

**SLAUGHTER BEACH ZONING ORDINANCE  
SLAUGHTER BEACH, SUSSEX COUNTY, DELAWARE**

AN ORDINANCE REPEALING THE EXISTING SLAUGHTER BEACH ZONING ORDINANCE  
AND ADOPTING A NEW SLAUGHTER BEACH ZONING ORDINANCE ESTABLISHING  
COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF SLAUGHTER BEACH,  
DELAWARE AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND  
AMENDMENT THEREOF

Be it hereby enacted by the Town Council of the Town of Slaughter Beach, a majority thereof concurring in Council duly met, that the Slaughter Beach Zoning Ordinance adopted April 9, 2012, including any amendments thereto, is hereby repealed in its entirety and in its place thereof the following ordinance be and hereby is adopted as follows:

**Section 1. LEGAL FRAMEWORK.**

**1.1 Title.** This ordinance shall be known as the “Slaughter Beach Zoning Ordinance” and may be cited as “SBZO, §.”

**1.2 Authority.** This ordinance is adopted pursuant to the authority delegated to the Town of Slaughter Beach, a municipal corporation of the State of Delaware, by Article 11, §25 of the Delaware Constitution of 1897, *Del. C.* Title 22, Chapter 3, the Town Charter (Del. Laws Chapter 167, as amended), and the general police powers of the Town as a municipal corporation.

**1.3 Purpose.** This ordinance is enacted in accordance with a Comprehensive Land Use Plan (CLUP) to promote the health, safety, morals and general welfare of the inhabitants of the Town of Slaughter Beach by lessening congestion in the streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of transportation, water, sewage, schools, parks and other public requirements; conserving the value of buildings; and encouraging the most appropriate use of land based upon reasonable consideration of the character of the Town and particular suitability of its lands for particular uses.

**1.4 Findings.** The Town Council of the Town of Slaughter Beach has found and determined that the Town exists on a narrow thread of habitable land which is of limited suitability and incapable of supporting dense residential development or large commercial or industrial uses, and that the Town’s unique character is, and has always been, a largely year round part-time, residential, recreational resort or fishing village. Specifically, the Town Council has found and determined that:

**1.4.1** The Town lies within, and/or is surrounded by, ecologically sensitive areas and bodies of water including:

- (a) the Delaware Bay, Cedar Creek, and Slaughter Creek;
- (b) the Delaware Coastal Zone (7 *Del. C.* Chapter 70);
- (c) Delaware Wetlands (7 *Del. C.* Chapter 66);
- (d) Delaware Subaqueous Lands (7 *Del. C.* Chapter 61);
- (e) Delaware Beaches (7 *Del. C.* Chapter 68);
- (f) the Coastal Flood Plain (Title 42 U.S.C. §4001 et seq.);

- (g) the Primehook National Wildlife Refuge;
- (h) the Marvel Conservation Tract;
- (i) the Coastal Barrier Resources System (Title 16 U.S.C. §3501 et seq.); and
- (j) Mispillion River.

**1.4.2** The Town is not suited for dense residential development or large commercial or industrial uses because those areas of the Town which are capable of development are limited by:

- (a) the absence of a central sanitary sewage collection and treatment system;
- (b) soil characteristics and a water table which impose severe limitations upon individual sanitary sewage systems;
- (c) the limited capability of the Town's existing central water supply system to produce and distribute potable water of adequate pressure throughout the Town, or to provide water for fire protection purposes;
- (d) the limited capability of State Route 36/204 and County Route 224 to accommodate traffic of large volume or size, further aggravated by the drawbridge on State Route 36/204 which has a weight limit of 15 tons;
- (e) the existence of the Town in the 100-year flood plain which imposes significant restrictions on the type and nature of permissible construction; and
- (f) the high water table and marshy wetlands which hamper necessary storm and surface water disposal.

