

**CITY OF WILMINGTON
PLANNING DEPARTMENT**

**Regulations Governing the Subdivision of Land
Pursuant to Section 5-600 (d) Wilmington City Charter
Effective January 6, 2016**

101.0 DEFINITIONS.

For purposes of these regulations, the following defined terms shall apply.

101.1 Major Subdivision shall mean any division of a parcel of land, or the parcel so divided, (other than a parcel acquired from a Redevelopment Agency and subject to review under terms of an agreement with the agency) whether improved or unimproved, into two or more parcels, units or interest suitable for separate ownership or possession if the original parcel meets one or more of the following criteria:

- (a) Entirely bounded by any combination of streets (opened or unopened), rail rights-of-way, water courses, or public park lands.
- (b) Comprised of an area in excess of 2.5 acres or one hectare;
- (c) Located in the regulatory floodplain comprising zoning districts designated F-1, F-2, or F-3 under Chapter 48, Wilmington City Code;
- (d) Any portion is proposed for use as a public street, park, or open space.
- (e) A condominium declaration is proposed.

101.2 Minor Subdivision

(a) Minor Subdivision shall mean any of the following:

- (1) Any division of an improved parcel into separate lots, or units other than as defined in Section 101.1 herein; or
- (2) Revisions to units previously established under a condominium declaration where no changes in grade, exterior structural modifications, or additional improvements are proposed.

(b) A Minor Subdivision Plan will be administratively reviewed upon payment of \$50.00

101.3 Street means a public way, however designated for vehicular or pedestrian traffic.

- (a) **Arterial Street** means a street used primarily for through, fast, or heavy traffic.

- (b) **Collector Street** means a secondary street which carries traffic from minor streets to the arterial street system, and includes the principal entrance and internal circulation streets of a development.
- (c) **Minor Street** means a street used primarily for access to abutting lots or properties.
- (d) **Marginal Access** street means a minor street adjacent to and parallel to an arterial street, and used to provide access to abutting properties.

101.4 Alley means a minor way, whether public or private, used primarily for vehicular access to the side or rear, of a lot otherwise abutting on a street.

101.5 Lot means any parcel of land, unit of real property, or other real property interest capable of being owned or possessed by an individual.

101.6 Private Way means any road, path, easement, structure or other way not intended for dedication to public use, and providing access from a street to two or more lots.

102.0 PROCEDURE.

A three-step procedure for review of subdivision plans is established, as described in Section 102.1, 102.2, and 102.3. A Preliminary Subdivision Plan will be accepted only if all the owners of legal and equitable interest in the parcel join in the plan. Minor subdivision plans will be reviewed by the Planning Department, and if further subdivision review is not required, the plans will be so endorsed upon payment of the fee prescribed in Section 106.3.

102.1 Pre-Application Procedure. Prior to submission of a formal Preliminary Subdivision Plan, the applicant will submit to the Planning Department the following general subdivision information:

- (a) Location Map, showing the relationship of the proposed subdivision to existing community facilities which serve or influence it, including subdivision name and location, arterial streets, public transportation routes, schools, parks and playgrounds, principal places of employment, hospitals, churches, north arrow, and a title block with scale, date, and name(s) of applicant(s).
- (b) Information describing the existing condition of the site and the proposed development, as needed to supplement the Location Map, and including data on existing covenants, land characteristics, available community facilities, number of lots, typical lot dimensions, proposed protective covenants, and proposed utilities and street improvements.

- (c) The Director of Planning within 10 days shall consult with the Commissioner of Public Works. If the subdivision adjoins the City boundary, he shall notify the officials of adjoining jurisdictions responsible for planning and public works functions. If alteration of a watercourse in a riverine situation is proposed, he shall notify officials of adjacent communities, the State officer designated by the Governor to assist in implementation of the National Flood Insurance Program, and the Federal Insurance Administrator. He shall then preliminarily determine and inform the applicant whether the plans and data as submitted, or as modified by the applicant after submission, are in accordance with the standards prescribed by these regulations. If the Director determines them not to be in accord, the Director shall inform the applicant in writing of the reasons. At this time, the Director shall inform the District Councilman of his preliminary determination and provide plans and data descriptive of the proposed subdivision.

