"A Historic Past"

"A Bright Future"

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

ORDINANCE NO. 15-1221-02

ORDINANCE TO AMEND CHAPTER 54 SECTIONS 54-8 AND 54-28 OF THE CITY CODE TO ADD A DEFINED TERM AND TO CHANGE THE SUBMISSION REQUIREMENTS RELATING TO MAJOR AND MINOR SUBDIVISIONS

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code ("Code");

WHEREAS, The Mayor and City Council of Delaware City desire to amend Chapter 54, Section 54-8 to add a definition for: SUBDIVISION, MAJOR;

WHEREAS, The Mayor and City Council of Delaware City desire to amend Chapter 54, Section 54-28 to separately state the specific the submission requirements and procedures for major and minor subdivision plans as well as to change, modify or clarify the existing submission requirements and procedures.

WHEREAS, The Mayor and City Council believe these amendments are in the best interest of the City;

WHEREAS, under Article V, Section 5-02(B) of the Charter, the proposed amendments were introduced at a regular meeting, duly read in full or in abstract, and prominently posted for ten (10) days in The City of Delaware City.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain and adopt the following Code changes and revisions:

Section 1. Amend Section 54-8 of the Delaware City Code, by adding the following definition between the current definitions of "Subdivision" and "Subdivision, Minor":

SUBDIVISION, MAJOR: A lot, parcel or piece of land to be divided as provided for in the subdivision regulations that disturbs land greater than 10,000 square feet, creates more than three total lots, or creates a street.

Section 2. Amend Section 54-28 by deleting the existing section in its entirety and replacing it with the text set forth on Exhibit A attached hereto, which divides the section into two subsections separately addressing the submission requirements and procedures relating to major and minor subdivision plans. A comparison of the former and modified text of Section 54-28 identifying the changes and modifications is attached hereto as Exhibit B.

Section 3. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 5. Effective Date. This Ordinance shall become effective immediately upon its adoption by City Council.

ADOPTED BY THE MAYOR AND COUNCIL, this _____ day of _____, 201_.

ATTEST:

_____
City Secretary

_____
Mayor

APPROVED AS TO FORM:

_____
Council Member

_____
City Solicitor

_____
Council Member

_____
Council Member

_____
Council Member

_____
Council Member

First Reading on _____,

Second Reading, Public Hearing, and Final Passage on _____.

EXHIBIT A

Section 54-28 Submission Requirements and Procedures For Major Subdivisions

A. **Procedures.** The City Manager and/or his/her designee or City representative may establish appropriate procedures, checklists and application forms to ensure the timely and proper review and processing of major subdivision plans. The City Manager and/or his/her designee or City representative may establish the number and acceptable format for the various types of plans submitted for review under this article.

B. **Voluntary Concept Plan Review.** The purpose of the concept stage is to provide the City the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan. The concept plan is voluntary and is not a precondition to the submission of a preliminary subdivision plan application.

1. The applicant shall submit to the City Manager and/or his/her designee or City representative a concept plan and an application for review.

2. Within ten (10) days of receiving the concept plan submittal, the City Manager and/or his/her designee or City representative shall review it for completeness.

(a) If additional information is required, the City Manager and/or his/her designee or City representative shall notify the applicant within ten (10) days, in writing, indicating the deficiencies.

(b) If the submission is complete, the City Manager and/or his/her designee or City representative shall accept the application and concept plan submittal for review.

3. The applicant may attend a meeting with the City Manager and/or his/her designee or City representative. The purpose of the meeting shall be to provide the City with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required and provide direction to the applicant on the scope of such studies.

C. **Submission of a Preliminary Major Subdivision Plan**. After completing the concept stage, if any, the applicant shall submit an application for preliminary major subdivision plan for review.

1. **Purpose.** The purpose of the preliminary subdivision review stage is to provide a basis for the City to grant conditional approval of a proposed subdivision in order to minimize changes and revisions which might otherwise be necessary on the final subdivision plan.

2. **Submission Procedure.** The applicant shall submit a major preliminary subdivision plan application to show the nature and extent of all contemplated improvements and lot subdivisions as provided for in Section 54-28(C)(3.2) or (C)(3.3)

of this chapter, as applicable. The applicant is responsible for preparing the preliminary subdivision plan application. The plan shall be submitted as a multiple-sheet document with drawings on sheets no larger than 24 inches by 36 inches and at a scale no less detailed than one inch equals 100 feet. They shall be submitted to City Manager and/or his/her designee or City representative with applicable fees. The City Manager and/or his/her designee or City representative shall check the plans for compliance with Section 54-28(C)(3.2) or (C)(3.3) of this chapter, as applicable

(a) If the submission is incomplete or contains deficiencies, the City Manager and/or his/her designee or City representative shall notify the applicant, in writing, indicating the deficiencies within ten (10) days of receiving the application.

(b) If the submission is complete and code compliant, the City Manager and/or his/her designee or City representative shall accept the preliminary subdivision plan and application for review and submittal to the Planning Commission.

3. **Submission Requirements**

3.1 Major Preliminary Subdivision Plan Sheets. It is required that the order of plan sheets of the preliminary site plans be as follows below. The City Manager and/or his/her designee or City representative may waive certain sheets that are clearly not applicable to the project under review. The City Manager and/or his/her designee or City representative may authorize variations in the order of plan sheets if all of the required information has been provided.

(a) Title sheet.

(b) G-1 general sheet (general notes, site data notes, etc.).

(c) Key plan and overview plan (for large projects with multiple sheets).

(d) Site and grading plans horizontal (conforming to requirements of Delaware City Code).

(e) Proposed construction improvement plans.

3.2 Major Subdivision Plan Contents. The major preliminary subdivision plan shall show the North point, scale, date, and the following:

(a) The seal and signature of a registered Delaware land surveyor and/or licensed engineer, as appropriate.

