

## ***SUBDIVISION APPLICATION INSTRUCTION SHEET*** ***(Partitionings and Minor Subdivisions)***

A “subdivision” of land in Rehoboth Beach may either be through partitioning, minor subdivision or major subdivision, according to legal standards that define and apply to each different type of subdivision in the Subdivision Ordinance, Chapter 236 of the Code of the City of Rehoboth Beach. A subdivision application involves not only Chapter 236 of the Code, but also other provisions such as but not limited to Chapter 253 (Comprehensive Tree Ordinance) and Chapter 270 (Zoning). County or state laws may also be relevant. Applicants should review all relevant laws prior to completing the application. The City’s Code book is available for review at City Hall or on line at [www.generalcode.com/webcode2.html](http://www.generalcode.com/webcode2.html) (click on “Delaware”, then click on “Rehoboth Beach”). The applicant has the burden of proof to justify that all requirements have been met to justify grant of the application.

1. Definitions – Chapter 236, Section 236-3
2. Procedures for Approval of Subdivision of Land – Section 236-7 through 236-27
3. Public Notice – Chapter 236, Sections 236-28 and 236-29
4. Procedures of Appeal – Section 236-6
5. Schedule of Fees – Section 236-4
6. Agreements to Sell or Transfer Property-Section 236-5
7. Comprehensive Tree Ordinance – Chapter 253, Sections 253-21 et seq.
8. Zoning – Chapter 270

**IMPORTANT NOTE:** The same application is used and the same information is required for both partitioning and for minor subdivision; but this application **plus** a different application is also used for a major subdivision. It is the applicant’s responsibility to make certain that an application for a “partitioning” or a “minor subdivision” actually qualifies for this type of subdivision, and that it is not a “major subdivision”. These terms are defined in Chapter 236, section 236-3 of the Code (and are further explained in the application itself). If a major subdivision is involved and only a application for a partitioning or a minor subdivision has been filed, that application will be returned and must be resubmitted along with the additional application for a major subdivision and the requisite fee.

The Planning Commission is committed to balancing two very important goals: expeditious treatment of all applications, and a fair process that permits adequate input from the applicant and the public as well as careful, informed deliberation by the Planning Commission.

### **SPECIFIC REQUIREMENTS FOR SUBMITTAL FOR APPLICATIONS**

**1. GENERAL DESCRIPTION OF THE PROCESS** – It is important for applicants to understand that applications for partitioning and minor subdivisions go through two stages after they are submitted. These stages are preceded by various types of public notice required in Sections 236-28 and 236-29 of the Code, including the posting of signs. Throughout the entire subdivision process, including any appeal to the City Commissioners, the applicant is responsible to assure that the signs remain properly posted. The two stages of the application process before the Planning Commission are addressed in Sections 236.8 and 236-8.1 of the Code, and can briefly be described as follows:

- **STAGE ONE:** First, after the application is submitted, a decision is made by the Planning Commission at a “preliminary review” if the application is “substantially complete and accurate so as to warrant further consideration”, to get preliminary input from neighbors and the public, to determine if the subdivision qualifies as a partitioning or minor subdivision (and not a major subdivision), and to determine whether additional information is needed and whether legal or factual issues need further clarification.

- **STAGE TWO:** Second, after a decision is made at a “preliminary review” that the application is “substantially complete and accurate” -- and also after all additional information requested at the “preliminary review” has been submitted within the time specified by the Planning Commission – then the Planning Commission will hold a “public hearing” on the application at a later meeting. At the “public hearing”, the applicant, the neighbors and the public will be heard and the Planning Commission may act to deny, approve or approve with conditions – or it may postpone action (and may continue the “public hearing”) until a later meeting.

More information about each of these two stages is provided below.