102.2 Conditional Approval of Preliminary Plat

- (a) Following completion of the pre-application procedures prescribed in Section 102.1, the applicant shall cause to be prepared a Preliminary Plat, together with improvement plans and other supplementary material as prescribed in Section 105.1.
- (b) Three (3) copies of the Preliminary Plat and the supplementary materials specified shall be submitted to the Planning Department with written application for conditional approval at least ten (10) days prior to the meeting of the City Planning Commission at which it is to be considered.
- (c) Following (a) review of the Preliminary Plat and other material submitted for conformity to these regulations; (b) review by the Commissioner of Public Works and any other public officials as their interest may appear; (c) the advice of the City Planning Commission; and (d) discussion with the applicant on changes deemed advisable and the kind and extent of improvements to be made by the applicant, the Planning Department shall within thirty (30) days, act on the application as submitted, or as later modified by the applicant. If approved, the Director shall express the Planning Department's approval as Conditional Approval and state the conditions of such approval in writing, if any. If disapproved, the Director shall express the Planning Department's disapproval and reasons, therefore, in writing.
- (d) The action of the Planning Department shall be noted on two copies of the Preliminary Plat, referenced and attached to any conditions prescribed. One copy shall be returned to the applicant and the other retained by the Planning Department.

- (e) Conditional Approval of a Preliminary Plat shall not constitute approval of the Final Plat. It shall be deemed, with the Preliminary Plat, a guide to the preparation of the Final Plat, which shall be submitted in accordance with Section 102.3.

102.3 Approval of Final Plat

- (a) The Final Plat shall conform substantially to the Preliminary Plat as approved. The applicant may submit only that portion of the Preliminary Plat proposed for development at one time; provided, however, that such portion conforms to all requirements of these regulations and to any conditions imposed by the Planning Department.
- (b) Application for approval shall be submitted in writing to the Planning Department, accompanied by the reproducible original and three (3) copies of the Final Plat and exhibits prescribed in Section 105.2. Such application shall be submitted within three (3) months after approval of the Preliminary Plat; otherwise such approval shall become null and void unless an extension is timely applied for and granted by the Director of Planning provided good cause is shown.
- (c) Approval by City Council. When the Final Plat includes establishment of new streets or dedication of land for streets, public ways, or public facilities, approval will be by ordinance of City Council, on the recommendation of the Planning Department with the advice of the City Planning Commission. The ordinance, upon approval by the Mayor, will constitute approval of the Final Plat, establishment of the new streets on the City Map or Plan, and acceptance of the dedications provided for in the Final Plat.
- (d) Approval by the Planning Department: When the Final Plat does not include establishment of new streets or public ways or dedication of land for public purposes, final approval may be given by the Planning Department upon a determination that it conforms substantially to the Preliminary Plat as approved. Such determination, and approval or disapproval, shall be made within ten (10) working days after the application is submitted. The District Councilman shall be informed of such determination at this time.
- (e) The Planning Department will promptly file the approved Final Plat and accompanying documents with the Recorder of Deeds for New Castle County.

103.0 DESIGN STANDARDS.

No subdivision shall be approved unless it conforms to the following standards:

103.1 Streets

- (a) Where new streets are proposed that are not now included on the City Map or Plan, the street beds must be dedicated to the City of Wilmington, and the arrangement of streets shall either (1) provide for a continuation or appropriate projection of existing streets and surrounding areas, or (2) conform to a plan for the neighborhood recommended by or acceptable to the Planning Department and the Department of Public Works.
- (b) Minor streets shall be so laid out that their use by through traffic will be discouraged.
- (c) Where a subdivision abuts or contains an existing or proposed arterial street, the Department of Public Works and/or the Planning Department may require marginal access streets, reverse frontage with screen planting contained in a non-access reservations along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (d) Reserve strips controlling access to streets shall not be provided except where specifically approved.
- (e) Streets shall be planned to intersect as nearly as possible at right angles and be in accordance with the recommendations of the Commissioner of Public Works.
- (f) The right-of-way width of new streets shall not be less than fifty (50) feet wide. Arterial streets shall have a right-of-way width of at least eighty (80) feet.
- (g) Dead-end streets are prohibited, unless the Commissioner of Public Works, because of unusual circumstances, recommends approval of same.
- (h) No street names shall be used which will duplicate or be confused with the names of existing streets, and any or all street names shall be subject to the approval of the U.S. Postal Service.
- (i) Street grades shall be established by the Department of Public Works.