(b) Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary subdivision plan review.

(c) A key and overview plan for multistage projects.

(d) Geographical location, showing existing zoning district boundaries.

(e) Existing and proposed changes in zoning classification on the site and adjacent sites.

(f) Existing topographic contours at a minimum of one-half-foot intervals unless waived by the City Manager and/or his/her designee or City representative as clearly unnecessary to review the project or proposal.

(g) The location and nature of all proposed construction, excavation or grading, including but not limited to buildings, streets and utilities.

(h) If applicable, a parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Chapter 46 Zoning.

(i) Cross-sections for streets and curbing; all existing and proposed streets and easements, including widths.

(j) Approximate location of point of ingress and egress to existing public highways (if ingress or egress is onto a state-maintained roadway, an accompanying letter of no objection and entrance permit from the Department of Transportation) will be required with the final application.

(k) All existing easements of any kind; if easements are to be granted, a separate easement plat. (May be included in record plat.)

(l) The number of construction phases proposed, if any, with the site plan showing the approximate boundaries of each phase, and the anticipated completion date of each phase.

(m) A tabulation of total number of acres 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 and other reservations.

(n) Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings; the overall project density in dwelling units per acre, gross or net, as required by district regulations.

(o) Approximate location and size of recreational areas and other open spaces.

(p) Existing vegetation, proposed removal of vegetation and proposed replacement of vegetation.

(q) If applicable, location, type, size and height of fencing, retaining walls and screen planting.

(r) A Flood Elevation Certificate.

(s) Report of applicant's engineer. The submittal shall also include a report from the applicant's engineer. It shall include:

1. Suitability of land for subdivision development.

2. Base flood elevation.

3. Total area within boundaries.

4. Total area in lots, number of lots, average lot size.

5. Total area in streets, roads, etc.

6. Total area in open spaces provided for public use, parks, playgrounds and recreational areas.

7. Total number of lots and their approximate dimensions, clearly indicating on the plot that part which it is desired to record and showing in a distinctive manner, such as light dotted lines, the ultimate future plans as proposed.

8. Latest City assessment of property and an estimate thereof after the development is divided. The estimated assessments comparative to similar projects may be obtained at the New Castle County Assessment Division and calculated using the City's current tax rate for land and buildings.

9. Approximate location of any proposed off-site extensions or upgrades to water mains, sewers and paved streets for the part to be recorded and for the ultimate future plan.

(t) Any other documentation or plans required by the City Manager or his or her designee to assure that the requirements of the Delaware City Code are satisfied for the particular subdivision requested.

D. **Procedure Following Submission of a Major Preliminary Subdivision Plan Application.**

1. Within fifteen (15) days of the acceptance of the a preliminary major subdivision plan application, the City Manager and/or his or her designee shall prepare and forward a written report to the applicant indicating suggestions, concerns, or problems relating to the preliminary subdivision plan application. The applicant may then revise or amend the subdivision plan as per the written report. If a person is aggrieved by a decision of the City Manager or his or her designee regarding a code interpretation concerning the subdivision plan application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. If no concerns are raised, or if concerns are eliminated through applicant revisions in the subdivision plan, the City Manager and/or his or her designee shall forward the subdivision plan with written comments to the Planning Commission or, if

applicable, the Historic Preservation Commission ("HPC") and/or the Preliminary Land Use Service ("PLUS") outlined in Chapter 92 of Title 29 of the Delaware Code for state agency review. If PLUS review is required, PLUS comments must be received prior to review of the application by the Planning Commission

3. Where a quorum is present, the Planning Commission shall take action within three regularly scheduled meetings following acceptance of the preliminary subdivision plan application from the City Manager and following HPC and PLUS review (if applicable) . The Planning Commission shall furnish a written statement to the applicant and City Council indicating the action taken with any and all recommendations. The Planning Commission shall recommend approval of the plan, reject the plan for non-compliance with applicable laws or regulations, or recommend approval of the plan with conditions. If the plan is rejected for non-compliance with applicable laws and regulations, the applicant may resubmit a revised plan to the Planning Commission for further review.

4. After approval of a preliminary subdivision plan by the City Manager and/or his designee and the Planning Commission (and to the extent applicable, PLUS and/or the HPC the applicant shall prepare and the City shall review a final subdivision plan meeting the submittal requirements of the City of Delaware City Code and satisfying the applicable requirements of the Planning Commission, the HPC, PLUS or other applicable reviewing authority. If the proposed major subdivision requires the grant of variances to obtain code compliance, all required variances must be obtained by the Board of Adjustment prior to submittal of the final major subdivision plan application.

E. **Approval of a preliminary subdivision plan is not final approval.** Approval of the preliminary subdivision plan shall constitute conditional approval as to character and intensity, but shall not constitute approval of the final plan or authorize sale of lots or construction of buildings.

F. **Submission of a final subdivision plan and application**.

1. The purpose of final approval is to confirm and certify that all conditions of preliminary approval have been met, to prepare and/or execute all necessary agreements and to otherwise finalize the subdivision plan and related engineering drawings for official recordation and development. Final subdivision approval is an administrative action, with the exception that the City Council shall confirm the certification of the City Manager and/or his/her designee or City representative and approve a major subdivision plan and/or any applicable agreements.

2. A final subdivision plan application shall be submitted within six months after approval of the preliminary plan; otherwise such approval shall become null and void unless an extension is timely applied for and granted by the City Manager and/or her/her designee, provided that good cause is shown.

3. The final subdivision plan application shall conform substantially to the preliminary subdivision application, but shall be amended as required to incorporate Planning Commission or other agency comments. In addition to meeting the technical requirements of the Delaware City Code, the contents the final subdivision submittal, in addition to the requirements necessary for the preliminary plan, as applicable to a major subdivision, shall include:

(a) A drawing intended for recording, incorporating those changes or additions required by the approval of the preliminary subdivision plan.