**1.4.3** The overall character of the Town, which by nature and history, was that of a part time, residential resort community or fishing village, is now one of primarily full-time residents living in single-family detached dwellings, with virtually no apartment buildings or other land uses within the Town limits.

**1.4.4** By virtue of being a beach community with substantial water frontage on the Delaware Bay, in close proximity to marina and boat storage facilities on Cedar Creek, and supported by the extensive commercial facilities in the nearby City of Milford, the most appropriate use of the developable land within the Town is for single family residential and recreational/resort uses, with limited supporting small commercial and institutional uses.

**1.5 Declaration of Intent.** Based upon the foregoing findings, the Town Council hereby declares it to be the intent of this ordinance to preserve the unique character and quality of life in the Town of Slaughter Beach, with a view to the conservation of both the ecologically sensitive lands in and adjacent to it and the specific value of the Town as a residential/recreational beach resort.

**1.6 Scope.** From and after the effective date of this ordinance, the use of all land and every building or structure or portion of a building or structure erected, altered with respect to height or area, added to, or relocated, and every use within a building or structure or use accessory thereto, in the Town of Slaughter Beach, shall be in conformity with the provisions of this ordinance. Any existing building or structure and any existing use of a building, structure or land not in conformity with the regulations herein prescribed shall be regarded as nonconforming but may be continued, extended or changed subject to the special regulations herein provided with respect to nonconforming buildings or uses.

**1.7 Interpretation.** In their interpretation and application, the provisions of this ordinance shall be held to the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the ordinance impose greater restrictions

than those of any law, other ordinance or regulation, the provisions of this ordinance shall be controlling.

**1.8 Severability.** In the event that any section, sub-section, paragraph, sentence or clause of this ordinance is finally determined or declared to be illegal, unconstitutional, or unenforceable by any Court of competent jurisdiction, the balance hereof shall remain in full force and effect.

**SECTION 2. DEFINITIONS.** The meaning of the words and phrases contained herein are adjudged to be in their common usage, unless subsequently clarified by Section 2 of this ordinance.

**2.1 Rules of Construction.** For the purpose of interpreting this ordinance, certain terms are herein defined. The singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future. The words “used” or “occupied” shall be construed as though followed by the words “or intended, arranged, or designed to be occupied or used.” The word “building” shall include the word “structure”. The word “shall” indicates a mandatory intent. The word “may” is permissive.

**2.2 Words Not Defined.** Any word not specifically defined herein shall be given its common and ordinary meaning as defined in commonly accepted dictionaries of the English language.

### **2.3 Specific Definitions.**

**Adjoining Properties.** Properties contiguous to a subject property and, if separated by a street or alley street, properties which would be contiguous to the subject property if its side lines were extended at right angles across such street or alley street.

**Applicant.** The owner of a property or his/her designated agent who submits an application for any action required by this ordinance

**BOA.** Board of Adjustment for the Town of Slaughter Beach.

**Bayfront Building Setback Line.** The building setback line for those lot lines abutting the Delaware Bay.

**Building.** A structure that is usually roofed, walled, or supported by columns, that is used for the shelter, housing, or enclosure of persons, animals, or property of any kind.

**Building, Accessory.** A separate, subordinate building on the same lot as the principal building and used for a purpose that is incidental and subordinate to the principal building’s use. Such buildings include, but are not limited to, garages, storage sheds, and doghouses.

**Building Height.** The height of a building measured from a point where the centerline of the building intersects with the crown of the street on which the building fronts to the highest point of a flat, shed or mansard roof, or a railing located on the roof, or the midpoint between the highest eave and the ridge of a gable, hip, or gambrel roof. Chimneys, antennas, and other similar structures extending beyond the typical roofline shall not be included when determining the height of a building.

**Building, Principal.** A building in which is conducted the main or principal use of the lot on which it is located.

**Building Setback Line.** The line that is the required minimum distance from any lot line that establishes the area within which the principal structure must be placed.