**2. SUBMITTAL DEADLINES AND SUBSEQUENT MEETINGS** – No application will be put on the agenda for a “preliminary review” unless there is at least a minimum of 28 days from the date that the application is filed (along with the required information, the correct fee, the correct number of copies, etc.) until the date of the next Planning Commission meeting. If the Planning Commission does not receive all of this information on time, there is insufficient time to distribute it to all Planning Commission members, for each Planning Commissioner to review it before the “preliminary review” meeting, and to put it on the public agenda. In some cases, if the Chair of the Planning Commission determines that the application is clearly and obviously deficient on its face in violation of the Code, he or she may decline to put it on the agenda for a “preliminary review” even if it is timely filed (e.g., no survey or tree preservation plan has been attached). However, just because the Chair places the application on the agenda for a “preliminary review” does not mean that that the application is “substantially complete and accurate”; that is a determination that the Code requires to be made by the full Planning Commission at the “preliminary review” meeting. The following examples are merely illustrative, and not all-inclusive:

Example A\*:

Application submitted	11-13-06 (28 calendar days before 12-11-06 regular meeting)
Planning Commission regular meeting	12-11-06 (stage 1 – preliminary review)
Planning Commission regular meeting	1-8-07 (public hearing and final vote taken)

Example B\*:

Application submitted	11-30-06 (11 calendar days before 12-11-06 regular meeting)
Planning Commission regular meeting	12-11-06 (no consideration of application)
Planning Commission regular meeting	1-8-07 (stage 1 –preliminary review)
Planning Commission regular meeting	2-12-07 (stage 2 – public hearing and final vote taken)

\* Examples A and B assume there are no problems with the application that would delay consideration at the preliminary review, that at the preliminary review the Planning Commission finds the application “substantially complete and accurate” and that no additional information is needed and that no factual and legal issues need clarification, and that all other requirements have been met.

Example C:

Application submitted	11-13-06 (28 calendar days before 12-11-06 regular meeting)
Planning Commission regular meeting	12-11-06 (agenda is already filled with other applications or Planning Commission matters so that preliminary review of this application will not occur)
Planning Commission regular meeting	1-8-07 (stage 1 – preliminary review; Planning Commission requires that additional information must be submitted by 1-26-07 and clarification of certain legal issues must be obtained before public hearing is held)
Additional information is submitted on	1-30-07
Clarification of legal issues received from counsel for Planning Commission on	2-5-07
Planning Commission regular meeting	2-12-07 (late submittal of additional information and timing of legal clarification preclude public hearing)
Planning Commission regular meeting	3-12-07 (public hearing and final vote taken)

Example D:

Application submitted	11-13-06 (28 calendar days before 12-11-06 regular meeting)
Planning Commission regular meeting	12-11-06 (stage 1 – preliminary review; Planning Commission requires that additional information must be submitted by 1-26-07))
Additional information is submitted on	1-26-07
Planning Commission regular meeting	1-8-07 (stage 2 – public hearing; Planning Commissioners and public raise significant issues that leads Planning Commission to request additional information by 1-22-07 and requires Planning Commission to have more time to deliberate)
Additional information is submitted on	1-22-07
Planning Commission regular meeting	2-12-07 (stage 2 – public hearing continued and final vote taken)

**3. WHO MUST SIGN APPLICATION** – An application that is not properly signed is not "substantially complete and accurate" and it will not be set for "preliminary review" (stage 1) or "public hearing" (stage 2). Under Section 236-8 of the Code, the owner(s) of the land are the persons or entities that are the named record owners of the land pursuant to the City's tax records. In addition, the owner(s) of the land may also appoint an authorized representative (e.g., attorney or another) by filling out the appropriate Planning Commission affidavit(s). However, for an authorized representative to be properly appointed to represent the applicant, the applicant itself (i.e., every owner) must sign the "Planning Commission Affidavit" (the "PC Affidavit"). It is the applicant's responsibility to make sure that the application is properly signed by all who are required to sign it. Therefore, even if the Chair of the Planning Commission places the application on the agenda for "preliminary review", if it is later discovered (e.g., at the "preliminary review" or "public hearing" stage) that the application was not properly signed or that the representative was not properly appointed by all owners in accordance with the Planning Commission affidavit, then the application must be re-submitted as a new application and the process must begin again (if an applicant tries to "amend" an application by changing the owner(s) and/or their signatures, the Planning Commission will require the applicant to re-submit the application as a new application).

The Planning Commission has a strict requirement about all required signatures because the applicant is attesting, subject to penalty for filing false statements or false information, that the information in the application is true and accurate. Without all required signatures, the Planning Commission cannot rely upon the information in the application and cannot know that the application is being pursued with the approval of all owners. Similarly, without proper appointment of a representative by every owner, the Planning Commission cannot rely upon representations of the representative or be sure that every owner agrees to the representation.