103.2 Alleys

- (a) Alleys shall be provided in commercial and industrial districts, unless the Department of Public Works recommends waiver of this requirement where service access, such as off-street loading, unloading, and parking, adequate for the proposed uses, is provided.
- (b) All alleys shall provide for at least two (2) moving lanes of traffic in addition to the area required for loading and unloading.
- (c) The design and location of all alleys is subject to approval by the Department of Public Works.

103.3 Utilities, Drainage, and Flood Hazards

- (a) Easements across lots or centered on rear or side lot lines shall be provided for utilities and drainage where necessary and shall be at least twelve (12) feet wide.
- (b) If a subdivision is in a flood-prone area (Zoning Districts F-1, F-2, or F-3 as defined in Chapter 48 of the City Code), (1) the plans shall be consistent with the need to minimize flood damage, (2) all public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, and (3) adequate drainage shall be provided to reduce exposure to flood hazards.
- (c) Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.
- (d) Where any alteration of a watercourse in a riverine situation is proposed, the flood carrying capacity within the altered or relocated portion of the watercourse shall be maintained.
- (e) when required by the Commissioner of Public Works, provision shall be made for draining storm water from paved areas into public sewer systems.

103.4 Blocks

- (a) The lengths, widths, and shapes of blocks shall be determined with due regard to:

- (1) Provision for adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot sizes and dimensions.
- (3) Needs for convenient access, circulation, control, and safety of street traffic.

103.5 Lots

- (a) The lot size, width, depth, shape, and orientation, and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (b) Lot dimensions, setbacks, etc., shall conform to the requirements of the Zoning Ordinance.

103.6 Public Sites and Open Spaces

- (a) Where a proposed park, playground, school or other public use shown in the City Comprehensive Development Plan is located wholly or in part in a subdivision, the Planning Department may require the dedication or reservation of such area within the subdivision in those cases where the department deems such requirement to be reasonable.
- (b) Where deemed essential by the Planning Department based upon the particular type of development proposed in the subdivision, particularly in large-scale developments, the department may require the dedication or reservation of such other areas or sites, of an extent and location suitable to the needs created by such development, for schools, parks, and other neighborhood purposes.

104.0 REQUIRED IMPROVEMENTS.

The following improvements are required in all subdivisions to which they are applicable. No Final Plat will be approved until all such improvements have been installed in accordance with the Preliminary Plat and the specifications of the Department of Public Works, or a certified check or surety bond in favor of the City, in an amount sufficient to assure completion of the facilities, has been posted with the Commissioner of Public Works.

104.1 Monuments shall be placed at all block corners, angle points, tangent points of curves in streets, and at intermediate points as shall be required by the Commissioner of the Department of Public Works. The monuments shall be of such material, size, and length as may be approved by the Commissioner.

104.2 Streets and Utilities

- (a) Streets dedicated for public use shall be built by the Department of Public Works or by the developer to City specifications for acceptance by the Department of Public Works.
- (b) The applicant shall provide and install sanitary and storm sewers in accordance with the requirements of the Department of Public Works and be responsible for the proper connection of the same to the City's sewer system at the curb line of public streets.
- (c) The applicant shall provide and install water pipes in accordance with the requirements of the Department of Public Works from the curb stop of the City water system to each individual meter.
- (d) Any trees to be planted within the right-of-way streets shall be approved by the Department of Public Works.
- (e) Standard streetlights on public streets shall be furnished by the City under terms of its agreement with the Delmarva Power and Light Company. Non-standard streetlights may be furnished, if available from Delmarva Power and Light Company, upon satisfactory assurance of full reimbursement by the applicant of additional installation and operating costs.
- (f) Within flood-prone areas, water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters, or discharges into flood waters.
- (g) where a plan provides for private ways or other areas owned in common, suitable covenants for assessing maintenance costs are required.