(b) If ingress or egress is onto a state-maintained roadway, an accompanying letter of no objection and entrance permit from the Department of Transportation.

(c) A construction improvement agreement, if applicable, to be recorded against the subject land which shall include, but not be limited to, construction improvement plans in a form and format acceptable to the City, requirements for posting and release of a completion guaranty bond or other type of surety, requirement for the submission of "as-built" construction plans.

(d) Sufficient documentation that all requirements of the Delaware City Code applicable to subdivisions are satisfied.

(e) Documentation that all necessary variances and agency approvals have been received, if applicable.

(f) Utility plans horizontal conforming to requirements for construction improvements plans. (For scale of one inch equals 20 feet, grading and utilities may be combined on same drawing. For scale of one inch equals 30 feet or one inch equals 40 feet or greater, provide separate drawings for grading and utilities where needed for clarity.)

(g) Sediment and stormwater management plans, to include horizontal location, contours, inflow pipes, outfall, amenities, paths, buffers and forestation areas, if applicable.

(h) Pump station details and plans , if applicable.

(i) Sewer and water details using City of Delaware City and/or New Castle County standards.

(j) Landscape and lighting plans, including location and type of signage.

(k) Electrical/Mechanical plans and specifications (where applicable).

(l) Final construction improvement plans.

G. **Procedure Following Submission of Final Subdivision Plan Application.**

1. The City Manager and/or his/her designee or City representative shall review such plans, and such plans shall be modified by the applicant such that the City Manager and/or his/her designee or City representative can certify that the complete final subdivision application and related plans comply with all requirements of the subdivision regulations and the Delaware City Code. Deviations, if any, from subdivision regulations or any provision of the Delaware City Code shall be noted and qualified. If specified conditions or stipulations of the preliminary approval are not met in revised plans, the City Manager and/or his/her designee or City representative shall return the subdivision plan application to the applicant. If a person is aggrieved by a decision of the City Manager or his or her designee regarding an interpretation concerning any aspect of a final subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. Following certification, the City Manager and/or his/her designee or City representative shall submit the completed major final subdivision plan application to the City Council upon certifying that each of following steps is completed:

(a) All review and approvals have been completed and documentation of such approvals provided and all necessary agency approvals have been received.

(b) A construction improvement plan and construction improvement agreement for recording against the subject land have been submitted to the City and approved.

(c) Appropriate fees have been paid pursuant to the City of Delaware City ordinances.

3. The City Council shall approve the final major subdivision plan or, upon a finding that the final major subdivision plan does not meet the requirements of the Delaware City Code, return the application for further review by the City Manager and/or his/her designee.

4. The City Manager and/or his/her designee or a City representative shall promptly notify the applicant of the action taken by the City Council on a final major subdivision plan.

5. If applicable, upon remand, the City Manager and/or his/her designee or a City representative shall review the final major subdivision for compliance with applicable law. If violations are found, the City Manager shall require the applicant to correct the violations and resubmit. If the City Manager and/or his/her designee or a City representative finds that the proposed major plan satisfies all requirements of the law, the City Manager shall resubmit the plan to the City Council, who shall approve the plan at its next scheduled meeting.

H. Recording of Final Approved Subdivision Plan

1. The City Manager and/or his/her designee or City representative shall certify final approval on the final major subdivision plan which shows distinctively the part to be recorded. Two copies of the signed and approved plan shall be transmitted to the City Manager and/or his/her designee or City representative for incorporation into any applicable agreement with the developer; the other signed and approved copy shall be retained by the City for its records. The City Manager and/or his/her designee or City representative shall sign the required certification or certifications, as the case may be; certification to be according to the following:

    a. For a subdivision plan to be recorded and developed in its entirety:

    "It is hereby certified that this subdivision plan was granted final approval on _____, and accordingly is eligible for recording in the Office of the Recorder of Deeds in and for New Castle County.
    City Manager or City representative"

2. Prior to recordation of any major subdivision plan, all requirements of the subdivision regulations, state and federal law, and the Delaware City Code must be satisfied. If a person is aggrieved by a decision by the City relating to an interpretation regarding code compliance concerning any aspect of a major subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

3. The applicant is responsible for recording such finally approved subdivision plan with the New Castle County Recorder of deeds. One stamped copy of the recorded plan must be returned to the City. Any subdivision plan application not recorded within sixty (60) days of certification by the City shall be deemed null and void.

4. All performance guarantees required for development of any subdivision, including but not limited to applicable bonds for improvements, shall be funded, paid, and/or satisfied prior to any building permit being issued for construction.

54-28.1 Submission Requirements and Procedures for Minor Subdivisions

A. **Procedures.** The City Manager and/or his/her designee or City representative may establish appropriate procedures, checklists and application forms to ensure the timely and proper review and processing of minor subdivision plans. The City Manager and/or his/her designee or City representative may establish the number and acceptable format for the various types of plans submitted for review under this article.

B. **Voluntary Concept Plan Review.** The purpose of the concept stage is to provide the City Manager and/or his/her designee or City representative the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan. The concept plan is voluntary and is not a precondition to the submission of a minor subdivision plan application.

1. The applicant shall submit to the City Manager and/or his/her designee or City representative a concept plan and an application for review.

2. Within five (5) days of receiving the concept plan submittal, the City Manager and/or his/her designee or City representative shall review the application and provide initial comments on the submittal. Comments may be provided in writing or the applicant may attend a meeting with the City Manager and/or his/her designee or City representative for the purpose of providing the City an opportunity to address issues or concerns with the concept plan.

C. **Submission of a Minor Subdivision Plan.** After completing the concept stage, if any, the applicant shall submit a minor subdivision plan application for review.