**Code Enforcement Official.** An individual, entity or agency appointed and/or employed by the Town to administer and enforce the provisions of this ordinance, which individual, entity, or agency shall serve at the pleasure of the Town Council. The Code Enforcement Official shall be and have all the

powers of a “Code Enforcement Constable” under 10 *Del. C.* Chapter 29. The Town may appoint more than one Code Enforcement Official and may assign the different responsibilities of the Code Enforcement Official to different individuals, entities, or agencies as the Town sees fit.

**Commission.** Planning and Zoning Commission for the Town of Slaughter Beach.

**Demolition.** The intentional act of substantially destroying or razing a building or structure such that it is no longer useable as originally constructed.

**Development.**

(a) The division of a parcel of land into two (2) or more parcels;

(b) The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure;

(c) Any landfill or land disturbance; and/or

(d) Any use or extension of the use of land.

**DNREC.** State of Delaware Department of Natural Resources and Environmental Control.

**DNREC Coastal Building Line.** The bayfront building setback line required by DNREC and set forth on maps prepared by DNREC with reference to the National Geodetic Vertical Datum (NGVD), the Delaware State Plane Coordinate System, and information provided by topographic survey.

**Dwelling.** A building, or portion thereof, used as a place of residence, containing sleeping, cooking, and sanitary facilities, excluding commercial lodging facilities.

**Dwelling, Manufactured.** A house unit largely assembled in off-site factories and transported to the site of use and affixed to a permanent foundation, often bearing a label certifying that it was built in accordance with Federal Manufactured Home Construction and Safety Standards which became effective on June 15, 1976. Also referred to as a manufactured home or mobile home, and specifically excluded from the definition of single-family detached dwellings.

**Dwelling, Single-Family Detached.** A building containing one (1) dwelling unit that is not attached to any other dwelling unit by any means and is surrounded by open space or yards. Manufactured dwellings are specifically excluded from this definition.

**Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within for the exclusive use of a single family maintaining a household.

**Family.** One or more persons related by blood or marriage or adoption or a group of no more than five (5) unrelated persons living together as a household in a dwelling.

**Floor Area.** The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior walls or from the centerline of party walls separating two buildings, excluding cellar and basement areas only for storage or for the operation and maintenance of the building.

**Frontage.** The side of a lot abutting on a street. Where a lot abuts two intersecting streets (a corner lot), the shortest side that abuts a street shall be the frontage.

**Garage, Private.** A detached accessory structure used for the storage of tools, vehicles or other personal property used by either the owner or the tenant of the subject parcel (also called tool shed, storage shed, garlow or workshop).

**Garlow.** A living space located above a garage that is detached from the principal residence.

**Home-based business.** An occupation or profession which (a) is suitable for being carried on in a residential dwelling, (b) is operated by a resident of the dwelling, (c) is clearly incidental and secondary to the residential use of the dwelling, (d) maintains the residential character of the building, and (e) does not display goods, store a stock in trade, or sell commodities on the premises. By way of example and not in limitation, home-based business includes art studio, dressmaking, and the professional offices of a physician, dentist, lawyer, engineer, architect, certified public accountant, or salesman.

**Light Industrial.** A use engaged in the manufacture, processing and finishing, treatment and packaging, storage, sales and distribution of such products generated or related to the maritime industry.

**Lot.** A designated parcel, tract, or area of land established either by plat, subdivision, or considered as a unit of property by virtue of a metes and bounds description, to be separately owned, used, developed, or built upon.

**Lot Area.** Total area of a parcel of land usually expressed in square feet.

**Lot, Corner.** A lot or parcel of land abutting upon two (2) or more intersecting streets or upon two (2) parts of the same street forming an interior angle of less than 135 degrees.

