to the applicant, then the review process shall proceed as follows. The date of review period begins at the time the completed application was received and heard by Town Council at a regularly scheduled meeting.

9C.4.3 - REVIEW OF PRELIMINARY PLAN

A. Commission Review

1. The Commission shall review the plan and any recommendations made by local, county, state and federal agencies, the general public or groups to determine conformity of the plan with Town Ordinances. The Commission shall conduct a public hearing on each Preliminary Plan application. Notice shall be provided 15 days prior to the public hearing date by posting within the Town in at least 2 conspicuous public places within the Town, a local paper with general circulation in Sussex County, and mailings to neighboring properties and electronic postings and emails (if applicable). The applicant will pay for the cost of advertising.

2. After such review, the Commission shall document its findings and mail a copy of said report to the applicant within 120 days from receipt of the application from Town Council.

3. If the Commission and the applicant agree that the review period shall be extended for a period of 30 or more days in order to provide sufficient time to submit required materials and complete the Commission review, a written agreement to this effect shall be signed in duplicate. The Commission and

the applicant will retain copies. Such an extension shall be entered into for specific reasons relating to the review process, including but not limited to providing sufficient time for the Commission to receive written comments or reports from the Town Designee or other involved agencies or to allow the applicant additional time to revise its application documents.

4. In any event, preliminary approval shall be void, if final approval is not granted within 18 months of preliminary approval or a one year extension is granted before the expiration

9C.4.4 - FINAL PLAN DOCUMENTS

A. No later than 1 year after approval of a Preliminary Plan, a Final Plan and all supplementary data shall be officially submitted to the Council. It shall conform to the Preliminary Plan as previously reviewed by the Council and the Commission and shall incorporate the conditions of the Preliminary Plan set by the Council. No application for Final Plan approval shall be deemed filed unless all requirements have been met and all fees paid in full.

B. Council may permit submission of the Final Plan in phases, each covering a reasonable portion of the entire development as shown on the approved Preliminary Plan; provided that the first Final Plan phase shall be submitted no later than 1 year after approval of the Preliminary Plan. Each subsequent phase shall be submitted within 6 months of approval of the previous phase, provided that all phases are submitted within 2 years after the date of Preliminary Plan approval.

C. Unless the filing deadline is waived or extended by the Council, failure to make timely submission of final plans shall render a Preliminary Plan void, and the applicant shall then be required to file a new application and fee for Preliminary Plan approval.

D. Official submission of the Final Plan to Council shall consist of:

1. 12 copies, 4 of which are signed, of the Final Plan and supporting data to enable proper distribution and review.

2. Copies of all applications made or notices provided to local, county, state and federal agencies as specified in this Ordinance, by or on behalf of the applicant, for permits, certifications, approvals or waivers required or sought for either subdivision as proposed in the Preliminary Plan or in the Final Plan.

3. The Final Plan and supporting data shall be submitted together with the fees and sureties required by the Council and Town Solicitor.

9C.4.5 – REVIEW OF FINAL PLAN

A. General

1. The Final Plan shall conform to the Preliminary Plan as previously reviewed and shall incorporate all modifications and revisions recommended by the Council.

2. The Final Plan and supporting data shall comply with the provisions of this Ordinance and the Comprehensive Plan. Failure to do so shall be cause for denying the plan or, in situations where only minor details are missing and when the official approval deadline allows, tabling plan approval pending corrections.

B. Planning Commission Review

1. The Commission will review the Final Plan and the recommendations of any reviewing entities to determine its conformity with all applicable requirements.

2. No recommendations shall be made by the Commission until the Town has received the written reports of agencies specified in 9C.4.0A.2(i) of this Ordinance, provided that if these reports are not received

within 60 days after transmittal of the Final Plan to these agencies, then the Commission may act without having received and considered such reports.

3. Once all requirements are met, and the Final Plan has been approved by the Commission, the Final Plan shall be placed on the agenda of the Council for final review.