1. Minor Subdivision Plan Application Contents. The minor subdivision plan shall show the North point, scale, date, and the following:

(a) The seal and signature of a registered Delaware land surveyor and/or licensed engineer, as appropriate.

(b) Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for minor subdivision plan review.

(c) Geographical location, showing existing zoning district boundaries.

(d) Existing zoning classification on the site and adjacent sites.

(e) Existing topographic contours at a minimum of one-half-foot intervals unless waived by the City Manager and/or his/her designee or City representative as clearly unnecessary to review the project or proposal.

(f) If applicable, the location and nature of all proposed construction, excavation or grading, including but not limited to buildings, streets and utilities.

(g) If applicable, a parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Chapter 46 Zoning.

(h) All existing easements of any kind; if easements are to be granted, the location of such easements.

(i) A tabulation of total number of acres in the project, gross or net, as required in the district regulations.

(j) A Flood Elevation Certificate if required by the City for the application.

(k) Total number of lots and their approximate dimensions, clearly indicating on the plot that part which it is desired to record and showing in a distinctive manner, such as light dotted lines, the ultimate future plans as proposed.

(j) Any other documentation or plans required by the City Manager or his or her designee to assure that the requirements of the Delaware City Code are satisfied for the particular minor subdivision requested.

If the minor subdivision application submitted is incomplete, the City shall notify the applicant within ten (10) days of the date of receipt.

D. **Minor Subdivision Plan Review and Approval.**

1. Within ten (10) days of the submission of a complete minor subdivision plan application, the City Manager and/or his/her designee may prepare and forward a written report to the applicant indicating suggestions, concerns, or problems relating to the minor subdivision plan application. The applicant may then revise or amend the subdivision plan as per the written report. If a person is aggrieved by a decision of the City Manager and/or his/her designee regarding a code interpretation concerning the subdivision plan application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. If no concerns are raised, or if concerns are eliminated through applicant revisions to the minor subdivision plan, the City Manager and/or his/her designee shall forward the subdivision plan with written comments to the Planning Commission or, if applicable, the Historic Preservation Commission ("HPC").

3. Where a quorum is present, the Planning Commission shall take action within three regularly scheduled meetings following acceptance of the minor subdivision plan application from the City Manager and following HPC review (if applicable). The Planning Commission shall furnish a statement to the applicant and City Council indicating the action taken with any and all recommendations. The Planning Commission shall recommend approval of the plan, reject the plan for non-compliance with applicable laws or regulations, or recommend approval of the plan with conditions. If the plan is rejected for non-compliance with applicable laws and regulations, the applicant may resubmit a revised plan to the Planning Commission for further review.

4. If the proposed minor subdivision requires the grant of variances to obtain code compliance, all required variances must be obtained by the Board of Adjustment prior to City Council review or approval of the minor subdivision plan.

5. After approval of a minor subdivision plan by the City Manager and/or his/her designee and the Planning Commission (and to the extent applicable, and/or the HPC), and upon the grant of all required variances by the Board of Adjustment, and the payment of all required fees, the application plan shall be submitted to the City Council.

6. The City Council shall approve the final minor subdivision plan or, upon a finding that the final minor subdivision plan does not meet the requirements of the code, return the application for further review by the City Manager and/or his/her designee. If the minor subdivision plan is rejected for failing to meet applicable code

requirements, the applicant may revise the plan to correct the code deficiencies. If the code deficiencies identified require a substantial revision to the minor subdivision application, the applicant shall be required to start the minor subdivision process anew.

E. **General Provisions.**

1. Prior to recordation of any minor subdivision plan, all requirements of the subdivision regulations, state and federal law, and the Delaware City Code must be satisfied. If a person is aggrieved by a decision by the City relating to an interpretation regarding code compliance concerning any aspect of a minor subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. The applicant is responsible for recording the approved subdivision plan with the New Castle County Recorder of Deeds. One stamped copy of the recorded plan must be returned to the City. Any minor subdivision plan application not recorded within sixty (60) days of approval by the City Council shall be deemed null and void.

3. All required performance guarantees required for development of any minor subdivision, including but not limited to applicable bonds for improvements, shall be funded, paid, and/or satisfied prior to any building permit being issued for construction.

EXHIBIT B

Section 54-28 Submission Requirements and Procedures for Major Subdivisions

A. **Procedures.** The City Manager and/or his/her designee or City representative may establish appropriate procedures, checklists and application forms to ensure the timely and proper review and processing of major subdivision plans. The City Manager and/or his/her designee or City representative may establish the number and acceptable format for the various types of plans submitted for review under this article.

B. **Voluntary Concept Plan Review.** The purpose of the concept stage is to provide the City ~~Manager~~ the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan. The concept plan is voluntary and is not a precondition to the submission of a preliminary subdivision plan application.

1. The applicant shall submit to the City Manager and/or his/her designee or City representative a concept plan and an application for review.

2. Within ten (10) days of receiving the concept plan submittal, the City Manager and/or his/her designee or City representative shall review it for completeness.

(a) If additional information is required, the City Manager and/or his/her designee or City representative shall notify the applicant within ten (10) days, in writing, indicating the deficiencies.

(b) If the submission is complete, the City Manager and/or his/her designee or City representative shall accept the application and concept plan submittal for review.

3. The applicant may attend a meeting with the City Manager and/or his/her designee or City representative. The purpose of the meeting shall be to provide the City with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required and provide direction to the applicant on the scope of such studies.

C. **Submission of a Preliminary Major ~~or Minor~~ Subdivision Plan**. After completing the concept stage, if any, the applicant shall submit an application for preliminary major subdivision plan for review.

1. **Purpose.** The purpose of the preliminary subdivision review stage is to provide a basis for the City to grant conditional approval of a proposed subdivision in order to minimize changes and revisions which might otherwise be necessary on the final subdivision plan.