As explained above, Section 236-8 of the Code states that the owners are the named record owners of the land pursuant to the City's tax records. The Planning Commission may request further proof of ownership, such as by a title search, copies of all deeds, or the like, and failure to provide such proof will result in either rejection of or no action on the application. In addition, the City's tax records do not establish the exact dimensions of the lot to be subdivided, which is why a survey is required. Minor dimensional discrepancies between the tax records and a survey will usually be resolved in the normal course of the proceeding (e.g., the tax records show the lot size as 50 feet X 100 feet, but the survey shows the lot size as 51 ft X 100.3 feet); but more than minor discrepancies could well preclude grant of the application as filed.

Prospective purchasers, tenants, or others who do not have actual legal title to the land are not owners, and they may not sign the applications as owners; lawyers, accountants, real estate agents or others without actual legal title also are not owners, and they may not sign as such.

Because owners of the land may be individuals and/or entities, the applicant(s) must make sure that the PC Affidavit and the Application are properly signed..

- In the case of land that is owned by an individual or individuals (whether as joint tenants, tenants in common, or tenants by the entirety), all individual owners must sign the PC Affidavit or the application. If an owner is legally incapacitated (e.g., a minor child, or an adult without the capacity to manager his or her own affairs), a guardian who has been validly appointed and approved by court process, or an individual named in an effective power of attorney signed by the owner prior to incapacitation, may sign for that owner by submitting a copy of the court appointment or power of attorney
- In the case of land that is owned by an entity (for example, a corporation, partnership, limited liability company, trust, etc.), the PC Affidavit or the application must be signed by an individual who is an entity official and who has been properly authorized, in accordance with law and the entity's governing documents, to file

the application on behalf of the entity. The entity official should be an officer or director of the corporation; a non-limited partner of the partnership; a member of the limited liability company; a trustee of the trust; or, in the case of another entity, hold a bona fide position with that entity. The individual may not be a lawyer, accountant, real estate agent or similar individual who is not an entity official and does not hold one of these positions (such other persons may be appointed as “authorized representatives” to handle the application process, but they may not sign the application on behalf of entities that are owners). The applicant that is an entity must also attach to the application a resolution or similarly valid authorizing document from the entity that authorizes the proper entity official to sign the application and other documents (e.g. the PC Affidavit, if applicable) on behalf of the entity and to file it with the Planning Commission. In addition if the entity chooses to be represented by an “outside” person as an “authorized representative” (e.g. attorney), then the entity’s official must sign the PC Affidavit appointing that representative to pursue the application before the Planning Commission and to bind the applicant..

- In the case of land that is owned by one or more individuals and one or more entities (e.g., Ms. X, Mr. Y, and ABC corporation), the PC Affidavit or the application must be signed by all of the individual owners as stated above (e.g., Ms. X and Mr. Y) and also by an entity official as stated above (e.g., officer of ABC corporation). The entity owner must also submit a resolution or other valid authorizing document as stated above which authorizes a representative to pursue the application process for it.

The Planning Commission reserves the right to request further documentation at any time in the PC Affidavit, the application or otherwise to establish ownership and proper authorization for filing of the application (including a list of the officers, directors, and equity holders of any entity) and, if such documentation is not provided, the application will not be acted on or will be rejected. This may occur, for example, if a document shows ownership of the land different from what is in the application, or if documents and/or testimony are conflicting or unclear.

#### **4. COMPLETE vs. INCOMPLETE APPLICATION AND ACCOMPANYING MATERIALS –**

If an application has not been filed properly in all regards, then the Planning Commission may find at the “preliminary review” (stage 1) that it is not “substantially complete and accurate so as to warrant further consideration”. As explained above in paragraph 1, an application that is not “substantially complete and accurate” will not be scheduled for a “public hearing” (stage 2). For the Planning Commission to find at a “preliminary review” that an application is “substantially complete and accurate”, the application must be accompanied by the correct filing fee and various materials including photographs, a survey, and other required information, and it must qualify for the type of subdivision for which approval is sought (e.g., partitioning, minor subdivision, major subdivision). Where the PC Affidavit is relevant, it must also be included with the application; an application without the required PC Affidavit is not “substantially complete and accurate”. Please be sure to answer ALL questions on the application and to provide ALL required accompanying materials.