C. Council Review

1. If the Final Plan is not recommended for approval by Council, the decision shall specify the defects found in the plan, shall describe the requirements that have not been met, and shall, in each case, cite the provisions of this Ordinance relied upon.

2. Unless the Council agrees in writing to extend the time period for decision, the Council shall render a decision on all Final Plans within the time limitations specified by this Ordinance.

3. The decision of the Council shall be in writing and shall be mailed to the applicant.

D. Conditions of Final Plan Approval by the Council

Approval of any Final Plan by the Council shall be subject to the following conditions:

1. The Applicant shall execute a Subdivision Agreement in a form acceptable to the Town Solicitor, in accordance with the requirements of this Ordinance, verifying that it agrees to construct all required improvements and common amenities, and further verifying that it guarantees completion and maintenance of these improvements and amenities through a performance bond or alternative surety instrument issued to the Town in a form acceptable to the Town Solicitor.

2. The Applicant agrees, if requested, to tender to the Town

such deeds, easements and bills of sale, in form acceptable to the Town Solicitor, sufficient to convey title, ownership and/or possession of all public improvements to the Town following completion, inspection and certification of such public improvements as satisfactory for acceptance by the Town, together with related Maintenance Bonds as provided in section 9C.7.1.B of this Ordinance. The Council may require that the applicant provide a title insurance policy from a duly licensed title insurance company certifying that the title to be conveyed is good and marketable, free of all liens and encumbrances, except utility easements, before the Town accepts any property.

3. Whenever the Applicant is providing conservation and open space land as part of the development, an easement in perpetuity restricting the open space from further subdivision or development shall be executed in favor of the Town.

4. The Applicant shall submit to the Council all required permits, guarantees of completion and approvals or waivers from agencies having jurisdiction over ancillary matters necessary to effect the subdivision.

5. The Applicant shall submit a Performance and Payment Bond, in a form acceptable to Council and the Town Solicitor, as a condition of Final Plan Approval no later than the issuance of a Subdivision Improvements Construction Permit by the Town. The Performance and Payment Bond shall ensure that all work is done and all contractors and materialmen have been paid in full for those improvements and shall be in the amount of 150% of the Town Designee's estimated cost of the improvements. Alternative forms of surety, as described in section 9C.7.1, may be accepted if acceptable to Council and the Town Solicitor.

6. The Applicant shall submit a Maintenance Bond, in a form acceptable to Council and the Town Solicitor, in an amount equal to 100% of the cost of the improvements being accepted by the Town to secure payment of any repairs or modifications that have to be made within 3 years of the date of Town acceptance.

**ARTICLE 5 -- GUARANTEES OF PAYMENT AND COMPLETION,
MAINTENANCE AND INSPECTIONS OF IMPROVEMENTS**

9C.7.0 – GENERAL PROCEDURE AND FEES

A. This Article 7 may apply to Minor Subdivisions, and Conditional Uses as approved by Town Council and shall apply to Major Subdivisions.

B. The Town or Designee shall provide for the inspection of required improvements during construction to ensure satisfactory completion by the Applicant. The Applicant shall be responsible for funding and construction of improvements necessitated by his project within the development project site as well as in areas outside of, but immediately abutting, the proposed site, including, but not limited to road modifications, signage, drainage, and sidewalks.

C. The applicant shall reimburse the Town monthly, for its actual costs to employ qualified, professional, licensed Designee(s) to conduct all activities necessary for the applicant to obtain final approval of the project, plus 25% to cover the Town's administrative costs in working with its Designee(s). Payment of bills are due within 30 days and will bear interest at the rate of 1.00% per month.

D. No improvements shall be constructed until Final Plan Approval has been received and the Plan recorded, if applicable. For Major Subdivisions, the Town shall issue a Major Subdivision Construction Permit for the construction of the improvements required under the approved plan.