2. **Submission Procedure.** The applicant shall submit a major ~~or minor~~ preliminary subdivision plan application to show the nature and extent of all contemplated improvements and lot subdivisions as provided for in Section 54-

28(C)(3.2) or (C)(3.3) of this chapter, as applicable. The applicant is responsible for preparing the preliminary subdivision plan application. The plan shall be submitted as a multiple-sheet document with drawings on sheets no larger than 24 inches by 36 inches and at a scale no less detailed than one inch equals 100 feet. They shall be submitted to City Manager and/or his/her designee or City representative with applicable fees. The City Manager and/or his/her designee or City representative shall check the plans for compliance with Section 54-28(C)(3.2) or (C)(3.3) of this chapter, as applicable

(a) If the submission is incomplete or contains deficiencies, the City Manager and/or his/her designee or City representative shall notify the applicant, in writing, indicating the deficiencies within ~~thirty~~ ten (~~3~~10) days of receiving the application.

(b) If the submission is complete and code compliant, the City Manager and/or his/her designee or City representative shall accept the preliminary subdivision plan and application for review and submittal to the Planning Commission.

3. **Submission Requirements**

3.1 **Major ~~and Minor~~ Preliminary Subdivision Plan Sheets**. It is required that the order of plan sheets of the ~~major and minor~~ preliminary site plans be as follows below. The City Manager and/or his/her designee or City representative may waive certain sheets that are clearly not applicable to the project under review. The City Manager and/or his/her designee or City representative may authorize variations in the order of plan sheets if all of the required information has been provided.

(a) Title sheet.

(b) G-1 general sheet (general notes, site data notes, etc.).

(c) Key plan and overview plan (for large projects with multiple sheets).

(d) Site and grading plans horizontal (conforming to requirements of Delaware City Code).

~~(e) Utility plans horizontal conforming to requirements for construction improvements plans. (For scale of one inch equals 20 feet, grading and utilities may be combined on same drawing. For scale of one inch equals 30 feet or one inch equals 40 feet or greater, provide separate drawings for grading and utilities where needed for clarity.)~~

~~(f) Sediment and stormwater management plans, to include horizontal location, contours, inflow pipes, outfall, amenities, paths, buffers and forestation areas, if applicable.~~

~~(g) Pump station details and plans , if applicable.~~

(h) Sewer and water details using City of Delaware City and/or New Castle County standards.

~~(i) Landscape and lighting plans, including location and type of signage, if known during the preliminary subdivision plan review as this item is required during the final submittal.~~

~~(j) Architectural elevations (all sides), 24 inches by 36 inches, by registered architect.~~

~~(k) Electrical/Mechanical plans, where applicable (may be left blank for preliminary subdivision plan submittal).~~

~~(l)~~ Proposed ~~Improvement~~ construction improvement plans.

3.2 **Major Subdivision Plan Contents**. The major preliminary subdivision plan shall show the North point, scale, date, and the following:

(a) The seal and signature of a registered Delaware land surveyor and/or licensed engineer, as appropriate.

(b) Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary subdivision plan review.

(c) A key and overview plan for multistage projects.

(d) Geographical location, showing existing zoning district boundaries.

(e) Existing and proposed changes in zoning classification on the site and adjacent sites.

(f) Existing topographic contours at a minimum of one-half-foot intervals unless waived by the City Manager and/or his/her designee or City representative as clearly unnecessary to review the project or proposal.

(g) The location and nature of all proposed construction, excavation or grading, including but not limited to buildings, streets and utilities.

(h) If applicable, a parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Chapter 46 Zoning.

(i) Cross-sections for streets and curbing; all existing and proposed streets and easements, including widths.

(j) Approximate location of point of ingress and egress to existing public highways (if ingress or egress is onto a state-maintained roadway, an accompanying letter of no objection and entrance permit from the Department of Transportation) will be required with the final application.

(k) All existing easements of any kind; if easements are to be granted, a separate easement plat. (May be included in record plat.)

(l) The number of construction phases proposed, if any, with the site plan showing the approximate boundaries of each phase, and the anticipated completion date of each phase.

(m) A tabulation of total number of acres 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 and other reservations.

(n) Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings; the overall project density in dwelling units per acre, gross or net, as required by district regulations.

(o) Approximate location and size of recreational areas and other open spaces.

(p) Existing vegetation, proposed removal of vegetation and proposed replacement of vegetation.

(q) If applicable, location, type, size and height of fencing, retaining walls and screen planting.

(r) A Flood Elevation Certificate.

(s) Report of applicant's engineer. The submittal shall also include a report from the applicant's engineer. It shall include:

1. Suitability of land for subdivision development.

2. Base flood elevation.

3. Total area within boundaries.

4. Total area in lots, number of lots, average lot size.

5. Total area in streets, roads, etc.

6. Total area in open spaces provided for public use, parks, playgrounds and recreational areas.

7. Total number of lots and their approximate dimensions, clearly indicating on the plot that part which it is desired to record and showing in a distinctive manner, such as light dotted lines, the ultimate future plans as proposed.

8. Latest City assessment of property and an estimate thereof after the development is divided. The estimated assessments comparative to similar projects may be obtained at the New Castle County Assessment Division and calculated using the City's current tax rate for land and buildings.

9. Approximate location of any proposed off-site extensions or upgrades to water mains, sewers and paved streets for the part to be recorded and for the ultimate future plan.

(t) Any other documentation or plans required by the City Manager or his or her designee to assure that the requirements of the Delaware City Code are satisfied for the particular subdivision requested.