**Lot Coverage.** The portion of a lot or building site that is occupied by any building or structure.

**Lot Depth.** The average distance measured from the front lot line to the rear lot line.

**Lot Line.** Property lines bounding a lot.

**Lot Line, Front.** A property line separating a lot from a street right-of-way. For a corner lot abutting two street rights-of-way, the shortest property line separating a lot from a street right-of-way. Where the lines are of equal length, either may be selected. For properties adjacent to the Delaware Bay, the property line opposite the property line adjacent to the Delaware Bay must be used irrespective of whether the lot is a corner lot.

**Lot Line, Rear.** The lot line opposite and most distant from the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line.

**Lot Width.** The average horizontal distance between the side lot lines.

**Marina.** Any facility for the mooring, berthing, storing or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat pump-out, boat construction and repair, marine equipment sales, or promotional events, boat and jet-ski rental, and other uses clearly incidental to watercraft activities.

**Off-Street Parking.** An area on a lot that is permanently reserved for parking one or more motor vehicles and which has direct access to a dedicated street right-of way.

**Parcel.** A tract or plot of land.

**Person.** A corporation, association, partnership, natural person, or any other legal entity recognized at law.

**Premises.** A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

**Recorder of Deeds.** The Recorder of Deeds for Sussex County, Delaware.

**Rezoning.** Any change in the official zoning map for the Town of Slaughter Beach which will change the permitted use of land activities on the subject parcel.

**Septic System.** A sewage treatment often for a single family residence, when a central community system is not available, that includes a settling tank through which liquid sewage flows and in which solid sewage settles and is decomposed by bacteria in the absence of oxygen.

**Site Plan.** A plan for the subdivision, construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure.

**Special Exception.** A use which is not generally appropriate throughout a zoning district but which is specified by this ordinance as a use which may be permitted by the Board of Adjustment upon a finding of specified circumstances and subject to such conditions as imposed by the Board in order to protect the character of the district in which it is located and so as to not seriously infringe upon the health, safety, and welfare of the community.

**State.** The State of Delaware.

**Street.** Any vehicular way that is:

- (a) an existing State, County or Town roadway;
- (b) shown upon an approved plat;

(c) approved by other official action; or

(d) shown on a plat duly filed and recorded in the Office of the Recorder of Deeds.

A Street includes the land between the right-of-way lines, whether improved or unimproved.

**Street, Alley.** A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

**Street Line.** The line between a lot, tract, or parcel of land and an adjacent street.

**Street, Side.** A street intersecting Bay Avenue and terminating there.

**Structural Alteration.** Any change in either the supporting member of a building, such as load bearing walls, columns, beams, girders, floor joists, rafters/trusses, the footprint of an existing structure, or in the dimensions or configurations of the roof or exterior walls, or in the dimensions or configurations of septic systems.

**Structure.** Anything constructed or erected, including any part thereof, the use of which requires permanent connection to the ground, or attachment to something having a permanent location or attachment to the ground, excluding driveways and sidewalks, for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

**Town.** The Town of Slaughter Beach, Delaware.

**Swimming Pool.** Any portable or permanent structure located and designed so as not to create a hazard, containing a depth of 36 inches or more of water.

**Town.** The Town of Slaughter Beach, Delaware.

**Upgrade, Electrical.** Any change or rearrangement of any wiring, piping, part or other component whether by extending the electrical system or moving from one location to another.

**Upgrade, Plumbing.** Relocation of any plumbing fixture and related pipe. Connection of any new non-potable fixture, piece of equipment or system to the potable water supply. A plumbing upgrade does not include replacement of an existing fixture, piece of equipment or related piping, including but not limited to hot water heaters and water conditioning systems.

**Use.** The purpose or activity for which land, buildings, or structures are designed, arranged, or intended, or for which land, buildings, or structures are occupied or maintained.

**Use, Accessory.** A use of land, a building, or a structure or a portion thereof customarily incidental and subordinate to principal use of the land, building, or structure and located on the same lot with the principal use.

**Use, Conditional.** Uses which cannot be well adjusted to their environment in particular locations with full protection offered to surrounding properties by rigid application of the district regulations. These uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare but, because of the nature of the use, require the exercise of planning judgment on location and site plan.