E. No building permits or certificates of occupancy shall be issued until all fees are paid. If the Town Designee finds upon inspection that one or more of the required improvements have not been constructed in accordance with the Town's construction standards and specifications, the applicant shall be responsible for properly remedying deficiencies and completing the improvements. The Town Designee shall give notice to the applicant of defects and violations found during inspections. The Applicant shall cure all defects and violations within 90 days. If

the applicant does not cure the defects or violations to the Council's satisfaction within 90 days, a stop work order shall be issued.

9C.7.1 – GUARANTEES OF PAYMENT AND COMPLETION AND MAINTENANCE

A. Purpose

Guarantees of Payment and Completion and Maintenance shall be provided by the Applicant to ensure payment for, proper completion, installation and maintenance of required street, utility and other improvements. The nature and duration of the guarantee shall be structured by the Town to achieve this goal.

B. Performance, Payment and Maintenance Bonds

1. As a condition of final plan approval, and prior to the issuance by the Town of a Minor Subdivision Plan or Major Subdivision Construction Permit, the Town may require and shall accept in accordance with the standards adopted by ordinance the following bonds:

(a) The provision of a Performance and Payment Bond, in a form acceptable to the Town and Town Solicitor, in an amount of no less than 150% of the Town Designee's estimated cost of installation for improvements is a condition of Final Plan Approval.

(b) Provision for a Maintenance Bond, in a form acceptable to the Town and Town Solicitor, for a period not to exceed 3 years after acceptance of the improvement by the Town, in an amount not to exceed 100% of the cost of the improvement. In the event that other governmental agencies or public utilities will own the utilities to be installed, or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantees, as the case may be, shall be required by the Town for such utilities or improvements. The Town shall be provided with a certified copy of all such performance or maintenance bonds.

2. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Town.

3. The Town and its Designee must be notified monthly of construction activity at each stage of construction. The Town and its Designee shall have the opportunity to inspect the streets, storm water, and drainage systems at each stage of construction, and to inspect utility pipes and lines before trenches are backfilled.

4. The Town shall either approve, approve with conditions, or disapprove the improvements on the basis of the report of the Town Designee, and shall notify the applicant in writing, by certified mail, of the contents of the report and the action not later than 60 days after receipt of the notice from the applicant of the completion of the improvements. The Applicant is required to notify the Town, in writing, if it has not received the Town's decision within 60 days.

9C.7.2 – RELEASE OR REDUCTION OF SECURITY

A. Certificate of Satisfactory Completion. The Council will not accept dedication of required improvements, nor release nor reduce the amount of any security posted by the applicant until:

1. The Town Designee has submitted a certificate stating that all required improvements have been satisfactorily completed;;

2. The Town Designee has certified, through submission of a detailed "as-built" survey plan of the subdivision, indicating location, dimensions, materials, and other information required by the Town, that the design, layout, line and grade and construction of all public improvements is in accordance with construction plans for the subdivision; and

3. A Release of Mechanic's Liens has been furnished to and approved by the Town Solicitor indicating that the improvements have been completed, are ready for dedication to the Town, and are free and clear of any and all liens and encumbrances.

B. Upon such approval and recommendation by the Commission, Town Designee, and the Town Solicitor, the Council shall thereafter accept the improvements for dedication in accordance with the established procedure.

C. All improvements shall be dedicated and accepted by the Town (except all roads and streets) in accordance with deeds of dedication properly signed by the legal owner, notarized and dated on or after the named improvement is completed as signified, in writing. Acceptance shall be by proper dating, signing by the President and Secretary of the Council and notarizing of the signatures on the acceptance pages of the deed of dedication. The completed deed of dedication shall be recorded by the Town in the Office of the Sussex County Recorder of Deeds within 90 days.

D. Release of Security. Upon actual acceptance of the dedication of public improvements, the security bond shall be released.