~~**3.3 Minor Subdivision Plan Contents.** The minor preliminary subdivision plan shall show the North point, scale, date, and the following:~~

~~(a) The seal and signature of a registered Delaware land surveyor and/or licensed engineer, as appropriate.~~

~~(b) Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary minor subdivision plan review.~~

~~(c) Geographical location, showing existing zoning district boundaries.~~

~~(d) Existing zoning classification on the site and adjacent sites.~~

~~(e) Existing topographic contours at a minimum of one-half-foot intervals unless waived by the City Manager and/or his/her designee or City representative as clearly unnecessary to review the project or proposal.~~

~~(f) The location and nature of all proposed construction, excavation or grading, including but not limited to buildings, streets and utilities.~~

~~(g) If applicable, a parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Chapter 46 Zoning.~~

~~(h) Cross-sections for streets and curbing; all existing and proposed streets and easements, including widths.~~

~~(i) All existing easements of any kind; if easements are to be granted, a separate easement plat (may be included in record plat.)~~

~~(j) A tabulation of total number of acres in the project, gross or net, as required in the district regulations.~~

~~(k) Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings; the overall project density in dwelling units per acre, gross or net, as required by district regulations.~~

~~(l) Approximate location and size of recreational areas and other open spaces.~~

~~(m) Existing vegetation, proposed removal of vegetation and proposed replacement of vegetation.~~

~~(n) If applicable, location, type, size and height of fencing, retaining walls and screen planting.~~

~~(o) Any other documentation or plans required by the City Manager or his or her designee to assure that the requirements of the Delaware City Code are satisfied for the particular subdivision requested.~~

~~D. **Approval of a preliminary subdivision plan is not final approval.** Approval of the preliminary subdivision plan shall constitute conditional approval as to character and intensity, but shall not constitute approval of the final plan or authorize sale of lots or construction of buildings.~~

D~~E~~. **Procedure Following Submission of a Major ~~or Minor~~ Preliminary Subdivision Plan Application.**

1. Within fifteen ~~thirty~~ (15 ~~30~~) days of the ~~receipt~~ acceptance of the a preliminary major subdivision plan application, the City Manager and/or his or her designee shall prepare and forward a written report to the applicant indicating suggestions, concerns, or problems relating to the preliminary subdivision plan application. The applicant may then revise or amend the subdivision plan as per the written report. If a person is aggrieved by a decision of the City Manager or his or her designee regarding a code interpretation concerning the subdivision plan application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. If no concerns are raised, or if concerns are eliminated through applicant revisions in the subdivision plan, the City Manager and/or his or her designee shall ~~prepare a written report within 30 working days of the receipt of the preliminary subdivision plan application containing the recommendations concerning~~ forward the subdivision plan with written comments to the Planning Commission or ~~and~~, if applicable, the Historic Preservation Commission ("HPC") and/or the Preliminary Land Use Service ("PLUS") outlined in Chapter 92 of Title 29 of the Delaware Code for state agency review. If PLUS review is required, PLUS comments must be received prior to review of the application by the Planning Commission.

~~3. If a subdivision plan involves a minor subdivision or a major subdivision that results in the creation of less than fifty (50) lots, the City Manager and/or his designee shall submit the preliminary subdivision plan application along with the written report of recommendations to the Planning Commission for review and comment. If a historic property is involved, the City Manager and/or his designee shall also submit the preliminary subdivision plan application along with the written report of recommendations to the Historic Preservation Commission for review and comment prior to Planning Commission review.~~

~~4. If a major subdivision plan involves the creation of fifty (50) lots or more, the applicant shall submit the preliminary subdivision plan application to PLUS for state agency review. The applicant shall provide the City Manager and/or his/her designee with the written comments from PLUS following PLUS review. Following PLUS review, the application shall be forwarded to the Planning Commission, with PLUS comments, pursuant to section 5 below.~~

~~5~~3. Where a quorum is present, the Planning Commission shall take action within three regularly scheduled meetings following acceptance of the preliminary subdivision plan application from the City Manager and following HPC and PLUS review (if applicable). The Planning Commission shall furnish a written statement to the applicant and City Council indicating the action taken with any and all recommendations. The Planning Commission shall recommend ~~approve~~ approval of the plan, reject the plan for non-compliance with applicable laws or regulations, or ~~approve~~ recommend approval of the plan with conditions. If the plan is rejected for non-compliance with applicable laws and regulations, the applicant may resubmit a revised plan to the Planning Commission for further review.

~~6~~4. After approval of a preliminary subdivision plan by the City Manager and/or his designee and the Planning Commission (and to the extent applicable, PLUS and/or the ~~Historic Preservation Commission~~ HPC), the applicant shall prepare and the City shall review a final subdivision plan meeting the submittal requirements of the City of Delaware City Code and satisfying the applicable requirements of the Planning Commission, the ~~Historic Preservation Commission~~ HPC, PLUS or other applicable reviewing authority. If the proposed major subdivision requires the grant of variances to obtain code compliance, all required variances must be obtained by the Board of Adjustment prior to submittal of the final major subdivision plan application.

~~7. Zoning district changes. If an application involves a request for a change in zoning district classification, the applicant's request for rezoning should be presented to City Council for consideration after Planning Commission consideration of the preliminary subdivision plan application. The City Council will consider only the rezoning request and not the subdivision plan itself. If the Planning Commission recommends against rezoning during its consideration of the preliminary subdivision plan application, a 4/5ths vote of City Council shall be required to approve the rezoning. If the Planning Commission recommends rezoning during its consideration of the preliminary subdivision plan application, a majority vote of City Council shall be required to approve the rezoning.~~

F. **Approval of a preliminary subdivision plan is not final approval.** Approval of the preliminary subdivision plan shall constitute conditional approval as to character and intensity, but shall not constitute approval of the final plan or authorize sale of lots or construction of buildings.

G~~F~~. **Submission of a final subdivision plan and application**.

