[§ 185-73 Changes and amendments.](http://ecode360.com/8864666" \l "8864652)

[A.](http://ecode360.com/8864653#8864653) Initiation of change. The Town Commissioners may from time to time amend, supplement, or change by ordinance, the boundaries of Town zoning districts or the regulations of this Chapter. Any such amendment may be initiated by resolution of the Town Commissioners or by petition of any property owner addressed to the Town Commissioners. Petitions for change or amendment shall be on forms and filed in a manner prescribed by the Town Commissioners.

[B.](http://ecode360.com/8864657#8864657) Report from the Planning Commission.

[(1)](http://ecode360.com/13768826#13768826) Before taking action on any such proposed amendment, supplement, or change the Town Commissioners shall submit the same to the Planning Commission for its recommendations and report, unless by unanimous vote the Town Commissioners present decide that the change proposed is not significant.

[(2)](http://ecode360.com/13768827#13768827) The Planning Commission shall report within 120 days of its first meeting after the proposal has been referred to the Planning Commission, provided further that a one-time extension of up to 60 days may be requested in writing by motion of the Planning Commission to the Town Commissioners, who shall grant the request, unless the Town Commissioners find the request to be arbitrary or capricious. In order to finalize a report on the proposal, said report or request for extension shall be given at the next Town Commissioners meeting after the end of the time period or extension period. Failure of the Planning Commission to report within the time frames specified above shall be deemed a recommendation of approval. ?Does this need some modification

C.  Notice and hearings.

[(1)](http://ecode360.com/13768828#13768828) The Planning Commission shall hold a public hearing on any proposed amendment, supplement, or change before submitting its report to the Town Commissioners and for this purpose may request the submission of all pertinent data and information by any person concerned.

[(2)](http://ecode360.com/13768829#13768829) Before acting on any proposed amendment, supplement or change, the Town Commissioners shall hold a public hearing thereon in accordance with 22 Del. C. § 304.

[D.](http://ecode360.com/8864659#8864659) Reconsideration; one-year limitation. Whenever a petition requesting an amendment, supplement, or change has been denied by the Town Commissioners, such petition, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

[§ 185-74 Procedures for approval of conditional uses./redevelopment](http://ecode360.com/8864666" \l "8864666)

[A.](http://ecode360.com/13768830#13768830) The procedures for approval of conditional use are the same as those prescribed for changes and amendments in § [**185-73**](http://ecode360.com/8864652#8864652). A conditional use shall only be approved if the location is appropriate, the public health, safety, morals and general welfare will not be adversely affected, adequate off-street parking facilities will be provided, the use will not contribute to a traffic problem on congested roads, the necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values, and further provided that additional standards in this article are observed. Unless otherwise specified in this article or specified as a condition of approval, all requirements shall be the same as for other uses in the district in which the conditional use is located.

[B.](http://ecode360.com/13768831#13768831) A preliminary site plan and survey performed by a registered land surveyor, together with the request for a conditional use and a proposed ordinance, shall be filed with the Town Commissioners. The preliminary site plan shall comply with the requirements of this chapter and may be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Commissioners. Fifteen eleven-inch by seventeen-inch and five twenty-four-inch by thirty-six-inch or twenty-four-inch by forty-two-inch copies of the plan, plus an electronic copy in Adobe Acrobat format, shall be submitted.

[C.](http://ecode360.com/13768832#13768832) The Town Commissioners may also request electronic copies of all submission materials at their discretion.

[§ 185-75 Procedures for approval of site plan.](http://ecode360.com/8864666#8864667)

[A.](http://ecode360.com/8864668#8864668) Site plan review and approval from the Town Commissioners, shall be required for the development of two or more dwelling units or any mixed-use structure or commercial-use structure.

[B.](http://ecode360.com/8864669#8864669) Where the provisions of this chapter require the submittal of site plans, the following schedule of procedure shall apply:

[(1)](http://ecode360.com/13768833" \l "13768833" \o "185-75B(1)) A submission for subdivision or land development approval shall be considered a duly filed application only when all required information, including plans, studies, forms, permits, completed application, and fees, are submitted to the Town Manager and Building Official. Once verified by them the application will be sent to the Town Commissioners. The Town shall have 30 working days from the date of the completed submission of application to check the submission to determine if, on face value, it is in proper form and contains the required information. If complete, the date of the submission shall be considered the date the application was duly filed and approved by the Town Commissioners. If the submission is found to be incomplete or defective, a statement of rejection itemizing the deficiencies will be mailed to the applicant within 30 working days and the submission will be returned. Acceptance for filing shall not constitute a waiver of any deficiencies or irregularities. The applicant may appeal a decision made under this section to the Town Commissioners, within 15 days of notification from the Town. Submissions for approval of a subdivision or land development plan shall be submitted to the Town Building Official/Town Manager during normal working hours. The Town Building Official/Town Manager, upon completion of his acceptability review, will then send copies of the submission to the Town Planner, Planning Commission and Town Commissioners for review.