Questions sometimes arise about whether an application that is missing “some” information can nonetheless be considered “substantially complete and accurate”. Depending on what is missing or inaccurate, and how much is missing or inaccurate, it is possible that the Planning Commission could find the application to be “substantially complete and accurate”. For example, if photographic views of the property and surrounding properties are submitted as required except that one photographic view of lesser significance has not been submitted, the Planning Commission would likely find that the application is “substantially complete and accurate” and would likely set it up for a public hearing contingent on the missing photographic view being provided at least two weeks before the next meeting. Likewise, an error in a single calculation of FAR or a structural dimension could be handled in a similar manner. On the other hand, if

multiple photographic views are missing, or multiple calculations are in error, or multiple questions on the application itself have not been answered or contain conflicting and/or incomplete answers, or the PC Affidavit (if required) is missing, the likelihood is great that the application will not be found to be “substantially complete and accurate” and a “public hearing” date will not be established even contingent on the submission of additional information. Likewise, a single error of major importance could result in a similar finding. In those situations, the application would have to be re-filed as required under Section 236-8.1-B(2) and another “preliminary review” would be held after the missing or erroneous information is corrected in a re-filed application and, at that point, a finding that the application is “substantially complete and accurate” would allow it to be set for a “public hearing”. The Planning Commission has significant discretion in making a determination whether an application is “substantially complete and accurate” so as to be set for a “public hearing” as long as it is reasonable in exercising its discretion and there is a factual basis for its determination.

In some cases, even if an application is found to be “substantially complete and accurate” upon initial examination by the Planning Commission at the “preliminary review”, it may later be discovered that some of the information submitted is incorrect, or that some information was missing; or as the result of the “public hearing”, the Planning Commission may require the applicant to submit additional information that the Planning Commission believes is important before a final decision can be made whether to approve or deny the application. In any of these cases, if an application is reviewed and the Planning Commission determines that information previously submitted is incorrect or incomplete and must be corrected and/or submitted or that additional information is necessary, then the Planning Commission will not grant the application without these corrections and/or additional information. Instead, the Planning Commission may decide either to continue the “public hearing” and delay any action until a complete corrected application is filed or, if an incomplete application is considered, the Planning Commission has the right to reject it. Where an application is incomplete, the submission of new information may require the publication of a new legal notice, new notification to other property owners, and the posting of new signs. All of this is likely to delay further review, the conclusion of the “public hearing”, and final action by the Planning Commission on the application. It is important that all required information be provided sufficiently in advance of a “public hearing” so that the public may have a fair opportunity to review that information before coming to the hearing.

**IMPORTANT NOTE:** Applicants are also reminded that all lots created by a subdivision (including structures on such lots) must comply not only with the Subdivision Ordinance, Chapter 236, but also with all tree preservation requirements in Chapter 253 of the Code and all zoning requirements in Chapter 270 of the Code.

**5. CHANGES IN INFORMATION** – If any information becomes incorrect, or is discovered to be incorrect after an application has been submitted, the applicant must inform the Planning Commission in writing of the correct information before any application will be acted upon. For example, if structures on the survey submitted with the application have been changed or demolished, or trees on the tree survey have been removed, this must be reported; or if a survey measurement is discovered to be incorrect, this must be reported. In some cases, where the Planning Commission believes that the changes are material so that the application has been significantly changed, the new information may require the submission of a new application. For example, the situation in which the owner of the land has changed will be considered a material change that requires a new application to be filed and to go through both stages 1 and 2. An application that has been granted with incorrect material information may make any grant null and void, depending on the error.

**6. FURTHER INFORMATION ON COMMISSION MEETING DATES, HEARINGS AND DECISIONS** – The Planning Commission’s regular meetings are now typically scheduled for the second Monday of each month (unless rescheduled for holiday or other reasons). If an application is submitted at least 28 calendar days before a regularly scheduled meeting, and if the Chair of the Planning Commission does not find it is clearly and obviously deficient on its face in

violation of the Code, then pursuant to paragraph 2 above it will be considered for “preliminary review” at the next meeting for which there is room on the agenda (for example, if at the next meeting two other applications are being considered, or one other application and an action item relating to recommendations on a pending zoning proposal are being considered, then it is likely that the application will not receive “preliminary review” until the second meeting after its submittal). For procedures regarding incomplete applications or applications containing incorrect or outdated information, see paragraph 4 above.