1. The purpose of final approval is to confirm and certify that all conditions of preliminary approval have been met, to prepare and/or execute all necessary agreements and to otherwise finalize the subdivision plan and related engineering drawings for official recordation and development. Final subdivision approval is an administrative action, with the exception that the City Council shall confirm the

certification of the City Manager and/or his/her designee or City representative and approve a major subdivision plan and/or any applicable agreements.

2. A final subdivision plan application shall be submitted within six months after approval of the preliminary plan; otherwise such approval shall become null and void unless an extension is timely applied for and granted by the City Manager and/or her/her designee, provided that good cause is shown.

3. The final subdivision plan application shall conform substantially to the preliminary subdivision application, but shall be amended as required to incorporate Planning Commission or other agency comments. In addition to meeting the technical requirements of the Delaware City Code, the contents the final subdivision submittal, in addition to the requirements necessary for the preliminary plan, as applicable to a major subdivision, shall include:

(a) A drawing intended for recording, incorporating those changes or additions required by the approval of the preliminary subdivision plan.

(b) If ingress or egress is onto a state-maintained roadway, an accompanying letter of no objection and entrance permit from the Department of Transportation.

(c) A construction improvement agreement, if applicable, to be recorded against the subject land which shall include, but not be limited to, construction improvement plans in a form and format acceptable to the City, requirements for posting and release of a completion guaranty bond or other type of surety, requirement for the submission of "as-built" construction plans.

(d) Sufficient documentation that all requirements of the Delaware City Code applicable to subdivisions are satisfied.

(e) Documentation that all necessary variances and agency approvals have been received, if applicable.

(f) Utility plans horizontal conforming to requirements for construction improvements plans. (For scale of one inch equals 20 feet, grading and utilities may be combined on same drawing. For scale of one inch equals 30 feet or one inch equals 40 feet or greater, provide separate drawings for grading and utilities where needed for clarity.)

(g) Sediment and stormwater management plans, to include horizontal location, contours, inflow pipes, outfall, amenities, paths, buffers and forestation areas, if applicable.

(h) Pump station details and plans , if applicable.

(i) Sewer and water details using City of Delaware City and/or New Castle County standards.

(j) Landscape and lighting plans, including location and type of signage.

(k) Electrical/Mechanical plans and specifications (where applicable).

(l) Final construction improvement plans.

G. **Procedure Following Submission of Final Subdivision Plan Application.**

1. The City Manager and/or his/her designee or City representative shall review such plans, and such plans shall be modified by the applicant such that the City Manager and/or his/her designee or City representative can certify that the complete final subdivision application and related plans comply with all requirements of the subdivision regulations and the Delaware City Code. Deviations, if any, from subdivision regulations or any provision of the Delaware City Code shall be noted and qualified. If specified conditions or stipulations of the preliminary approval are not met in revised plans, the City Manager and/or his/her designee or City representative shall return the subdivision plan application to the applicant. If a person is aggrieved by a decision of the City Manager or his or her designee regarding an interpretation concerning any aspect of a final subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

2. ~~For a major subdivision,~~ Following certification, the City Manager and/or his/her designee or City representative shall submit the completed major final subdivision plan application to the City Council upon certifying that each of following steps is completed:

(a) All review and approvals have been completed and documentation of such approvals provided and all necessary agency approvals have been received.

(b) A construction improvement plan and construction improvement agreement for recording against the subject land have been submitted to the City and approved.

(c) Appropriate fees have been paid pursuant to the City of Delaware City ordinances.

3. The City Council shall approve the final major subdivision plan or, upon a finding that the final major subdivision plan does not meet the requirements of the Delaware City Code, return the application for further review by the City Manager and/or his/her designee.

4. The City Manager and/or his/her designee or a City representative shall promptly notify~~, in writing,~~ the applicant of the action taken by the City Council on a final major subdivision plan.

5. If applicable, ~~U~~upon remand, the City Manager and/or his/her designee or a City representative shall review the final major subdivision for compliance with applicable law. If violations are found, the City Manager shall require the applicant to

correct the violations and resubmit. If the City Manager and/or his/her designee or a City representative finds that the proposed major plan satisfies all requirements of the law, the City Manager shall resubmit the plan to the City Council, who shall approve the plan at its next scheduled meeting.

~~6. Minor subdivision plans do not require submission to City Council for approval. For minor subdivisions, the City Manager and/or his/her designee or a City representative may certify that the minor subdivision plan meets all requirements of the Code and may execute the final minor subdivision plan for recordation.~~

H. **Recording of Final Approved Subdivision Plan**

5. The City Manager and/or his/her designee or City representative shall certify final approval on the final major subdivision plan ~~(minor or major)~~ which shows distinctively the part to be recorded. Two copies of the signed and approved plan shall be transmitted to the City Manager and/or his/her designee or City representative for incorporation into any applicable agreement with the developer; the other signed and approved copy shall be retained by the City for its records. The City Manager and/or his/her designee or City representative shall sign the required certification or certifications, as the case may be; certification to be according to the following:

   a.~~1.~~ For a subdivision plan to be recorded and developed in its entirety:

   "It is hereby certified that this subdivision plan was granted final approval on _____, and accordingly is eligible for recording in the Office of the Recorder of Deeds in and for New Castle County.
   City Manager or City representative"

   ~~2. For a subdivision plan approved to be recorded and developed in sections, certification on separate plans as follows:~~
   ~~"It is hereby certified that this subdivision plan was granted preliminary approval on _____.~~
   ~~City Manager or City Representative"~~

6. Prior to recordation of any major subdivision plan, all requirements of the subdivision regulations, state and federal law, and the Delaware City Code must be satisfied. If a person is aggrieved by a decision by the City relating to an interpretation regarding code compliance concerning any aspect of a major subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

7. The applicant is responsible for recording such finally approved subdivision plan with the New Castle County Recorder of deeds. One stamped copy of the recorded plan must be returned to the City. Any subdivision plan application not recorded within sixty (60) days of certification by the City shall be deemed null and void.