[(2)](http://ecode360.com/13768834#13768834) The Town Commissioners, after review by the Planning Commission, shall review the final site plan within 90 days for compliance with the requirements of the Commissioners and recommendations from the Planning Commission, and this chapter. The final site plan shall be amended accordingly and shall be placed on record after such approval.

[(3)](http://ecode360.com/13768835#13768835) The number of hard copies required for each submission is as follows, with a date stamp furnished on all plan sheets:

[(a)](http://ecode360.com/13769231#13769231) Sketch plan submission: 15 copies, 11 inches by 17 inches; and five copies, 24 inches by 36 inches or 24 inches by 42 inches.

[(b)](http://ecode360.com/13769232#13769232) Preliminary subdivision plan submission: 15 copies, 11 inches by 17 inches; and five copies, 24 inches by 36 inches or 24 inches by 42 inches.

[(c)](http://ecode360.com/13769233#13769233) Final subdivision plan submission: 15 copies, 11 inches by 17 inches; and five copies, 24 inches by 36 inches or 24 inches by 42 inches.

[(d)](http://ecode360.com/13769234#13769234) Preliminary site plan submission: 15 copies, 11 inches by 17 inches; and five copies, 24 inches by 36 inches or 24 inches by 42 inches.

[(e)](http://ecode360.com/13769235#13769235) Final site plan submission: 15 copies, 11 inches by 17 inches; and five copies, 24 inches by 36 inches or 24 inches by 42 inches.

[(f)](http://ecode360.com/13769236#13769236) Final record plan submission: electronic filing and seven paper copies.

[(g)](http://ecode360.com/13769237#13769237) Final approved site subdivision plan: electronic and seven paper copies.

[(4)](http://ecode360.com/13768836#13768836) The Town Commissioners may also request electronic copies in Adobe Acrobat format or any other standard electronic format of all submission materials, at their discretion.

[§ 185-76 Preliminary site plan requirements.](http://ecode360.com/8864666" \l "8864671)

[A.](http://ecode360.com/13768837#13768837) The preliminary site plan shall show the following (Each number must be addressed by the applicant)

[(1)](http://ecode360.com/13768838#13768838) Name of the subdivision or development.

[(2)](http://ecode360.com/13768839#13768839) Name and address of the owner and applicant.

[(3)](http://ecode360.com/13768840#13768840) Name and address of the engineer or surveyor who prepared the plan. Plans shall show the seal and signature of a registered Delaware land surveyor and/or professional engineer on all drawings.

[(4)](http://ecode360.com/13768841#13768841) Written and graphic scale, not exceeding one inch equals 50 feet for sheets 24 inches by 36 inches or sheets 24 inches by 42 inches.

[(5)](http://ecode360.com/13768842#13768842) Sheet size, refer to § [**185-75B(3)**](http://ecode360.com/13768835#13768835).

[(6)](http://ecode360.com/13768843#13768843) North arrow.

[(7)](http://ecode360.com/13768844#13768844) Plan legend.

[(8)](http://ecode360.com/13768845#13768845) Date of the original plan and all subsequent revision dates.

[(9)](http://ecode360.com/13768846#13768846) Proposed changes in zoning, if any.

[(10)](http://ecode360.com/13768847#13768847) Sheet number, if multiple sheets are used.

[(11)](http://ecode360.com/13768848#13768848) A location map with a scale of no less than one inch equals 500 feet indicating adjacent streets. Existing and surrounding zoning district boundaries will also be shown.

[(12)](http://ecode360.com/13768849#13768849) Certification of plan accuracy by engineer/surveyor.

[(13)](http://ecode360.com/13768850#13768850) Certification of ownership.

[(14)](http://ecode360.com/13768851#13768851) Certification of plan approval.

[(15)](http://ecode360.com/13768852#13768852) Tax parcel numbers.

[(16)](http://ecode360.com/13768853#13768853) Zoning district of the subject tract.

[(17)](http://ecode360.com/13768854#13768854) Source of title.

[(18)](http://ecode360.com/13768855#13768855) Survey datum and local benchmark.

[(19)](http://ecode360.com/13768856#13768856) Total site gross and net acreage.

[(20)](http://ecode360.com/13768857#13768857) Name of water supplier and the note "Water supply is subject to the State Department of Natural Resources and Environmental Control and the Delaware Department of Health."