Each applicant is also advised that because questions may come up about the lots, structures and trees covered by an application, it is advisable for the owner(s) of the property to be present to respond to questions (if the owner is an entity, it must have appointed an official of the entity as required in paragraph 2 above). Although representatives such as attorneys have appeared on behalf of applicants before the Planning Commission, and may continue to do so, these persons do not always have first-hand or other information required by the Planning Commission in response to questions that may arise at the hearing, and the Planning Commission is not obligated to accept statements from such representatives as valid statements of fact. Delays in providing information requested by the Planning Commission or failure to provide information requested by the Planning Commission may lead to delays in a decision on the application.

Normally, an application that is found to be “substantially complete and accurate” will be set for a “public hearing” at the next Planning Commission meeting if the agenda permits, but it may be delayed to a later meeting. See paragraph 2 above. After the “public hearing” is held, the Planning Commission may vote on the application at the meeting at which the “public hearing” was held, or a vote may be taken at a later meeting depending on the need for more information or legal analysis, the complexity of the issues, the need for more discussion, or other factors. The “public hearing” itself may be held open and continued until a later meeting, or the “public hearing” maybe closed with only Planning Commission deliberations to occur at a later meeting at which a vote may be taken.

7. **CONDITIONS** – The law permits the Planning Commission to impose reasonable conditions as part of an approval of a subdivision application. Some of these conditions may be part of a vote for conditional approval that is contingent on further action (e.g., removal of a portion of a structure that would be in a proposed new setback area created by the subdivision), but others conditions may be permanent or “run with the land” as part of a final approval. In cases where the Planning Commission grants a conditional approval contingent on further action, then satisfaction of that contingency will be required before the Planning Commission grants a final approval (e.g., the portion of the structure in the proposed new setback area must actually be removed). When the contingency has been satisfied, it is the applicant’s obligation to notify the Planning Commission with proof of such satisfaction, and the Planning Commission may seek independent verification (e.g., from the Building Inspector). Thereafter, the Planning Commission will consider relevant information at a meeting and if it is demonstrated that the contingency has been satisfied, the Planning Commission may vote to make the conditional approval into a final approval.

It is important to emphasize that rather than grant conditional approval based on a contingency on further action, the Planning Commission may exercise its reasonable discretion to either deny an application or to wait until after some actions are taken by an applicant before granting any approval. For example, if an applicant requires a variance of some provision in the Zoning Code (e.g., lot size is only 4,990 square feet), the Planning Commission may deny the application rather than condition it on approval of a variance, and thus advise the applicant that only if and after the variance is granted by the Board of Adjustment will the Planning Commission consider the application.

## **8. POST-APPROVAL TIME REQUIREMENTS FOR CERTAIN ACTIONS**

Applicants should keep in mind that under Section 236.7.B, all approved subdivision decisions

are subject to a six (6) month time limit if certain post-approval conditions must be met. For example, if approval is conditioned on a contingency such as removal of a portion of a structure that would be in a proposed new setback area created by the subdivision), then such contingency must be satisfied before final approval can be granted in accordance with paragraph 7 above. If the contingency is not satisfied within 6 months of the date that conditional approval was granted, then the approval of the subdivision is void and an entirely new application must be filed. In some cases, the Code also contains other post-approval deadlines that must be met, such as time limits for recording the plat on which new lots were created. It should be noted that the Code allows the Planning Commission to grant one extension beyond 6 months to satisfy conditions imposed as contingencies of approval, such extension being up to 3 months based on "good cause". "Good cause" means something which is beyond the control of the applicant (e.g., misfeasance by a contractor hired by the applicant) and, in addition, which could not have been reasonably foreseen or prevented with better care and planning by the applicant. For example, if the applicant hired a contractor to remove a portion of a structure in a newly proposed setback area as required by the Planning Commission in a prior conditional approval, and if the contractor has taken no action for several months and the applicant asks the Planning Commission for a 3 month extension, the extension may be denied unless the applicant can show why it did not take steps until near the end of the 6 month period to make sure that the contractor completed the task on time.

Finally, approvals are granted to the applicant only and DO NOT convey with sale of property/properties; in other words, the applicant that filed the application must complete the process to actually subdivide the property in question, and the applicant may not simply sell the property without having completed the subdivision process and then rely upon the new owner to complete the subdivision process. A new owner of the property in that situation would have to file a new application to subdivide the property if the previous owner did not carry through the process to meet all conditions required in the case of contingent approval or did not otherwise take all steps to complete the subdivision process.