**Use, Mixed.** The existence within a building of both commercial and residential use.

**Use, Principal.** The primary or predominant purpose or activity for which land, buildings, or structures are designed, arranged, or intended or for which land, buildings, or structures are occupied or maintained.

**Variance.** A form of relief from this zoning ordinance to permit the use of, or construction upon, a property in a way that is not otherwise permitted under this ordinance. Variances are granted where the terms of this zoning ordinance, if literally applied, would result in unnecessary hardship or exceptional practical difficulties to the property owner.

**Yard.** The required open space, unoccupied and unobstructed by any structure or portion of a structure on any lot, measured horizontally from the lot line to the building setback line and measured vertically from the ground to the sky.

**Yard, Front.** A space along each front lot line and between the side lot lines extending inward to a

building setback line separated from the front lot line by a dimension equal to the required minimum front yard building setback line dimension.

**Yard, Rear.** A space along each rear lot line and between the side lot lines extending inward to a building setback line separated from the rear line by a dimension equal to the required minimum rear yard building setback line dimension. For purposes of this ordinance, the rear yard of a property abutting the Delaware Bay property extends to the bayfront building setback line.

**Yard, Side.** A space along each side lot line extending from the front yard to the rear yard and extending inward to a building setback line separated from the side lot line by a dimension equal to the required minimum side yard building setback line dimension.

### **SECTION 3. APPLICATION OF ZONING CODE**

**3.1 Use.** Except as hereinafter provided, no building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved, or structurally altered, except in conformity with the use sections of this ordinance herein specified for the district in which it is located.

**3.2 Height and Lot Coverage.** Except as otherwise provided for herein, no building or structure shall hereafter be erected, moved, or structurally altered so as to exceed the building height limit or make any side, rear, or front yard smaller than is required for the district in which it is located.

**3.3 Areas Under Water.** Areas which are under water are considered to be within a zoning district and controlled by the applicable zoning regulations. District boundaries over water areas shall be located by noted or scaled dimensions, by relation to physical features, by coincidence with the Town limits, or by a straight line projection of the district boundaries as indicated on the zoning map. Straight-line district boundaries over water areas shall be assumed to continue as straight lines until they intersect with each other or with the Town's municipal limits.

**SECTION 4. ZONING DISTRICTS.** The following districts are hereby established and are depicted in the attached official zoning map for the Town of Slaughter Beach:

**4.1 Official Zoning Map.** The boundaries of the zoning districts shall be shown upon the map designated as the "Town of Slaughter Beach Zoning Map." The map shall be signed by the Mayor and placed on file at the Town's office. The Zoning Map dated January 19, 2015 may hereafter be revised or amended. The map and all the notations, references and other data shown thereon are hereby incorporated by reference and shall have the same force and effect as if fully set out herein.

**4.2 Commercial (C).** The purpose of the Commercial District is to maintain the existing light commercial areas of the Town as well as to consider additional vacant land in anticipation of appropriate future light commercial development to support the immediate needs of the community. Commercial properties should be beneficial to the Town and the Town's residents.

**4.2.1 Permitted Use.** Parking lots, bait and tackle shops, or business/professional offices not to exceed 1,000 square feet. Convenience stores and restaurants not to exceed 2,000 square feet in total floor space.

**4.2.2 Uses Permitted as Conditional Uses.** Public utility structures and equipment and medical services.

**4.2.3 Uses Permitted as Special Exceptions.** Marine supplies and services, marinas as defined in Section 2 herein, public storage and sale of boats and related accessories, and marina boat docks and repair facilities.

**4.3 Conservation-Agriculture (C/A).** The purpose of this district is to permanently preserve the Town's wetlands, wildlife areas and areas of special environmental quality, recreation potential, natural beauty, ecological importance, and areas needing special protection from erosion and pollution, to protect flood plains from inappropriate development, and where appropriate, to encourage the agricultural use of productive soils.