[(21)](http://ecode360.com/13768858#13768858) Sanitary sewage disposal method.

[(22)](http://ecode360.com/13768859#13768859) Number of existing and proposed lots or dwelling units.

[(23)](http://ecode360.com/13768860#13768860) Lot numbers for all existing and proposed lots.

[(24)](http://ecode360.com/13768861#13768861) Existing and proposed nonresidential gross floor area.

[(25)](http://ecode360.com/13768862#13768862) Location of existing and proposed building and structures.

[(26)](http://ecode360.com/13768863#13768863) The name, right-of-way width and cart way width of all adjoining streets.

[(27)](http://ecode360.com/13768864#13768864) Tie-in distances from subject property to the nearest street intersection.

[(28)](http://ecode360.com/13768865#13768865) Location of front, side; and rear yard setbacks and all required buffer yards.

[(29)](http://ecode360.com/13768866#13768866) Location and dimensions of all existing and proposed sidewalks.

[(30)](http://ecode360.com/13768867#13768867) Calculation of required off-street parking spaces and number of existing and proposed spaces.

[(31)](http://ecode360.com/13768868#13768868) Location of off-street loading areas.

[(32)](http://ecode360.com/13768869#13768869) Location of all existing and proposed site accesses and entrance driveways.

[(33)](http://ecode360.com/13768870#13768870) Location and design of all proposed off-street parking areas, indicating parking space and access aisle dimensions and directional arrows indicating proposed traffic circulation patterns.

[(34)](http://ecode360.com/13768871#13768871) Approximate number of dwelling units to be included in each type of housing provided.

[(35)](http://ecode360.com/13768872#13768872) Proposed buildings and structures with dimensions, setbacks and heights designated.

[(36)](http://ecode360.com/13768873#13768873) Approximate location and size of recreational and open space areas.

[(37)](http://ecode360.com/13768874#13768874) Approximate location of point of ingress and egress to existing public highways.

[(38)](http://ecode360.com/13768875#13768875) The number of construction phases proposed, if any, with the plot showing the approximate boundaries of each phase, and the proposed completion date of each phase.

[(39)](http://ecode360.com/13768876#13768876) Existing and proposed building coverage.

[(40)](http://ecode360.com/13768877#13768877) Existing and proposed impervious coverage.

[(41)](http://ecode360.com/13768878#13768878) Name and address, tax parcel numbers and zoning of all adjoining property owners.

[(42)](http://ecode360.com/13768879#13768879) Location of any water bodies and watercourses.

[(43)](http://ecode360.com/13768880#13768880) Location of any floodplains, including FEMA map panel number.

[(44)](http://ecode360.com/13768881#13768881) Location of any wetlands areas.

[(45)](http://ecode360.com/13768882#13768882) Location and identification of any historic structures.

[(46)](http://ecode360.com/13768883#13768883) Location of all significant natural or man-made structures.

[(47)](http://ecode360.com/13768884#13768884) Existing and proposed deed restrictions, easements or protective covenants.

[(48)](http://ecode360.com/13768885#13768885) Grading plan indicating existing contours (at two-foot intervals), proposed grading, spot elevations and finished floor elevations and top and bottom of wall elevations for any retaining walls over two feet.

[(49)](http://ecode360.com/13768886#13768886) Limit of existing tree masses and location, size and species of all individual trees over six inches' caliper.

[(50)](http://ecode360.com/13768887#13768887) A limit of disturbance line.

[(51)](http://ecode360.com/13768888#13768888) A soil erosion and sediment control plan.

[(52)](http://ecode360.com/13768889#13768889) Storm water management plan.

[(53)](http://ecode360.com/13768890#13768890) Solid waste management plan.

[(54)](http://ecode360.com/13768891#13768891) Landscape plan. Plans shall show the seal and signature of a registered Delaware landscape architect on all drawings.

[(55)](http://ecode360.com/13768892#13768892) Lighting plan.

[(56)](http://ecode360.com/13768893#13768893) A listing of all existing nonconforming buildings, uses or structures.

[B.](http://ecode360.com/13768894#13768894) The Town Commissioners may establish additional requirements for preliminary site plans, and may waive a particular requirement if, in their opinion, the inclusion of that requirement is not essential to a proper decision on the project. If a preliminary site plan is approved by the Town Commissioners without the inclusion of a particular requirement, the Town is deemed to have waived that requirement.

[§ 185-77 Final site plan requirements.](http://ecode360.com/8864666#8864672)

[A.](http://ecode360.com/8864673#8864673) The final plot plan shall comply with all existing laws, regulations, and ordinances governing the approval of subdivisions and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of construction permits.