105.0 REQUIRED DRAWINGS AND SUPPLEMENTAL INFORMATION

The drawings and supplemental information (including hydrologic calculations where required) must be furnished by the applicant as specified in Sections 105.1 and 105.2. Where a proposed development plan (other than a condominium declaration plan) has been reviewed and approved under site plan review requirements of an adopted urban renewal plan, or has been reviewed as a major development under Waterfront Zoning District Procedures and a development permit has been issued, such approval shall constitute conditional approval under these regulations.

105.1 Conditional Approval

- (a) The Preliminary Plat shall be prepared at a convenient scale not smaller than 1:600 (one inch to 50 feet), except for large tracts where the Planning Department may authorize use of 1:1,000 or 1:2,500 scale. The plat shall show all existing and proposed conditions, as follows:
 - (1) Boundary lines: bearing and distance.
 - (2) Easements: location, width, and purpose.
 - (3) Streets on and adjacent to the tract: name, right-of-way width, and location; type, width, and actual elevation of surfacing; any legally established centerline elevations; walks, curbs, gutters, culverts, and storm drainage inlets.
 - (4) Utilities on and adjacent to the tract: location, size and invert elevation of sanitary, storm, and combined sewers and drainage structures; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and services; and streetlights.
 - (5) Ground elevation on the tract: based on a datum plane approved by the Department of Public Works, contours with an interval of not more than five (5) feet if ground slope is regular, or not more than two (2) feet where ground slope is irregular and there is need for more detailed data to establish drainage patterns or for preparing plans and construction drawings.
 - (6) Subsurface conditions on the tract: if required by the Department of Public Works, location and results of tests made to ascertain subsurface soil, rock, loading-bearing capacity, and ground water conditions.
 - (7) Other conditions on the tract: water courses, rock outcrop, wooded areas, isolated trees one foot or more in diameter, houses, and other significant features.
 - (8) Other conditions on adjacent land: approximate direction and gradient of ground slope including any embankments or retaining walls; nearby non-residential land uses or adverse influences.

- (9) The level of the base flood, as determined by the Federal Insurance Administrator, or if no such determination has been made, then by a registered professional engineer based upon adequate hydrologic studies. Such level will be shown on the same datum plane used for ground elevations.
 - (10) Photographs: If and as required by the Planning Department.
 - (11) Zoning on and adjacent to tract.
 - (12) Key plan showing location of tract.
 - (13) Title and certificates: Present tract designation, if any, according to official records in the Office of the New Castle County Recorder of Deeds; present parcel number as assigned by the New Castle County Division of Assessment; title under which proposed subdivision is to be recorded; names and addresses of owners; notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, and date of survey.
- (b) A draft of covenants proposed to regulate land use in the subdivision shall be submitted with the Preliminary Plat.
 - (c) Where subdivision of an existing structure under a condominium declaration is proposed, the applicant shall submit evidence of compliance with Sections 5-101 and 9-36 through 9-47 of the City Code relating to condominium conversions.

105.2 Final Approval

- (a) Final Plat shall be a waterproof image on polyester drafting film, and shall be at a scale no smaller than sixty (60) feet to one (1) inch or one (1) centimeter to five (5) meters (1:500). For large subdivisions, the Final Plat may be submitted for approval progressively in sections satisfactory to the Commissioner of Public Works. The Final Plat shall show the following:
 - (1) Horizontal and vertical control points approved by the Commissioner of Public Works, or descriptions and ties to such control points, from which all dimensions and bearings shall be measured. All bearings shall be described in relation to one of the following meridians, which shall be specified: (a) true north; (b) the y-axis of the Delaware State Plane Coordinate System; or (c) the y-axis of the Universal Transverse Mercator grid, Zone 18.