8. All performance guarantees required for development of any subdivision, including but not limited to applicable bonds for improvements, shall be funded, paid, and/or satisfied prior to any building permit being issued for construction.

54-28.1 Submission Requirements and Procedures for Minor Subdivisions

A. **Procedures.** The City Manager and/or his/her designee or City representative may establish appropriate procedures, checklists and application forms to ensure the timely and proper review and processing of minor subdivision plans. The City Manager and/or his/her designee or City representative may establish the number and acceptable format for the various types of plans submitted for review under this article.

B. **Voluntary Concept Plan Review.** The purpose of the concept stage is to provide the City Manager and/or his/her designee or City representative the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan. The concept plan is voluntary and is not a precondition to the submission of a minor subdivision plan application.

1. The applicant shall submit to the City Manager and/or his/her designee or City representative a concept plan and an application for review.

2. Within five (5) days of receiving the concept plan submittal, the City Manager and/or his/her designee or City representative shall review the application and provide initial comments on the submittal. Comments may be provided in writing or the applicant may attend a meeting with the City Manager and/or his/her designee or City representative for the purpose of providing the City an opportunity to address issues or concerns with the concept plan.

C. **Submission of a Minor Subdivision Plan**. After completing the concept stage, if any, the applicant shall submit a minor subdivision plan application for review.

2. Minor Subdivision Plan Application Contents. The minor subdivision plan shall show the North point, scale, date, and the following:

(a) The seal and signature of a registered Delaware land surveyor and/or licensed engineer, as appropriate.

(b) Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for minor subdivision plan review.

(c) Geographical location, showing existing zoning district boundaries.

(d) Existing zoning classification on the site and adjacent sites.

(e) Existing topographic contours at a minimum of one-half-foot intervals unless waived by the City Manager and/or his/her designee or City representative as clearly unnecessary to review the project or proposal.

(f) If applicable, the location and nature of all proposed construction, excavation or grading, including but not limited to buildings, streets and utilities.

(g) If applicable, a parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by Chapter 46 Zoning.

(h) All existing easements of any kind; if easements are to be granted, the location of such easements.

(i) A tabulation of total number of acres in the project, gross or net, as required in the district regulations.

(j) A Flood Elevation Certificate if required by the City for the application.

(k) Total number of lots and their approximate dimensions, clearly indicating on the plot that part which it is desired to record and showing in a distinctive manner, such as light dotted lines, the ultimate future plans as proposed.

(j) Any other documentation or plans required by the City Manager or his or her designee to assure that the requirements of the Delaware City Code are satisfied for the particular minor subdivision requested.

If the minor subdivision application submitted is incomplete, the City shall notify the applicant within ten (10) days of the date of receipt.

D. **Minor Subdivision Plan Review and Approval.**

7. Within ten (10) days of the submission of a complete minor subdivision plan application, the City Manager and/or his/her designee may prepare and forward a written report to the applicant indicating suggestions, concerns, or problems relating to the minor subdivision plan application. The applicant may then revise or amend the subdivision plan as per the written report. If a person is aggrieved by a decision of the City Manager and/or his/her designee regarding a code interpretation concerning the subdivision plan application, such aggrieved person may appeal such decision to the Board of Adjustment.

8. If no concerns are raised, or if concerns are eliminated through applicant revisions to the minor subdivision plan, the City Manager and/or his/her designee shall forward the subdivision plan with written comments to the Planning Commission or, if applicable, the Historic Preservation Commission ("HPC").

9. Where a quorum is present, the Planning Commission shall take action within three regularly scheduled meetings following acceptance of the minor subdivision plan application from the City Manager and following HPC review (if applicable). The Planning Commission shall furnish a statement to the applicant and City Council indicating the action taken with any and all recommendations. The Planning Commission shall recommend approval of the plan, reject the plan for non-

compliance with applicable laws or regulations, or recommend approval of the plan with conditions. If the plan is rejected for non-compliance with applicable laws and regulations, the applicant may resubmit a revised plan to the Planning Commission for further review.

10. If the proposed minor subdivision requires the grant of variances to obtain code compliance, all required variances must be obtained by the Board of Adjustment prior to City Council review or approval of the minor subdivision plan.

11. After approval of a minor subdivision plan by the City Manager and/or his/her designee and the Planning Commission (and to the extent applicable, and/or the HPC), and upon the grant of all required variances by the Board of Adjustment, and the payment of all required fees, the application plan shall be submitted to the City Council.

12. The City Council shall approve the final minor subdivision plan or, upon a finding that the final minor subdivision plan does not meet the requirements of the code, return the application for further review by the City Manager and/or his/her designee. If the minor subdivision plan is rejected for failing to meet applicable code requirements, the applicant may revise the plan to correct the code deficiencies. If the code deficiencies identified require a substantial revision to the minor subdivision application, the applicant shall be required to start the minor subdivision process anew.

E. **General Provisions.**

4. Prior to recordation of any minor subdivision plan, all requirements of the subdivision regulations, state and federal law, and the Delaware City Code must be satisfied. If a person is aggrieved by a decision by the City relating to an interpretation regarding code compliance concerning any aspect of a minor subdivision application, such aggrieved person may appeal such decision to the Board of Adjustment.

5. The applicant is responsible for recording the approved subdivision plan with the New Castle County Recorder of Deeds. One stamped copy of the recorded plan must be returned to the City. Any minor subdivision plan application not recorded within sixty (60) days of approval by the City Council shall be deemed null and void.

6. All required performance guarantees required for development of any minor subdivision, including but not limited to applicable bonds for improvements, shall be funded, paid, and/or satisfied prior to any building permit being issued for construction.