[(1)](http://ecode360.com/13768895#13768895) The proposed title of the project and the name of the engineer, architect, designer, or landscape architect and the developer.

[(2)](http://ecode360.com/13768896#13768896) Geographical location, showing existing zoning district and boundaries. The boundaries of the property involved, the location of all existing easements, and property lines, existing streets, building, or waterways, and other existing physical features in the project. The location and sizes of sanitary and storm sewers, water mains, culverts, and other underground structures in or near the project.

[(3)](http://ecode360.com/13768897#13768897) Net development area.

[(4)](http://ecode360.com/13768898#13768898) Number of dwelling units to be included in each type of housing: single-family detached dwellings, townhouse dwellings, and multifamily units in multiunit structures of dedicated residential use and of mixed use.

[(5)](http://ecode360.com/13768899#13768899) The location and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, parking and loading areas (including numbers of parking and loading spaces), outdoor lighting systems, storm drainage and sanitary facilities.

[(6)](http://ecode360.com/13768900#13768900) The location of proposed lots, setback lines, and easements and proposed reservations for parks, parkways, playground, school sites and open spaces.

[(7)](http://ecode360.com/13768901#13768901) Location with respect to each other and to lot lines and height of all proposed buildings and structures, accessory and main, or major excavations. The locations should be drawn to scale, and full dimensioning is required.

[(8)](http://ecode360.com/13768902#13768902) Plans and elevations of the several dwelling types and other buildings, as may be necessary.

[(9)](http://ecode360.com/13768903#13768903) Architectural renderings as required.

[(10)](http://ecode360.com/13768904#13768904) Location, heights, and material of all fences, walls, screen planting and landscaping.

[(11)](http://ecode360.com/13768905#13768905) Proposed location and character of all nonresidential uses.

[(12)](http://ecode360.com/13768906#13768906) Location, character, size, height, and orientation of proposed signs.

[(13)](http://ecode360.com/13768907#13768907) A tabulation of total number of square feet in the project gross or net as required in the district regulations, and the percentage thereof proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools.

[(14)](http://ecode360.com/13768908#13768908) A tabulation of the total number of dwelling units of all types on the lot or parcel, and the overall proposed dwelling density in gross lot square feet per dwelling unit.

[(15)](http://ecode360.com/13768909#13768909) A traffic impact study, conducted by DelDot or licensed and certified traffic engineer, including mitigation measures if deemed necessary by the study.

[(16)](http://ecode360.com/13768910#13768910) The name, right-of-way width, cart way width, profiles, cross-sections and grading for all proposed streets.

[(17)](http://ecode360.com/13768911#13768911) Type, location, size, material of construction, slope and profiles for all proposed utilities.

[(18)](http://ecode360.com/13768912#13768912) Location, size, material of construction slope and profiles for all proposed storm sewers.

[(19)](http://ecode360.com/13768913#13768913) Location, grate elevation and invert elevation for all catch basins, inlets and manholes.

[(20)](http://ecode360.com/13768914#13768914) Location of all proposed fire hydrants.

[(21)](http://ecode360.com/13768915#13768915) Phasing lines for phased developments.

[(22)](http://ecode360.com/13768916#13768916) Sidewalk locations, pedestrian ways, bikeways, walkways.

[(23)](http://ecode360.com/13768917#13768917) Proposed passive and active recreation areas.

[(24)](http://ecode360.com/13768918#13768918) Listing of any required variances.

[(25)](http://ecode360.com/13768919#13768919) Wetland report.

[(26)](http://ecode360.com/13768920#13768920) Floodplain study.

[(27)](http://ecode360.com/13768921#13768921) Construction details for all proposed improvements.

[(28)](http://ecode360.com/13768922#13768922) Environmental impact statement.

[(29)](http://ecode360.com/13768923#13768923) All applicable outside agency permits.

[B.](http://ecode360.com/8864674#8864674) The Town Commissioners may establish additional requirements for final site plans, and may waive a particular requirement if, in their opinion, the inclusion of that requirement is not essential to a proper decision on the project. .