9C.7.3 – MAINTENANCE AND IMPROVEMENTS

The applicant shall be required to maintain all required public improvements on the individual subdivided lots and to provide for snow removal and repairs on streets, if required by the Town, until acceptance of the improvements by Council. If there are any certificates of occupancy on a street not dedicated to the Town or the State of Delaware, the Town may on 12 hours notice plow the street or effect emergency repairs and charge those costs to the applicant.

9C.7.4 – DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS

A. The Town may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite to the interests of the public health, safety, and

general welfare, or are inappropriate because of the inadequacy or non-existence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record by Council and the reasons for the deferral or waiver also shall be expressly made on the record.

B. Whenever it is deemed necessary by the Town to defer the construction of any improvement required under this ordinance because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or other reasons, the applicant shall pay his share of the costs of the future improvements to the Town prior to approval of the subdivision plan by Council, or the applicant may execute a separate subdivision improvement agreement secured by a performance bond or guaranteeing completion of the deferred improvements upon demand of the Town.

9C.7.5 – ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

A. The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of an occupancy permit. The applicant shall, at the time of the offer of dedication, submit a performance bond to the Town in an amount to be determined by the Town for the necessary final improvement of the street.

B. No building permit shall be issued for the final 20% of lots in a subdivision, or if 20% be less than four 4 lots, for the final four 4 lots of a subdivision, until all public improvements required by the Town and State for the subdivision have been fully completed and the Town and the State have accepted the applicant's offer(s) to dedicate the improvements.

9C.7.6 – SUN-SETTING PROVISIONS; SUBSTANTIAL COMPLETION

A. Any major subdivision approval granted by the Town subsequent to the effective date of this Subdivision Ordinance shall be rendered null and void if substantial construction is not commenced within one year, commencing upon the date of recordation of the approved Final Plan. Recordation

of the Final Plan as approved by the Town must occur within 6 months after the date of Final Plan approval. For subdivisions with less than 100 units, construction must be substantially complete within 3 years after recordation. For subdivisions with more than 100 units, construction must be substantially complete within 7 years after recordation.

B. For purposes of this section, the term "substantially complete" shall mean that all necessary permits required for construction have been obtained, and the construction of public improvements, sale of lots and construction of residential dwelling units and non-residential space has been at least 90% completed, as determined by inspection by the Town Designee and review by the Town.

C. Council may grant extensions of time upon request of interested parties, for good cause shown, from the effective date of any of the deadlines described in section 9C.7.6.A of this Ordinance, and to otherwise prevent the sun-setting of major subdivision approvals.

9C.7.7 – REVOCATION AND STOP WORK ORDERS

At any time when the Town Designee finds that construction is being undertaken in violation of any provision of this Ordinance, the Town Designee may issue a stop-work order and revoke the final plan approval under which the work is being performed. Prior to issuing a stop-work order or revoking a building permit, the Town Designee shall provide written notice of the violation to the property owner. The written notice will specify the section of this Ordinance which has been violated. Appeal from the decision of the Town Designee shall be to Council and if necessary to Delaware Superior Court pursuant to 22 Del. C. §328.

ARTICLE 6 – FEES

Fees for activities described in this Ordinance are set forth in the Table 2 of this Ordinance, which is incorporated herein by reference to the extent that it is not inconsistent with the terms of this ordinance.

ARTICLE 7 – RE-SUBDIVISION AND PLAN MODIFICATION

9C.9.0 – RE-SUBDIVISION OF LAND

A. Procedure for Re-subdivision. Whenever an applicant desires to re-subdivide an already approved final subdivision plan, the applicant shall first obtain approval for the re-subdivision or plan modification by the same procedures prescribed for the subdivision of land.

B. Re-subdivision includes:

1. Any change in any street layout or any other public improvement;
2. Any change in any lot line;
3. Any change in the amount of land reserved for public use or the common use of lot owners; and
4. Any change in any easements shown on the approved plan.

