

Town of Odessa

ORDINANCE 2003-2

"Subdivisions"

Whereas Mayor and Council desire to establish standards, procedures, and minimum requirements, consistent with the Comprehensive Plan of the Town of Odessa, which regulate and control the planning and subdivision of lands; consistent with the use, bulk, and other regulations set out in the Odessa Zoning Ordinance; and

Whereas Mayor and Council desire to encourage development of an economically stable and healthy community; and

Whereas Mayor and Council desire to encourage and assist in the facilitation, attraction, and retention of economic activities that provide desirable services for residents and visitors that complement and enhance the historic value and character of our town; and

Whereas Mayor and Council desire to Control density, open space, and regulate the disturbance of natural features and protect the watershed and surface water resources for safe and secure drinking water; and

Whereas Mayor and Council desire to protect against the destruction of, or encroachment upon, archeological, historic, and architectural sites or areas, and ensuring the protection of these resources;

NOW THEREFORE, Mayor and Council ordain:

SECTION 1. SUBDIVISION

The Town Council of Odessa, by authority of 22 Del. C., §802, hereby adopts the following regulations governing the subdivision of land located within the Town of Odessa.

SECTION 1.1 Jurisdiction

- (a) Any person intending to subdivide land as defined in this article shall prepare a plan of such proposed land subdivision. Such plan shall be prepared and submitted to the Zoning Administrator, Odessa Planning Commission, and the Town Council for consideration.
- (b) The provisions and requirements of these regulations shall apply to and control all land subdivisions wholly or partially within the Town of Odessa, as defined in this article, to be recorded in the Office of the Recorder of Deeds, in and for New Castle County.

SECTION 1.2 Scope

This shall apply to any lot or lots wholly or partially within the Town of Odessa forming a part of a subdivision created after the effective date of this ordinance.

It is not intended to impair or interfere with private restrictions placed upon property by deed, covenant or other private instrument or with restrictive covenants running with the land.

Where this imposes a greater restriction upon the land than is imposed or required by such existing provisions of the law, ordinance or deed, the provisions of this ordinance shall control.

SECTION 1.3 Objectives

- (a) Orderly and efficient development of the Town of Odessa.
- (b) Facilitate conformance of subdivision plans with public improvement plans.
- (c) Protection of environment from pollution.
- (d) Protection of historical landmarks and all areas of Odessa.
- (e) Equitable processing of all subdivision plans by providing uniform procedures and standards.
- (f) Protect the financial welfare of the Town of Odessa.

SECTION 1.4 Definitions

- (a) **Subdivision** - The division of a tract or parcel of land into two (2) or more lots, tracts, or parcels of land for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a tract or a parcel of land.
- (b) **Major Subdivision** - Two (2) or more lots requiring a road or street, or more than two (2) lots.
- (c) **Minor Subdivision** - Two (2) or less lots not requiring a road or street, or transfer of property between two adjacent lots that does create a lot that is able to be built upon.
- (d) **Administrative Subdivision** - Transfer of property between two (2) adjacent lots not involving or creating a new building lot.
- (e) **Impact Statement** - A statement that clearly addresses potential impact on the Town of Odessa such as, increased traffic flow, increased noise levels, etc.

SECTION 1.5 Schedule of Fees (See Section 171) *4/28/01*

In the event the use of outside technical resources or legal counsel is deemed necessary by Mayor and Council, the requestor shall be notified and will bear the cost of such consultation.

SECTION 1.6 Public Utilities

All public utility costs, planning, and construction shall be the responsibility of the subdivider and/or the developer. Utility and telephone lines are required to be placed underground.

SECTION 1.7 Construction of Improvement, Selling Land, etc., Prior to Approval

No street, sanitary sewer, water main or other improvements shall be constructed, opened or dedicated for public use or for the common use of any land which has been subdivided, except pursuant to an approval received for the land subdivision in accordance with these regulations.

SECTION 1.8 Prohibited Use, Conveyance, or Transfer of Possession

No tract, parcel or lot of land shall be divided, re-divided, subdivided, or re-subdivided by recorded plot, separation of ownership or lease, into two (2) or more tracts, parcels or lots, except in strict accordance with all provisions of this ordinance and the subdivision regulations adopted hereunder.