[§ 185-78 Amendments and additions to site plans.](http://ecode360.com/8864666#8864676)

The procedure for change of the extent of land use for an approved conditional use shall be the same for a new application, except that minor amendments of an approved site plan or of conditions attached to an approved conditional use, or site plan, may be approved by the Town Building Code Official without a public hearing, provided such change or amendment:

[A.](http://ecode360.com/13768924#13768924) Does not alter a recorded plot;

[B.](http://ecode360.com/13768925#13768925) Does not conflict with the specific requirements of the chapter;

[C.](http://ecode360.com/13768926#13768926) Does not change the general character or content of an approved development plan or use;

[D.](http://ecode360.com/13768927#13768927) Applies to an approved condition origination with the Board of Adjustment;

[E.](http://ecode360.com/13768928#13768928) Has no appreciable effect on adjoining or surrounding property;

[F.](http://ecode360.com/13768929#13768929) Does not result in any substantial change of major external access points;

[G.](http://ecode360.com/13768930#13768930) Does not increase the approved number of dwelling units or height of buildings; and

[H.](http://ecode360.com/13768931#13768931) Does not decrease the minimum specified yards and open spaces or minimum or maximum specified parking and loading spaces.

[§ 185-79 Certificates of occupancy.](http://ecode360.com/8864666#13768932)

[A.](http://ecode360.com/13768933#13768933) No vacant land shall be occupied or used until a certificate of occupancy shall have been issued.

[B.](http://ecode360.com/13768934#13768934) No premises shall be used, and no building hereafter erected or structurally altered shall be used, occupied, or changed in use, until a certificate of occupancy shall have been issued, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.

[C.](http://ecode360.com/13768935#13768935) Certificates of occupancy shall be applied for coincidently with the application for a building permit and shall be issued within 30 days after the erection or structural alteration of such building shall have been completed in conformity with the checklist approved by the Commissioners and the provisions of this chapter and the requirements of county and state regulations. A record of all certificates shall be kept on file.

[D.](http://ecode360.com/13768936#13768936) No excavation for any building shall be started before issuance of a building permit.

[E.](http://ecode360.com/13768937#13768937) Upon written request from the owner, the Town Building Code Official shall issue a certificate of occupancy for any building or premises existing at the time of adoption of this chapter, or any changes or amendments thereto, certifying after inspection and investigation the extent and kind of use made of the building or premises, and whether such use conforms to the provisions of this chapter or is to be deemed a preexisting nonconforming use.

[F.](http://ecode360.com/13768938#13768938) Application for a certificate of occupancy and building permit on lots within the definition of § [**185-8B**](http://ecode360.com/13768584#13768584) shall be accompanied by proof of title as of February 11, 1982, and evidence of current title. The Town Building Code Official may require production of deeds, surveys or other evidence prior to acting on such applications.

[§ 185-80 Building permits; fee.](http://ecode360.com/8864666#13768939)

[A.](http://ecode360.com/13768940#13768940) No building shall be erected, constructed, altered, moved, converted, extended or enlarged without the owner or owners first having obtained a building permit, and such permit shall require conformity with the provisions of this chapter; provided, however, that the Town Building Code Official may, at his discretion, issue an emergency permit not in conformity with the provisions of this chapter when:

[(1)](http://ecode360.com/13768941#13768941) A dwelling has been made uninhabitable by fire, wind, flood, or impact by motor vehicle or airplane, or similar natural or man-made disaster;

[(2)](http://ecode360.com/13768942#13768942) A written statement by the applicant has been filed, certifying the dwelling to be uninhabitable to due to fire, wind, flood, impact, or similar natural or man-made disaster; and

[(3)](http://ecode360.com/13768943#13768943) TheTown Manager has indicated approval by initialing the application.

[B.](http://ecode360.com/13768944#13768944) A filing fee shall accompany each application for a building permit, in such amount as may be determined by the Town Commissioners, a schedule of such fees to be filed with the Town Manager.

[Amended 1-11-2014 by Ord. No. 709]

[(1)](http://ecode360.com/28473882#28473882) Building permit fees for the repair of significant damage due to storm water, flooding or wind damage, to a residential-use structure located in a FEMA-designated flood zone (including VE, AE and AO zones) shall be reduced by 50% from the effective schedule of fees;

[(2)](http://ecode360.com/28473883#28473883) Building permit fees for significant retrofit projects designed to improve resilience to future flood loss on a residential-use structure located in a FEMA-designated flood zone (including VE, AE and AO zones) shall be reduced by 50% from the effective schedule of fees;

[(3)](http://ecode360.com/28473884#28473884) For the purpose of this chapter "retrofitting" shall have the definition used by the Federal Emergency Management Agency (FEMA); see FEMA Publication P-312 Homeowner's Guide to Retrofitting (2nd Ed., 2009), "Retrofitting means making changes to an existing building to protect it from flooding or other hazards such as high winds and earthquakes." FEMA lists six types of retrofit projects to protect one's home from flood damage: elevation, wet flood proofing of uninhabited areas, relocation, dry flood proofing, barriers, and razing and rebuilding properly; and

[(4)](http://ecode360.com/28473885#28473885) For the purposes of this subsection, "significant" shall be interpreted as a repair or retrofit project estimated at costing more than $10,000??? based on the same criteria used by the Town in its assessment of appropriate building permit fees;

[(5)](http://ecode360.com/28473886#28473886) For projects qualifying for a reduced building permit fee under this subsection, the reduced rate shall be applied to the total building permit fee.