## **9. WARNING REGARDING AGREEMENTS TO SELL OR TRANSFER PROPERTY**

Applicants should be aware that Section 236-5.A of the Code states that it is a violation of law if any person, prior to approval of a subdivision, "transfers, sells or agrees to sell as owner or agent, any land which forms a part of a subdivision" on which the Planning Commission must act. This includes agreements that contain "contingencies"; for example, if a lot of 100 feet X 100 feet is proposed for subdivision into 2 lots each of 50 feet X 100 feet, it is illegal to enter into any agreement (written or oral) that would transfer to any party either of the smaller lots proposed to be created, even if that agreement is contingent on favorable action by the Planning Commission. No such agreement for sale (contingent or otherwise) is permitted until after the Planning Commission grants an approval. The application itself requires the applicant to affirm that no such agreements have been made. If the Planning Commission receives information that there are such agreements at any time during the application process, it will request further information and may refuse to act on an application until all facts are known and the matter is fully considered, or it may deny the application if the information is not presented as required.



**APPLICATION FOR SUBDIVISION - City of Rehoboth Beach, Delaware**

**Application #:** \_\_\_\_\_

**Submittal Date:** \_\_\_\_\_

**F.** Is this application being accompanied by a survey (and attachments) for all of the land that comprises every new lot being created (including existing lots not being subdivided, but to which any subdivided land will be added) that:

1. Was done by a licensed surveyor?  Yes  No.
2. The field work (including all measurements) was done within the last 6 months?  Yes  No.
3. Shows the applicant's entire property as described on the application?  Yes  No.
4. Shows all new lots to be created?  Yes  No.
5. Shows the entire street frontage of the existing lot and all new lots to be created?  Yes  No.
6. Shows all applicable existing and proposed buildings or structures on the existing lots and any new lots to be created (including set backs and heights of all such structures)?  
 Yes  No  Not Applicable (no buildings or structures exist).
7. Shows all drainage ditches on the existing lots and any new lots to be created?  Yes  No  Not Applicable (no ditches exist).
8. Shows all surface or subterranean streams on the existing lots and any new lots to be created?  Yes  No  Not Applicable (no streams exist).
9. Shows all existing streets or roads abutting the existing lots and any new lots to be created?  Yes  No.
10. Lists all easements (copy of each attached) affecting any of the existing lots and any new lots to be created?  Yes  No  Not Applicable (no easements exist).
11. Shows all proposed grade elevations for the existing lots and any new lots to be created?  Yes  No.
12. Shows all private deed restrictions (including setbacks) as imposed on any of the existing lots and any new lots to be created?  Yes,  No,  Not Applicable (no restrictions).
13. States all restrictions previously imposed which may affect title to the existing lots or any new lots to be created?  Yes  No  Not Applicable (no restrictions exist).
14. Contains a restriction against further subdivision of any new residential lot by the grantee without obtaining prior Planning Commission approval?  Yes  No  Not Applicable (no further division is possible due to lot size).

## APPLICATION FOR SUBDIVISION - City of Rehoboth Beach, Delaware

Application #: \_\_\_\_\_

Submittal Date: \_\_\_\_\_

G. On a separate paper attached to this application, describe each of the following as it exists now and as it is expected to or will change if the application is approved:

1. Will any land on the existing lot or any new lot(s) to be created be excavated or increased in height, or the elevations, grading or drainage otherwise be changed, and if so, explain?  Yes  No.
2. Will any existing ground cover, shrubs and other vegetation (excluding trees) on the existing lot or any new lot(s) being created be affected, and if so, explain?  Yes  No.
3. Will any existing natural areas (see Section 270-4 of the Municipal Code) on the existing lot or any new lot(s) being created be affected and, if so, explain (whether your answer is Yes or No, on a separate copy of the survey above in section F, show all existing natural areas and, if affected, also explain how)?  Yes  No.
4. Will any existing trees on the existing lot or any lot(s) being created be affected (see Chapter 253 of the Municipal Code) and, if so, explain?  Yes  No.
5. Has a tree survey/planting/protection plan been attached as required by Section 253-29A of the Municipal Code and, if not, explain?  Yes  No.
6. Will any existing buildings or other structures on the existing lot or any new lot(s) being created be moved, demolished in whole or in part, or otherwise changed ("structures" is a term defined in Section 270-4 of the Municipal Code and includes, but is not limited to, fences, decks, porches, stairs, retaining and other walls) and, if so, explain?  Yes  No.
7. Do any of the existing buildings or structures to be moved, demolished in whole or part, or otherwise changed, per question G.6 above, contain any asbestos, and if so, you MUST explain how the movement, demolition or change will be done in accordance with DNREC's Asbestos Abatement Renovation/Demolition Program and EPA requirements).  Yes  No  Unknown (if unknown, you must explain how you will determine if any asbestos is involved before any movement, demolition or change)
8. Will any management of stormwater (roof water runoffs, downspouts and drainage) on the existing lot or any new lot(s) being created be affected and, if so, explain?  Yes  No.
9. Are there any structures on any of the lots immediately adjoining all property lines (front, back and sides) of the existing lot or any new lot(s) being created and, if so, include on a survey attached to this page (or include as part of the survey above in Section F) the locations the sides of all such structures closest to the property lines and their heights?  Yes  No.

H. The applicant has the burden to demonstrate that if the application is granted, any new lots being created and structures thereon will meet all of the requirements in Chapter 270-Zoning of the Municipal Code (see Section 236-9.E of the Municipal Code). The Planning Commission will consider all relevant information properly submitted (such as the information in the sections above), including the following information:

1. Does the existing lot or any new lot(s) being created involve any nonconforming structure or use (including as otherwise permitted by law)?  Yes, (if yes, explain on a separate paper attached to this page)  No.
2. Does the existing lot or any new lot(s) being created involve any accessory building or use (see Section 270-4 of the Municipal Regulations)?  Yes, (if yes, explain on a separate page attached to this application)  No.
3. Has any owner or tenant, within the past 5 years, held any license or permit in connection with the existing lot or any new lot(s) being created (including, but not limited to, rental, garage apartment or business license or permit)?  Yes, (if yes, explain on a separate paper attached to this page)  No.
4. Does the existing lot or any new lot(s) being created have existing off street parking and/or curb-cut(s)?  Yes, (if yes, explain on a separate page attached to this application and showing size and exact location, and make sure that such parking and curb-cut(s) are shown on the survey)  No.
5. For the existing lot or any new lot(s) being created, will changes be made to existing off-street parking and/or curb-cut(s) or will such additional parking and/or curb-cuts be required?  Yes, (if yes, on a separate copy of survey above in section F, show all existing off-street parking and curb cut(s) and how such requirements will be met after subdivision, including changes to locations of all off-street parking and curb cuts. See Section 232-58 of the Municipal Code.)  No, (if no, on a separate copy of survey above in section F, show all existing off-street parking and curb cut(s)).

### I. MISCELLANEOUS MATTERS

1. Has this land in this application, including the existing lot or any land that is part of any new lot(s) being created, been the subject of previous application to the Planning Commission or Board of Adjustment in the past 10 years?  Yes\*,  No.

(\* If yes, City Building Inspector to attach and provide dates of applications, copy of any rulings and whether such rulings are final and no longer subject to appeals.)

2. Is this land or any portion of it, or any interest therein, subject to an existing oral or written agreement of sale or transfer?  Yes\*,  No.

(\* If yes, attach the agreement for sale or transfer or summarize the oral agreement so that the Planning Commission may review compliance with Section 236-5.A of the Municipal Code. The identity of transferees or buyers and the financial terms may be deleted.)

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**Submittal Date:** \_\_\_\_\_

J. An application must be signed by all owners of the land unless the owners have executed a Planning Commission Affidavit authorizing a representative to sign the application. (see M. below)

1. Names of all owners of land (PLEASE PRINT):  
\_\_\_\_\_

2. Please provide a copy of the deed. Have you included a copy of the deed with this application? \_\_\_\_\_ Yes \_\_\_\_\_ No

3. How is title held:

Individual(s) If more than one individual, state if joint tenancy, tenancy in common, tenancy by entirety, etc.