SECTION 1.9 Recording Unapproved Plans

It shall be unlawful for any person to present for filing or recording any plan of land or any plan showing an arrangement of lots or parcels of lands, streets, easements or rights-of-way that may be intentionally or otherwise, for the transfer, conveyance or lease of subdivision lands, unless and until, in accordance with the regulations contained in this ordinance, such plan shall have been submitted to and acted upon by the Odessa Planning Commission and approved by Town Council and such approval shall have been endorsed in writing on the plan by the Zoning Administrator. Any plan received by the Recorder of Deeds for filing or recording without the foregoing approval endorsed thereon, shall be null and void and without legal effect and shall, upon application by the Town to the Superior Court, be expunged from the records of the Recorder of Deeds. Whoever shall file with the Recorder of Deeds an unapproved plan shall be guilty of a misdemeanor and shall be fined \$100.

SECTION 1.10 Issuance of Building Permits

No permit to erect, alter or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless and until a Subdivision Plan

has been approved and the required agreement has been executed.

No work, grading, excavation, construction, erection or building shall be commenced within any subdivision except in strict accordance with provisions of this ordinance and Subdivision Regulations adopted hereunder and pursuant to an approved Subdivision Plan provided, however, that this Section shall not prevent the making of test boring or engineering surveys.

SECTION 2. REGULATIONS

SECTION 2.1 Plan Development and Submission

All subdividers of subdivisions and land developments shall prepare and submit subdivision plot plans to the Odessa Zoning Administrator for review and comment in accordance with the procedure set forth herein. A subdivision plan shall show the nature and extent of all contemplated improvements and lot subdivisions to be developed.

(a) Information required in the Subdivision Plan:

1. Name and address of the subdivider;
2. Location and area of subdivision;
3. Courses and distances of boundary line survey;
4. Location, widths, curve data, right-of-way, etc., of existing and plotted streets;
5. Location and size of existing and proposed sanitary sewers, storm sewers, water courses, drainage flow, water mains, fire hydrants, etc.;
6. Layout of proposed streets;
7. Approximate dimensions and layout of proposed lots;
8. Open Space/Parkland;
9. Certain other items deemed applicable.

The applicant must further provide the following at the time of application:

1. Completed subdivision application on forms provided by the Town;
2. Name and address of owners of land; Name and address of subdivider; Name of land surveyor;
3. Names and addresses of adjacent property owners;
4. Reproducible drawing to scale and ten (10) prints showing: size of sewers, storm drains, streets, water mains, curb lines, fire hydrants, parkland/open land, etc.;

5. Application fee;
 6. Report from Applicant's engineer regarding details of development and evidence to support capacity as set forth in Section 3.3;
 7. Appropriate impact statement will be required for the benefit of the town.
- (b) Exceptions to Section A:

1. An Administrative Subdivision requires the below information:

- (a) Name and address of the subdivider;
- (b) Location and area of subdivision;
- (c) Courses and distances of boundary line survey;
- (d) Approximate dimensions and layout of proposed lot(s).

The Applicant must further provide the following at the time of application:

- (a) Completed subdivision application on forms provided by the Town;
- (b) Name and address of owners of land; Name and address of subdivider; Name of land surveyor;
- (c) Application fee.

2. A Minor Subdivision requires the below information:

- (a) Name and address of the subdivider;
- (b) Location and area of subdivision;
- (c) Courses and distances of boundary line survey;
- (d) Location and sizes of existing and proposed sanitary sewers, water courses, drainage flow, water mains, fire hydrants, etc.;
- (e) Approximate dimensions and layout of proposed lot(s).

The Applicant must further provide the following at the time of application:

- (a) Completed subdivision application on forms provided by the Town;
- (b) Name and address of owners of land; Name and address of subdivider; Name of land surveyor;
- (c) Application fee.

SECTION 3. APPLICATION PROCEDURE

SECTION 3.1 Preliminary Presentation of Plan to Zoning Administrator and Informal Review

The applicant shall preliminarily confer with the Zoning Administrator regarding the proposed subdivision plan. After such informal review and comment by the Zoning Administrator, the proposed subdivision plan shall be submitted to the Planning Commission.