C. Council, after an application for re-subdivision that includes an express request for waiver, shall publish notice of the application in a local newspaper of general circulation and shall provide personal notice to property owners in the subdivision. The applicant shall bear the cost of advertising. The notice shall include:

1. The name and legal description of the subdivision affected by the application;
2. The proposed changes in the final subdivision plan;
3. The place and time at which the application and any

accompanying documents may be reviewed by the public;

4. The place and time at which written comments on the proposed re-subdivision may be submitted by the public; and

5. The place and time of the public hearing at which the Town may consider whether to approve, conditionally approve, or disapprove the proposed re-subdivision. The Town, after the public hearing, may waive the requirement that the re-subdivision be accomplished by the same procedures prescribed in section 9C.9.0 (A) and act on the proposed subdivision at the conclusion of the public hearing. No sooner than 30 days and no later than 60 days after notice is published, the Town shall consider the application for re-subdivision at a public hearing and may approve, conditionally approve or disapprove the application.

D. Procedure for Subdivisions When Future Re-subdivision is indicated. Whenever land is subdivided and the subdivision plan shows one or more lots containing more than 1 acre of land and there is reason to believe that such lots eventually will be re-subdivided, the Town may require that the applicant allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plan approval.

9C.9.1 – PLAN VACATION

A. Owner-Initiated Plan Vacation. The owner or owners of lots in any approved subdivision, including the applicant, may petition the Town to vacate the plan with respect to their properties. The petition shall be filed in triplicate on forms provided by the Town and its solicitor at least 45 days prior to being placed on the Council agenda.

1. Notice and Hearing. The Council shall publish notice in a local newspaper of general circulation in Sussex County and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing

on the vacation petition. The public hearing shall be no sooner than 30 and no later than 60 days after such notice is given.

2. Criteria. The Council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event shall the Town approve a petition for vacation if it will materially injure the rights of any non-consenting property owner or any public rights in public improvements unless expressly agreed to by the Council.

3. Recordation of Revised Plan. Upon approval of any petition for vacation, the Town shall direct the petitioners to prepare a Revised Final Subdivision Plan in accordance with this ordinance. The Revised Final Subdivision Plan may be recorded only after having been signed by Council and the Town Solicitor.

B. Applicant Initiated Plan Vacation.

When the applicant of the subdivision, or its successor, owns all of the lots in the subdivision, the applicant or successor may petition for vacation of the subdivision plan and the petition may be approved, conditionally approved, or disapproved at a regular public meeting of the Council subject to the criteria in section 9C.4.5.C. The petition shall be made in triplicate on forms provided by the Town at least 45 days prior to being placed upon the Council's agenda. Regardless of the Council's action on the petition, the applicant or its successor will have no right to a refund of any monies, fees, or charges paid to the Town nor to the return of any property or consideration dedicated or delivered to the Town except as may have previously been agreed to by the Council and the applicant.

C. Government-Initiated Plan Vacation.

1. General Conditions. The Council may, on its own initiative, vacate the plan of an approved subdivision when:

a. No lots within the approved subdivision have been

sold within 2 years from the date that the plan was signed by Council;

b. The plan has been of record for more than 5 years and the Council determines that the further sale of lots within the subdivision presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the applicant or its successor; or

c. If the applicant has breached a Major Division agreement, any plan vacation shall apply only to lots owned by the applicant or its successor.

2. Procedure. Upon any motion of the Council to vacate the plan of any previously approved subdivision, in whole or in part, the Council shall publish notice in a newspaper of general circulation in Sussex County and provide personal notice to all property owners within the subdivision. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plan. The public hearing shall be no sooner than 30 and no later than 60 days from the date of the published and personal notice.

3. Recordation of Notice. If the Town adopts a resolution vacating a plan in whole, it shall record a copy of the resolution with the Sussex County Recorder of Deeds within 90 days. If the Town adopts a resolution vacating a plan in part, it shall record a copy of the resolution as described above and cause a Revised Final Subdivision Plan to be recorded which shows that portion of the original subdivision plan that has been vacated and that portion that has not been vacated.