Entity State type of entity \_\_\_\_\_

Combination of individual(s) and entity State how the individual(s) and entity hold title (e.g., joint tenancy, etc.) and state type of entity that holds title along with the individual(s) \_\_\_\_\_

4. If any owners are individuals, have all these individuals signed the application or the PC Affidavit?  Yes  No

5. If any owners are entities, (e.g., partnership, corporation, limited liability company, trust, etc.), has the applicant submitted a written resolution or other document approved by each entity authorizing the filing of this specific application and appointing an individual who is an entity official to appear on its behalf as its representative and bind the applicant?  Yes  No (See Subdivision Information Sheet for detailed requirement)

6. If any owners are entities, attach resolution or agreement referenced in question J.4 above on separate pages (s) , attach the Planning Commission Affidavit and a resolution or agreement referred to in J.5. above. Have you included this attachment?  Yes  No  N.A.

7. In the case of multiple owners: if fewer than all the owners are authorized to represent all owners, attach the Planning Commission Affidavit listing such authorized person(s). have you included the attachment?  Yes  No  N.A.

K. Owner(s): \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
PRINT Name Address Telephone Number

\_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
PRINT Name Address Telephone Number

(FOR MULTIPLE OWNERS, ATTACH SEPARATE SHEET WITH LISTING OF ALL OWNERS)

I/WE HAVE READ THIS APPLICATION AND THE SUBDIVISION APPLICATION INSTRUCTION SHEET, AND I AM/WE ARE SUBMITTING THIS APPLICATION IN ACCORDANCE WITH THAT SHEET  Yes  No

L. Agent: \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
(When Applicable) PRINT Name Address Telephone Number

**APPLICATION FOR SUBDIVISION - City of Rehoboth Beach, Delaware**

**Application #:** \_\_\_\_\_

**Submittal Date:** \_\_\_\_\_

*M. I/We hereby attest all information given is true and accurate to the best of my/our knowledge. (False statements or false information filed with a public office may be punishable by law under Title 11, Chapter 5 (Criminal Code) of the Delaware Code) See Subdivision Information Sheet for Who "Must" Sign Below. Applications without all proper signatures will not be granted and a new application with all proper signatures will have to be filed and the Planning Commission may require the process to begin again.*

Signatures: \_\_\_\_\_

Owner(s) (All owners of the land covered by this application must sign) For additional owners, attach a separate sheet with the listing of all additional owners.

BY SIGNING ABOVE, EACH PERSON AGREES THAT HE OR SHE HAS READ THIS APPLICATION AND THE SUBDIVISION APPLICATION INSTRUCTION SHEET, AND IS SUBMITTING THIS APPLICATION IN ACCORDANCE WITH THAT SHEET  Yes  No

\_\_\_\_\_  
Agent (Agent may sign only if all owners have executed the PC Affidavit in which case owners' signatures are not required )

BY SIGNING ABOVE, THE AGENT AGREES THAT HE OR SHE HAS READ THIS APPLICATION AND THE SUBDIVISION APPLICATION INSTRUCTION SHEET, AND IS SUBMITTING THIS APPLICATION IN ACCORDANCE WITH THAT SHEET  Yes  No

**City Use ONLY**

Tax Map: \_\_\_\_\_ Block: \_\_\_\_\_ Lots: \_\_\_\_\_

Application Received: \_\_\_\_\_

Date \_\_\_\_\_ Time \_\_\_\_\_ Fee Paid \_\_\_\_\_

Planning Commission Recording Secretary

Planning Commission Action: Date: \_\_\_\_\_ Approved  Denied , Reason for action will be stated in resolution attached.



and with a street address of:

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and for the purpose of proceeding on my (our) behalf with the aforesaid subdivision application before The City of Rehoboth Beach Planning Commission.

2. The aforesaid authorized representative is (check one)

(A.) \_\_\_\_\_ my contractor-builder

(B.) \_\_\_\_\_ my lawyer

(C.) \_\_\_\_\_ other \_\_\_\_\_

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3. As the owner(s) of the land covered by the Planning Commission Affidavit, I/we attest that we have read the completed application for subdivision and that the information in and accompanying it is true and accurate to the best of my/our knowledge.

\_\_\_\_\_  
(record owners: individuals or legal entity)\* Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

ATTEST: \_\_\_\_\_  
Title

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_,

A.D. 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\* If the record owner of the lands desired to be subdivided is a corporation, or an LLC, or trust, or other legal entity, please attach to this Affidavit a properly executed document (e.g. a resolution from a corporation) from such entity naming the official(s) who is authorized to act on behalf of the entity; his or her position with the entity; and authorizing the filing of this subdivision application.