SECTION 3.2 Zoning District Classification

If an application involves a request for a change in zoning district classification, preliminary consideration will be necessary in accordance with Town requirements for rezoning requests including payment of a non-refundable zoning request fee. Formal consideration of the plot plan will not be taken until rezoning is finally determined. An applicant may apply for a change in zoning contingent upon the approval of the subdivision plan.

SECTION 3.3 Engineer's Report (to accompany the Plot Plan)

The report must address:

1. Suitability of land for subdivision development;
2. Flood levels;
3. Total area;
4. Total lots;
5. Total streets, roads;
6. Total in open space/parkland;
7. Town assessment of property;
8. Estimates of off-site extensions of mains, sewers, and paved streets.

SECTION 3.4 Zoning Administrator's Report on Subdivision Plot Plan

The Zoning Administrator shall submit to the Planning Commission a Subdivision Report to inform the Planning Commission of his/her findings and recommendations.

SECTION 3.5 Public Hearing by Planning Commission

On receipt of the Zoning Administrator's Report for a Major Subdivision, the Planning Commission shall arrange for a public hearing within forty-five (45) days on the proposed subdivision plot plan only.

Prior to the meeting, the Planning Commission may conduct informal conferences to work out alterations, changes, revisions, and/or modifications to meet it's approval.

SECTION 3.6 Action by Planning Commission

The Planning Commission shall reach a decision within forty-five (45) days of the hearing either recommending approval or disapproval of the Plan, on the basis of whether such plan is consistent with the objectives as set forth herein and whether such Plan adequately provides for the effects of the growth and development.

A report will be made to the Mayor and Council for it's consideration and disposition.

SECTION 3.7 Town Council Hearing

Upon receipt of the Planning Commission's Report, and after notice and hearing, Town Council shall either approve or disapprove the Subdivision Plan. Town Council may request an informal review with the applicant regarding changes or modifications or conditions of approval.

In the alternative, Town Council may refer the Plan back to the Planning Commission for the purpose of investigating or responding to such issues or questions concerning compliance of the Plan with these regulations, or any other law, standard, or policy to which compliance is required or desirable.

SECTION 3.8 Standard Conditions of a Subdivision Application

Approval of the subdivision application shall be subject to the execution of a suitable agreement within ninety (90) days between the town and the developer and any other persons having an interest in the title to the subdivision which shall, by its' terms, constitute a covenant running with the land and which shall be binding upon the persons signing the agreement.

Failure on the part of the Town to act on either of the forty-five (45) day or ninety (90) day requirements will result in the decision defaulting in favor of the developer. These time limits may be extended by mutual agreement.

Subsequent to Plan Approval, together the Mayor and the Zoning Administrator shall have authority to approve minor alterations of construction details as field conditions may require. Provided, however, that they shall not have authority to change boundaries of street and other areas to which title has been transferred.

SECTION 3.9 Certificates

The approved subdivision plot plan showing distinctively that part to be recorded shall contain the following certificates:

1. Certificate of applicant's engineer that the Plan represents a survey made by him/her and that dimensions and geodetic details are correct;
2. The Subdivision Plot Plan shall bear the following certifications:
 - (a) Certificate of Zoning Administrator that the Plan conforms with the approved subdivision regulations;
 - (b) Certificate by Town Secretary that the Plan was approved by Town Council on the date shown as recorded in the town minutes.

Section 4.0 Fees

The Mayor and Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates of use, appeals, and other matters pertaining to this ordinance. The schedule of fees listed below shall be posted in the Town Office, and may be altered or amended only by the Mayor and Council.

No permit, certificate, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses listed below have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

The fees are as follows:

Major Subdivision	\$150.00
Minor Subdivision	\$150.00
Administrative Subdivision	\$ 50.00

This Ordinance becomes Effective on March 3, 2003.

First Reading: Jan. 6, 2003; Public Meeting: Jan. 27, 2003; and Second Reading: March 3, 2003

Adopted by Mayor and Council

on March 3, 2003

Rebecca Gullon
Mayor

Witnessed

Jessie M. Grogan
Town Clerk

on 3 March, 2003