**4.3.1 Permitted Uses.**

- (a) Fish hatchery;
- (b) Commercial trapping;
- (c) Game and wildlife preserve;
- (d) Nature trails;
- (e) On parcels of not less than three (3) acres, the keeping of large or small animals, including kennels, reptiles, fish, birds (not including poultry flocks larger than 300 birds) and insects; and cultivation of field crops, orchards, groves, or nurseries for growing plants, turf, trees, and shrubs;
- (f) On parcels of not less than five (5) acres, agriculture, including general farming, dairy farming, truck gardens, cultivation of field crops, orchards, groves, or nurseries for growing plants, turf, trees, and shrubs; and the keeping of large or small animals, including kennels, reptiles, fish, insects, or birds (not including poultry flocks larger than 1000 birds);
- (g) Recreational uses and facilities commercially operated or for a private membership such as picnic grounds, fishing or boating, archery range, and similar activities; and
- (h) Tree Farm.

**4.3.2 Uses Permitted As a Conditional Use.**

- (a) Public utility facilities, fixtures, structures or equipment.

**4.3.3 Uses Permitted As a Special Exception.**

- (a) Skeet or trap shooting range;
- (b) Recreational hunting on parcels of not less than five (5) acres;
- (c) Seasonal sale of fruits and vegetables not grown on the premises, but not permanent commercial markets, groceries, or similar operations;
- (d) Radio or television transmission or receiving station or tower, not exceeding sixty feet (60) in height;
- (e) Storage of hay, grain and feed;
- (f) Storage of boat trailers; and
- (g) Windmills, not exceeding sixty feet (60') in height.

**4.3.4 Accessory Uses, Buildings, and Structures.**

- (a) Fences, barns, livestock sheds, and stables;
- (b) Structures for storage of feed for animals kept on the property;
- (c) Structures for storage of tools, farm equipment, and agricultural supplies for use on that premises;
- (d) Docks, wharves, boat slips;
- (e) Bulkheads, boardwalks, docks; and
- (f) Flagpoles, mailboxes.

**4.4 Residential (R-1).** The purpose of the Residential District is to provide for assembly and

maintenance of low density, single-family detached dwelling housing in the Town, together with such accessory uses as may be necessary or are normally compatible.

**4.4.1 Permitted Use.** Single-family detached dwelling and accessory buildings to support a single-family residence.

**4.4.2 Uses Permitted as Conditional Uses.** Home-based businesses; public utility structures, facilities and equipment; non-commercial parks and playgrounds; churches; libraries, municipal buildings, emergency services buildings and related structures.

**4.5 Residential (R-2).** The purpose of the Residential District (R-2) is to provide for assembly and maintenance of low density single-family detached dwelling housing in the Town on larger lots than those located in the R-1 district.

**4.5.1 Permitted Use.** Single-family detached dwelling and accessory buildings to support a single-family residence.

**4.5.2 Uses Permitted as Conditional Uses.** Home-based businesses; public utility structures, facilities and equipment; non-commercial parks and playgrounds; churches; libraries, municipal buildings, emergency services buildings and related structures.

**4.6 Residential/Commercial (R/C).** The purpose of the Residential/Commercial District is to allow a portion of a single-family residence to be utilized for commercial purposes.

**4.6.1 Permitted Use.**

(a) All uses permitted as a matter of right in the Residential (R-1) district.

(b) All uses permitted as a matter of right in the Commercial (C) district provided that no structure shall be used solely for commercial purposes and the commercial component of a mixed use structure shall not exceed an aggregate area of 1,000 square feet.

**4.6.2 Uses Permitted as Conditional Uses.** Public utility structures, facilities and equipment, and medical services.

**4.7 Wharf (W).** The purpose of the Wharf District is to ensure that the Town's waterfront is reserved for residential, maritime commercial, and light industrial uses.