[C.](http://ecode360.com/13768945#13768945) Building permits shall be valid for one year from date of issue, and may be renewed on each anniversary date thereafter for the fee of $500???Failure to renew shall void the permit.

[D.](http://ecode360.com/13768946#13768946) No building permit, lawfully issued by Sussex County prior to the effective date of this chapter, shall be invalidated by the passage of this chapter, provided actual construction, pursuant to the permit's own terms and provisions, and ordinances and regulations thereto, shall have begun within the effective date of the permit.

[(1)](http://ecode360.com/13768947#13768947) One permit issued to cover more than one building remains valid for all of the buildings covered by the permit, if actual construction as provided above shall have commenced prior to the expiration of the permit, subject only to Subsection [**D(3)**](http://ecode360.com/13768949#13768949) below.

[(2)](http://ecode360.com/13768948#13768948) In any event, the permit shall be invalidated if actual construction is discontinued for reasons other than those beyond the permit holder's control.

[(3)](http://ecode360.com/13768949#13768949) The exemptions listed under Subsection [**A**](http://ecode360.com/13768940#13768940) above do not apply to new construction or substantial improvements or repairs following substantial damage in the flood-prone areas (including FEMA-designated VE, AE and AO flood zones).

[Amended 1-11-2014 by Ord. No. 708]

[E.](http://ecode360.com/13768950#13768950) Any permitted development in the flood-prone areas (including FEMA-designated VE, AE and AO flood zones) is subject to all applicable state and federal codes and regulations.

[Amended 1-11-2014 by Ord. No. 708]

[F.](http://ecode360.com/13768951#13768951) All subcontractors shall be identified when applying for a building permit, and all contractors and subcontractors shall be properly licensed in the State of Delaware and theTown of Dewey Beach prior to beginning work.

[G.](http://ecode360.com/13768952#13768952) No building permits or certificates of occupancy shall be issued until all past violations have been corrected.

[§ 185-81 Plats.](http://ecode360.com/8864666#13768953)

All applications for building permits shall be accompanied by a drawing or plat in duplicate or as required by the Town Building Code Official showing, with dimensions, the lot lines, the building or buildings, the location of buildings on the lot and such other information as may be necessary to provide for the enforcement of these regulations, including, if necessary, a boundary survey and a staking of the lot by a surveyor and complete construction plans. The drawings shall contain suitable notations indicating the proposed use of all land and buildings. A record of the original copy of such applications and plats shall be kept at the building at all times during construction.

[§ 185-82 Filing fees.](http://ecode360.com/8864666#13768954)

[A.](http://ecode360.com/13768955#13768955) The applicant, subdivider, developer, or builder will be required to post financial security in an amount and with such surety as shall be approved by the Town Commissioners to guarantee the payment of the services of the Town Building Code Official, Town Planner, Town Planning Commission Attorney, and Town Solicitor for services related to plan review and meeting attendance in reviewing the application. In addition, all costs for planning, engineering, legal and professional certification as deemed necessary will be the responsibility of the applicant, subdivider, developer, or builder. All costs associated with the services required by the Town will be reimbursed to the Town on a billing and due cycle as determined by the Town Commissioners.

[B.](http://ecode360.com/13768956#13768956) All persons appealing to the Board of Adjustment shall be required to pay, in advance, such amount as may be required by the Town Commissioners.

[C.](http://ecode360.com/13768957#13768957) All persons, firms or corporations applying for conditional use permits under the provisions of Article [**VII**](http://ecode360.com/8864466#8864466) of this chapter or applying for an amendment to this chapter or a change in the classification of a district or a portion thereof shall be required to pay, in advance, such amount as may be required by the Town Commissioners.

[D.](http://ecode360.com/13768958#13768958) The payment of such money in advance shall be deemed a condition precedent to the consideration of such appeal, conditional use permit, or amendment. Fees shall not be refunded.

[§ 185-83 Interpretation, purpose and conflict.](http://ecode360.com/8864666#13768959)

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, heath, convenience, comfort, prosperity, or general welfare. It is not intended by this chapter to interfere with, or abrogate or annul any easement, covenants, or other agreement between parties; provided, however, that where this chapter imposes a greater restriction upon land development or construction, or the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of the Town is not shown as being in a zoning district, the classification of such property shall be classified NR until changed by amendment.