Table 1 Zoning District Map

Town of Bethel Zoning

- Town Boundary
- Residential
- Commercial
- Institutional
- Agricultural/Residential
- Sussex

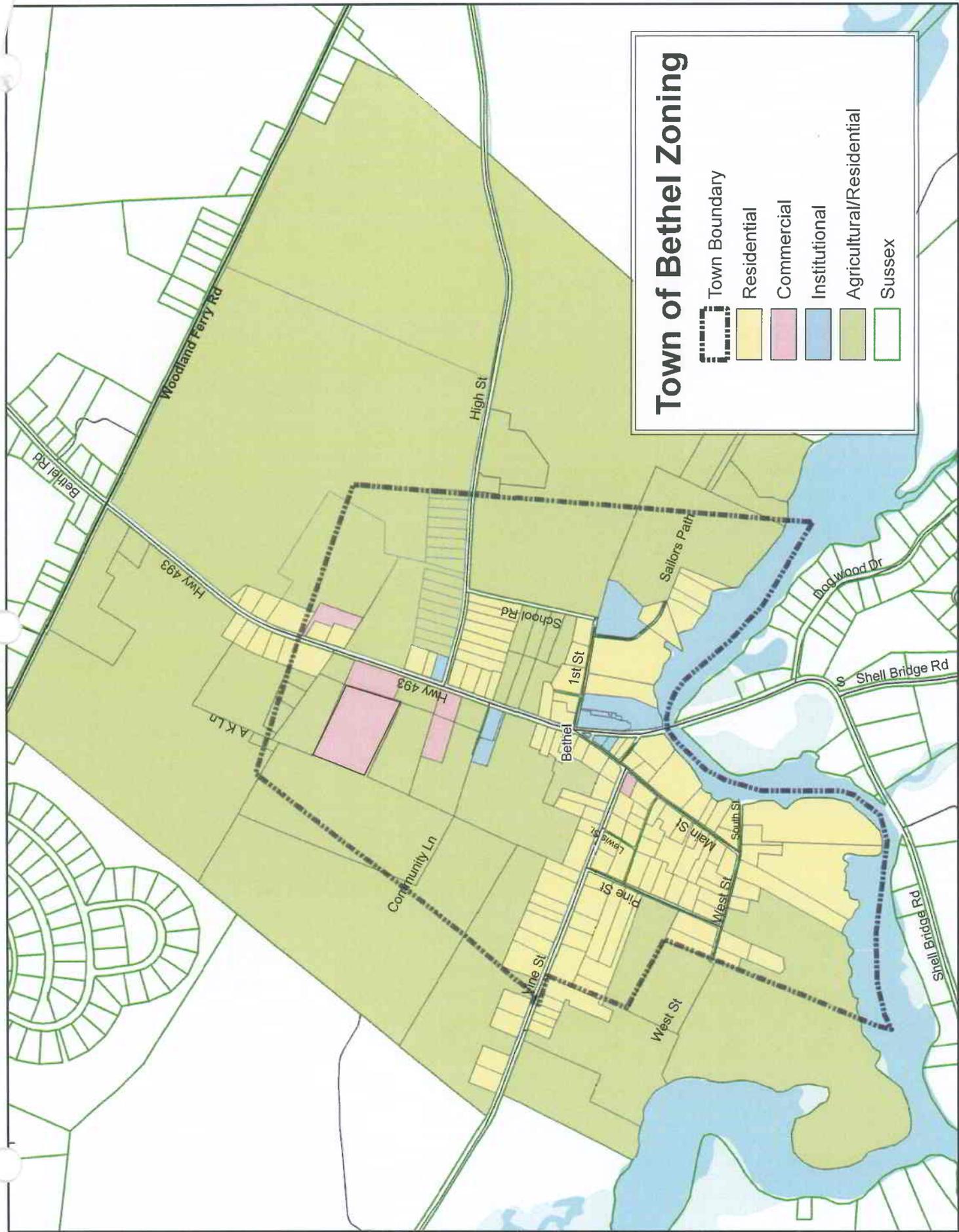


Table 2 Fees

Application Activity Description	Application Fee
Subdivision/Rezoning Application Fee	Rezoning and/or Single Family Lot Subdivision \$75; for Minor Subdivision \$250; for Major Subdivision \$400
Subdivision Review	\$.50 per 100 square foot of land to be subdivided.
Construction Activity Description	Construction Fee
For a one (1) year building permit for new construction, addition and/or renovation with copy of contract (or estimated expense for very small renovations if there is no contract)	\$2 per \$1,000 of cost with a \$100 minimum plus any relevant costs as determined by Sussex County Government.
New building impact fee per undeveloped lot for street construction and improvements	\$500
New building impact fee per undeveloped lot for storm water run-off	\$.05 per square foot of lot size with a \$200 minimum. NOTE: lands identified as wetlands or within a floodplain are not included in this fee.
New building impact fee per undeveloped lot for construction and maintenance of Town buildings, etc.	\$500

Table 3 Lot Requirements

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District	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Minimum Front Setback	Minimum Side/Rear Setbacks	Maximum Height of Structure	Detached Accessory Side/Rear Setbacks	Fixed Accessory Side/Rear Setback
A/R	¼ acre	125 Feet	125 Feet	20 Feet	10 Feet	35 Feet	Lot Line	10 Feet
R	¼ acre	125 Feet	125 Feet	20 Feet	10 Feet	35 Feet	Lot Line	10 Feet
R/C	¼ acre	125 Feet	125 Feet	20 Feet	10 Feet	35 Feet	Lot Line	10 Feet
C	1 acre	150 Feet	150 Feet	60 Feet	10 Feet	35 Feet	Lot Line	10 Feet
I	1 acre	150 Feet	150 Feet	60 Feet	10 Feet	35 Feet	Lot Line	10 Feet

