

ORDINANCE NO. 2013-_____

**AN ORDINANCE TO AMEND CHAPTER 188 OF THE TOWN CODE RELATING TO
SUBDIVISION OF LAND.**

WHEREAS, Section 29(a)(1) of the Town Charter of the Town of Milton vests power in the Town Council to provide for and preserve the health, peace, safety, cleanliness, ornament, good order and public welfare of the Town and its inhabitants; and

WHEREAS, Section 29(a)(3) of the Town Charter of the Town of Milton vests power in the Town Council to “ascertain, locate, layout, establish, open, change, alter, widen, abandon, regulate the use and enjoyment of, prevent, or remove any obstruction of, level, grade, flag, dress, pave, gravel, shell, improve, dredge, erect, remove, repair or replace any new or present street, highway, lane, alley, water course, park, lake, crosswalk, wharf, dock, sewer, drain, aqueduct, or pipeline or portion thereof, or any new or present sidewalk, curb, or gutter or portion thereof in the Town; to specify the grade thereof, the materials to be used in doing thereof and the manner in which the same shall be done....”; and

WHEREAS, Section 29(a)(19) of the Town Charter of the Town of Milton vests power in the Town Council, for “the prevention of fire and the preservation of the beauty of the Town, to regulate and control the manner of building or removal of dwelling houses or other buildings; to establish a Code for the same and to provide for the granting of permits for the same; to establish a building line for buildings to be erected; to zone or district the Town and make particular provisions for particular zones or districts with regard to building or building material; and generally to exercise all powers and authorities vested in the legislative body of cities and incorporated towns under and by virtue of Chapter 3, Title 22, Del. C. of 1974, and all amendments heretofore or hereafter adopted;” and

WHEREAS, Chapter 188 of the Town Code currently regulates the subdivision of land;

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Town Council of the Town of Milton, a majority thereof concurring, that the following revisions hereby be incorporated into the Town Code at the referenced Code Section, with additions shown by underlining and deletions shown by strike-through as follows:

§ 188-23. Street construction and maintenance.

A. Streets, including but not limited to the final layer of blacktop, and sidewalks shall be completed by the time 80% of the lots in the subdivision or the phase, if the subdivision is constructed in phases, are either sold or built upon, or by the time five (5) years have passed since the final approval for a subdivision or the phase, whichever occurs first, unless otherwise approved by the Mayor and Council for good cause shown. In the event that the streets are not completed in accordance with this subsection, the Town may claim on any bond or guarantee, in addition to any other remedies provided within this Code.

B. The developer shall be responsible for streets and sidewalks until final acceptance and official release of the completion guaranty, including repairs, if necessary, and other reasonable provisions for the convenience and safety of traffic. Until final acceptance and official release of the completion guaranty, the developer shall be responsible, also, for the removal of snow from streets when necessary for the convenience or safety of traffic.

Effective Date: This Ordinance shall go into effect immediately and shall apply to all subdivisions and phases that have not reached the 80% threshold, regardless of whether five (5) years have passed since final approval. The Ordinance shall not apply to subdivisions and phases that have already crossed the 80% threshold at the time of the Ordinance's adoption.

SYNOPSIS

This Ordinance amends Chapter 188 of the Town Code relating to subdivision of land. That Chapter already identifies the process for a subdivision's approval and construction. This Ordinance amends Chapter 188 to expressly provide a threshold for the final construction of streets and sidewalks. That threshold is either five years passing after final approval or when 80% of the lots in the subdivision or phase are either sold or built upon, whichever occurs first. This Ordinance applies to all subdivisions (and the phases thereof) that have not yet reached either the 80% threshold, regardless of the five-year threshold; it does not apply to subdivisions or phases that have already reached the 80% threshold.

I, CLIFFORD M. NEWLANDS, Mayor of the Town of Milton, hereby certify that the foregoing is a true and correct copy of the Ordinance adopted by the Town Council of the Town of Milton at its duly noticed meeting held on the ____ day of _____, **2013**, at which a quorum was present and voting throughout and that the same is still in full force and effect.

MAYOR