[§ 185-84 Enforcement violations and penalties.](http://ecode360.com/8864666#13768960)

[Amended 12-6-2008 by Ord. No. 636 cont'd]

[A.](http://ecode360.com/13768961#13768961) It shall be the duty of the Building Inspector to enforce the provisions of this chapter and to refuse to issue any permit for any building or certificate of occupancy or for the use of any premises which would violate any of the provisions of said chapter. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him any seeming violation in new construction, reconstruction or land uses.

[B.](http://ecode360.com/13768962#13768962) In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the Building Inspector is authorized and directed to institute any appropriate action to put an end to such violation.

[C.](http://ecode360.com/13768963#13768963) Any person who shall violate any of the provisions of this chapter or fails to comply therewith, or with any of the requirements thereof, or who shall build or after any building in violation of any detailed statement or plan submitted and approved hereunder shall have committed a civil offense pursuant to Chapter [**80**](http://ecode360.com/13769393#13769393) of the Municipal Code of the Town of Dewey Beach. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises, or part thereof, where anything in violation of this chapter shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who has assisted in the commission of any such violation, shall have committed a separate civil offense pursuant to Chapter [**80**](http://ecode360.com/13769393#13769393) of the Municipal Code of the Town of Dewey Beach.

[§ 185-85 Expiration of approved site plan.](http://ecode360.com/8864666#13768964)

Any site plan approval for construction of residential or commercial units in excess of one unit per parcel shall be rendered null and void if substantial construction is not commenced within five years of the date of approval of the plan or within five years after the adoption of Ord. No. 529, March 12, 2005, whichever date occurs last. For purposes of this section, the term "substantial construction" shall mean that the right-of-way has been cleared, the roadway has been graded, the drainage system and/or storm water management facilities have been completed, erosion and sediment control measures are in place and are being actively maintained, electrical, sewer and water utilities have been installed and building permits have been acquired for all improvements.

[§ 185-86 Land development and construction requirements.](http://ecode360.com/8864666" \l "13768965)

[A.](http://ecode360.com/13768966#13768966) Inspection fee escrow.

[(1)](http://ecode360.com/13768967#13768967) Prior to the construction of any improvements approved by the Town Commissioners and prior to final approval of subdivision or site plan, the applicant shall deposit and maintain with the Town a fund of not less than 5% of the estimated cost of the required on- and off-site improvements, as determined by the Town Building Official, to cover costs of inspection of improvements. The minimum escrow deposit required at any one time shall be $5000.00?

[(2)](http://ecode360.com/13768968#13768968) If at any time during the inspection of the construction of said improvements it becomes evident that the escrow deposit is or will be insufficient to cover the costs thereof, the applicant shall make such additional deposits in amounts to be determined by the Town Planner based upon the estimated costs required to properly review and inspect the on- and off-site improvements.

[(3)](http://ecode360.com/13768969#13768969) Professional fees. The construction and legal escrows as set forth in the aforesaid provisions are minimum amounts representing an estimate of the anticipated costs for such services based on the hourly rates of the respective professional. The hourly rates to be charged each applicant for the services of such professionals shall be the same as those set forth in the contracts between the Town and said professionals. All legal, engineering and planning review fees set forth under the applications for use and bulk variances, appeals, interpretations and miscellaneous applications are nonrefundable minimums. In all other cases, if the actual cost is less than the minimum, the applicant shall receive a refund of the difference for all development applications; if actual costs for such proposed services exceed the minimum deposits, the applicant shall be responsible to pay to the Town the difference between the actual amount and the amount deposited.

[B.](http://ecode360.com/13768970#13768970) Performance guaranty.

[(1)](http://ecode360.com/13768971#13768971) General requirements.

[(a)](http://ecode360.com/13768972#13768972) No final application for development (whether for an entire tract or a section thereof) shall be approved by the Town Commissioners until the satisfactory completion and performance of all required improvements have been certified by the Town Planner/Building Official/Town Manager As a condition of final approval for any application for development, all applicants shall submit a performance guaranty and, upon completion and approval of the improvements, a two-year maintenance guaranty for all required on-site and off-site improvements. The form and amount of the aforementioned guaranties must meet the satisfaction of the Town Solicitor and Town Planner/Building Official/Town Manager

[(b)](http://ecode360.com/13768973#13768973) A performance guaranty estimate shall be prepared by the applicant's engineer and submitted to the Town Planner/Building Official/Town Manager for review and approval, setting forth all requirements for improvements and their estimated cost. The performance and maintenance guaranties shall conform to such approved estimate in the manner calculated below.