- (2) Tract boundary lines, right-of-way lines, and property lines of individual lots and dedicated or reserved sites with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angle locations for all curves.
 - (3) Name and right-of-way width of each street.
 - (4) Location, dimensions, and purposes of all easements.
 - (5) Number to identify each lot or site.
 - (6) Street address number for each lot, as assigned by the New Castle County Division of Assessment in accordance with Section 45-12 of the City Code.
 - (7) Purpose for which sites, other than residential lots, are dedicated, reserved, or restricted.
 - (8) Minimum building setback lines on all lots and other sites.
 - (9) Location and description of monuments.
 - (10) Name of recorded owners of adjoining unplatted land.
 - (11) Reference to recorded subdivision plats of adjoining platted land by record name, date, and number.
 - (12) Certification by surveyor or civil engineer certifying to accuracy of survey and plat.
 - (13) Certification of applicant that it is the legal owner of the land.
 - (14) Dedications of streets, right-of-ways, and any sites for public use.
 - (15) Title, scale, north arrow, and date.
 - (16) An approval block, reading "Approved for Recordation," with a signature line labeled "Director of Planning," a line for the date of approval, and the legend "Return to City of Wilmington, Planning Department, 7th Floor, City/County Building."
- (b) Cross Sections and Profiles of new or modified streets showing grades approved by the Commissioner of the Department of Public Works.

- (c) A certificate by the Commissioner of the Department of Public Works showing that the subdivider has complied with one of the following alternatives:
 - (1) All improvements have been installed in accord with the requirements of these regulations and with the actions of the Department of Public Works giving Conditional approval of the Preliminary Plat, or
 - (2) A bond or certified check has been posted which is available to the City, and in sufficient amount to assure such completion of all required improvements.
- (d) Executed covenants in form for recording.
- (e) Executed instruments conveying dedicated lands to the appropriate public body.
- (f) Other data: such other certificates, affidavits, endorsements, or documents as may be required by the Planning Department for effective administration of these regulations.
 - (1) For condominium declarations, the following additional information is required (adopted March 1986):
 - i. Unit drawings per floor, indicating structural and non-structural common elements and limited common areas and doors. Drawings of typical sections may be used to show title lines on floors, ceilings, etc.
 - ii. Cross section view(s), showing elevations and identifying structural common elements and other common areas.
 - iii. Square footage of each unit and percentage of common elements.
 - iv. A notation on the Final Plat stating that "This declaration plan is accompanied by the Enabling Declaration and Code of Regulations, numbering _____ pages." (The number of pages Regulations, numbering should be provided.)

106.0 APPLICATION FEES

106.1 Conditional Approval. No fee shall be charged for conditional approval of a Preliminary Major Subdivision Plan.

106.2 Final Approval. For final approval, one (1) Mylar and nine (9) copies of the plan shall be accompanied by a check payable to City of Wilmington for the following fees:

- (a) For every subdivision or resubdivision not including new streets or public ways.

1 to 20 units, \$100.00 plus \$15.00 per lot or unit.

21 to 100 units, \$150.00 plus \$15.00 per lot or unit.

Over 100 units, \$625.00 plus \$5.00 per lot or unit.

- (b) For every subdivision including new streets or public ways, \$1,000.00, plus the lot or unit fees required by (a) above. For every resubdivision including the relocation of an approved street or public way not yet accepted by the City, \$500.00, plus the lot or unit fees required by (a) above.
- (c) Recording fees: Please contact the New Castle County Recorder of Deeds for current recording fees.

107.0 APPEALS

If the Planning Department denies approval of a Final Plat not involving new streets or dedication of lands for public purposes, the applicant may file with the City Clerk an appeal to the City Council. After a hearing, advertised not less than five (5) days in advance of the hearing date, Council by resolution will find whether the Final Plat meets the requirements of these regulations, and such finding, if favorable to the applicant, shall constitute approval of the Final Plat.