SPECIAL NOTATION: Corner Lots as defined by this ordinance may front either street abutting the lot; however, the applicant must demonstrate that all required setbacks will be met to support proposed construction. If the selected street for the proposed construction is unable to meet minimum setbacks then the applicant will re-site the proposed construction to the other street frontage to meet all required setbacks. If neither street frontage is able to support the future construction, then the applicant must file for a conditional use permit as defined by this ordinance.”

Section 2. Severability

If any part or provision of this ordinance or the application of this ordinance to any person or circumstance is adjudged invalid by any court of competent jurisdiction, the invalidity shall be confined to the part, provision, or application directly involved in the controversy in which the judgment was rendered and shall not affect or impair the validity of the remainder of this ordinance or the application of it to other persons or circumstances.

Section 3. Savings Provision

This ordinance shall not be construed as abating any action now pending under, or by virtue of, any prior existing subdivision ordinances, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town under any section or provision existing at the time of adoption of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the Town except as shall be expressly provided for in this ordinance.

Section 4. Existing Town Ordinances

This zoning code is to amend Chapter 9 of the Bethel Town Ordinances ONLY, any properly adopted ordinance in place prior to the adoption of this ordinance will not be considered void and will remain in effect.

Section 5. Effective Date *October 2, 2012*

The Effective date of this Ordinance shall be upon enactment.

1st Reading Date: *September 25, 2012*

2nd Reading Date: *October 2, 2012*

Passed on:

Jeffrey L. Hastings President, Bethel Town Council

Mary McCoy Secretary, Bethel Town Council

Kevin B. Phillips Town Council Member

Anna Lee Robinson Town Council Member

Kathryn J. Hayfield Town Council Member

Synopsis

This Town of Bethel Land Use Ordinance reorganizes the Zoning Ordinance and creates specific requirements and procedures for approving Subdivisions.