[(2)](http://ecode360.com/13768974#13768974) Calculation of guaranty. The owner shall present the performance guaranty, in an amount equal to 120% of the approved performance guaranty estimate required above. The guaranty must then receive the approval as to form, amount and execution by the Town Planner/Building Official/Town Manager as a condition to approval of the application. No plans will be signed or approval given by the Town until the required performance guaranty has been approved.

[(3)](http://ecode360.com/13768975#13768975) Bonding and cash requirements. The performance guaranty shall be made payable and deposited to the Town of Dewey Beach and shall be in the form of cash, irrevocable letter of credit or certified check or a performance bond in which the owner shall be principal. The bond or letter of credit to be provided must be issued by an acceptable surety or banking company licensed to do business in the State of Delaware. The Town shall issue its receipt for such deposits and shall cause the same to be deposited in the name of the Town to be retained as security for completion of all requirements and to be returned to the owner on completion of all required work or, in the event of default on the part of the owner, to be used by the Town to pay the cost and expense of obtaining completion of all requirements.

[(4)](http://ecode360.com/13768976#13768976) Inspection and tests.

[(a)](http://ecode360.com/13768977#13768977) All site improvements and utility installations for both site plans and subdivisions shall be inspected during the time of their installation under the supervision of the Town to ensure satisfactory completion. The obligor shall reimburse the Town for all reasonable inspection fees paid to the Town professionals for the foregoing inspection of improvements, provided that the Town may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Town professionals for such inspection. The Town professionals shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit. The project may be immediately shut down by the Town if sufficient fees for inspections have not been deposited in accordance with this section.

[(b)](http://ecode360.com/13768978#13768978) In no case shall any paving work be done without permission from the Town. At least five working days' notice shall be given to that Town prior to any construction so that the Town or a qualified representative may be present at the time the work is to be done.

[(c)](http://ecode360.com/13768979#13768979) Streets should not be paved with a wearing course until all heavy construction is completed. Landscaping shall not be planted until all grading and earth moving is completed. The seeding of grass and the placing of surveyor's monuments shall be among the last operations.

[(d)](http://ecode360.com/13768980#13768980) The Town shall be notified five days prior to each of the following phases of work so that it or a qualified representative may inspect the work relating to road subgrade, curb and curb forms, curb and gutters, roadway paving, sidewalk forms, sidewalk, drainage pipes and other drainage construction, street name signs, monuments, storm water basins, topsoil and seeding, and plantings.

[(e)](http://ecode360.com/13768981#13768981) Any improvement installed contrary to the plan or plat approval by the Town shall constitute just cause to void the municipal approval.

[(f)](http://ecode360.com/13768982#13768982) Any improvement installed without notice for inspection shall constitute just cause for:

[[1]](http://ecode360.com/13768983#13768983) Removal of the uninspected improvement;

[[2]](http://ecode360.com/13768984#13768984) The payment by the developer of any costs for material testing;

[[3]](http://ecode360.com/13768985#13768985) The restoration by the developer of any improvements disturbed during any material testing; and/or

[[4]](http://ecode360.com/13768986#13768986) The issuance of a stop-work order by the Town pending the resolution of any dispute.

[(g)](http://ecode360.com/13768987#13768987) Inspection by the Town of the installation of improvements and utilities shall not subject the Town of Dewey Beach to liability for claims, suits or liability of any kind that may arise because of defects or negligence during construction or at any time thereafter, it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the owner and his contractor, if any.

[(5)](http://ecode360.com/13768988#13768988) Conditions and acceptance of improvements. The approval of any application for development and release of guaranty by the Town shall in no way be construed as acceptance of any street or drainage system or any other improvement, nor shall such approval obligate the Town in any way to exercise jurisdiction over such street or drainage system or other improvement. No improvement shall be accepted by the governing body unless and until all of the following conditions have been met:

[(a)](http://ecode360.com/13768989#13768989) The Town Commissioners shall have certified, in writing, that the improvements are completed and that they comply with the requirements of this chapter.

[(b)](http://ecode360.com/13768990#13768990) The final application for development shall have been approved by the Town Commissioners.

[(c)](http://ecode360.com/13768991#13768991) The owner shall have filed with the Town Commissioners a maintenance guaranty in an amount equal to 15% of the cost of installing the improvements. The maintenance guaranty shall run for a period of two years from final acceptance of the improvement. The procedures and requirements for acceptance and release governing such maintenance guaranty shall be identical to the procedures and requirements for a performance guaranty set forth in this chapter.

[C.](http://ecode360.com/13768992#13768992) An as-built plan and profiles of all utilities and roads (three black-and-white prints plus a Mylar copy to be sent to the Town), with certification signed and sealed by a Delaware licensed professional engineer as to the actual construction as approved by the Town, shall be provided.