

INTRODUCED BY: Eric L. Buckson
DATE INTRODUCED: July 23, 2019
PUBLIC HEARING DATE: September 24, 2019
PUBLIC HEARING TIME: 7:00 p.m.
ADOPTION DATE: _____
EFFECTIVE DATE: Upon Adoption

Ordinance LC19-18
Amendments to Chapter 187 (Subdivision and Land Development)

An Ordinance to amend Kent County Code, Vol. II, Chapter 187, Subdivision and Land Development, as amended by revising the following sections: Article II, §187-5, Definitions; Article III, §187-13, Jurisdiction of the Department of Planning Services; and, Article VII, §187-33.B., Administrative Approvals, for the purpose of designating the County Administrator as the staff level administrative decision making authority for Kent County Code, Chapter 187.

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That the Kent County Code, Vol. II, Chapter 187, Subdivision and Land Development, Article II, §187-5, Definitions is hereby amended by adding the following underlined language in the correct alphabetical order in accordance with this Section:

COUNTY ADMINISTRATOR – The person appointed by Kent County Levy Court to serve as the Chief Administrative Officer for Kent County, Delaware.

Section 2. That the Kent County Code, Vol. II, Chapter 187, Subdivision and Land Development, Article III, §187-13, Jurisdiction of Department of Planning Services, is hereby amended by adding the following underlined language and deleting the bracketed language shown with strike through marks:

§ 187-13 Jurisdiction of the County Administrator and Department of Planning Services.

A. The County Administrator shall have direct management and decision-making authority over the Department of Planning Services.

[A]B. [~~Levy Court hereby designates~~] Under the direction of the County Administrator, the Director of the Department of Planning Services, or designated representative, [~~as the person to~~] shall determine whether or not any preliminary or final plan submissions are complete and acceptable to the County in accordance with these regulations.

(1) The Director or designated representative shall, within eight business days of submission, inspect such submission to verify the following have been submitted:

(a) The required data and other information to be included on the plan;

(b) The required application form and filing fee;

(c) The required number of copies;

(d) The required types of plans, electronic files, reports, and other information;

(e) The required checklist; and

(f) The required supporting information.

(2) In the event that the submission is found to be incomplete, the Director or designated representative shall notify the applicant, in writing, by certified mail, return receipt requested, and inform the applicant that the date of filing will not be effective until all required forms, fees, types and copies of plans and papers are submitted.

[B]C. In the event of any action inconsistent with the provisions of this chapter, the County Administrator may direct the Director of Planning Services, or designee, ~~may~~ to issue a cease and desist order or take such other appropriate action as is deemed necessary under the circumstances.

[E]D. The Department of Planning Services is responsible for the preparation of all meeting agendas for the Regional Planning Commission in coordination with the Chairman of the Regional Planning Commission. Any other provision of this chapter to the contrary notwithstanding, the Department of Planning Services shall limit the number of applications requiring public hearing before the Regional Planning Commission to no more than 10 such applications for any given calendar month, no more than three of which may be major residential subdivisions including sketch plans, preliminary plans, and/or conditional use site/subdivision plans.

Section 3. That the Kent County Code, Vol. II, Chapter 187, Subdivision and Land Development, Article VII, §187-33.B., Administrative Approvals, is hereby amended by adding the following underlined language and deleting the bracketed language shown with strike through marks:

- B. The Director or designee may waive any submission requirement, design standard, or required improvement whether contained in this section or elsewhere in Chapter 187 that is not applicable to the application or where it can be shown that strict compliance with the standards of this chapter would result in extraordinary hardship to the applicant because of unusual topography or other conditions which are not self-imposed or that these conditions would result in inhibiting the achievement of the objectives of these regulations. Such waiver shall be a minimal easing of the requirements and may not have the effect of nullifying the intent and purpose of this chapter or Chapter 205, Zoning, or be contrary to the goals and objectives of the Comprehensive Plan. The applicant shall make any request to waive a submission requirement in writing and submit it with the application with justification for said waiver. Should the Director or designee deny such a waiver request, the applicant shall have the opportunity to file a written appeal of such decision with the County Administrator who may uphold or overturn the decision of the Director after review and consideration. For any such appeal filed with the County Administrator, the County Administrator shall issue a written determination of Final Administrative Decision. Any applicant be aggrieved of Final Administrative Decision may appeal [apply] to the Regional Planning Commission for consideration of the waiver at the next available business meeting agenda. All approved waivers shall be noted on the record plat.

Section 4. Severability.

- i. The provisions of this Ordinance are severable and if any of its provisions or any sentence, clause, or paragraph or the application thereof to any person or circumstance shall be held unconstitutional or violative of the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions which can be given effect without the invalid provision or application.

Section 5. Effective Date.

This Ordinance shall be effective upon the date of adoption.

ADOPTED BY THE LEVY COURT OF KENT COUNTY,
DELAWARE

President, Kent County Levy Court

This _____ day of _____, 20__

ATTEST: _____
Clerk of the Peace

SYNOPSIS

This Amendment to Chapter 187 establishes the administrative decision-making authority of the County Administrator for all aspects and application of provisions of Chapter 187 (Subdivision and Land Development) of Kent County Code.