**4.7.1 Permitted Use.** All those uses permitted in the Residential (R-1) district, light industrial uses as defined in Section 2 of this ordinance that are related to maritime industries, and marinas. Such uses include, but are not limited to, commercial fishing and trapping; boat construction, maintenance, repair or storage; and establishments that sell maritime related equipment and supplies. Wholesale establishments and commercial off-loading of Horseshoe Crabs shall be prohibited.

**4.7.2 Uses Permitted as Conditional Use.** Public utility structures, facilities, and equipment.

**4.7.3 Uses Permitted as Special Exceptions.** Commercial fishing.

**4.8 Classification of Use.** The principal use within a building or structure shall be the use classification of that building or structure. For the purpose of this ordinance, dwelling units shall be classified as a residential use. The sale or rental of merchandise and services shall be classified as commercial use. Rental of dwelling units shall not be considered a commercial use and shall be permitted in all zones.

**4.9 Prohibited Uses.** No use shall be permitted on any lot within 300 feet of any Residential (R-1), Residential (R-2), or Residential/Commercial (RC) zoning district which is obnoxious or offensive by reason of odor, dust, vibration, illumination or noise, or which constitutes a public hazard.

**4.10 Permitted Uses.** For the purpose of this ordinance, permitted uses are listed for the zoning districts. Special Exceptions listed for each zoning district type are allowable only upon approval of the Board of Adjustment. Uses not specifically listed are prohibited.

**SECTION 5. REQUIREMENTS FOR ZONING DISTRICTS.**

**5.1 Dimensional Requirements.** Each lot and its structure(s) shall abide by the area, width, depth, and building height requirements in its respective zoning district defined in this table.

Zoning District	Minimum Lot Width and Street Frontage	Minimum Lot Depth	Building Setback Lines (a), (b), (c)			Minimum Bayfront Setback Line	Maximum Building Height
			Minimum Front Yard Building Setback Line	Minimum Side Yard Building Setback Line (d)	Minimum Rear Yard Building Setback Line		
C	75 feet	100 feet	15 feet	8 feet	20 feet	DNREC Coastal Building Line	36 feet
C/A	100 feet	100 feet	15 feet	8 feet	20 feet	DNREC Coastal Building Line	36 feet
R-1	50 feet	100 feet	15 feet	8 feet	20 feet	DNREC Coastal Building Line	36 feet
R-2	75 feet	100 feet	15 feet	8 feet	20 feet	DNREC Coastal Building Line	36 feet
R/C	50 feet	100 feet	15 feet	8 feet	20 feet	DNREC Coastal Building Line	36 feet
W	75 feet	100 feet	15 feet	8 feet	20 feet	N/A	36 feet

(a) With a front door facing and being clearly visible from the street, uncovered steps and landings having a maximum width of 42 inches and leading from the street to that door may encroach up to 5 feet into the front yard area, but in no case closer than 10 feet from the front lot line. The following shall be permitted to encroach into the required front, rear, or side yard area when they are twelve (12) inches or less in height, as measured from the ground immediately below to the top of the finished surface: outside steps, open-deck porches, patios, walkways, or driveways. Except for rain gutters, eaves, and soffit, no cornice, overhang, chimney, or other architectural feature shall be permitted to extend into any required front, rear, or side yard area. Roof eaves, soffit, and rain gutters may extend up to 18 inches into the required front, rear, or side yard areas. Heating and/or cooling units, generators,

and gas tanks may be located in, or extend into, the required side or rear yard area, provided they are at least 2 feet from the property line. Accessory buildings may be located in front, rear, or side yard areas pursuant to section 5.6.

(b) Septic systems shall be installed and located in accordance with regulations set forth by DNREC and may encroach into the required front, rear, or side yard areas as long as they are in compliance with all other applicable DNREC regulations.

(c) Notwithstanding anything herein to the contrary, no encroachments shall be permitted seaward of the DNREC Coastal Building Line except as permitted by DNREC.

(d) The aggregate of both side yards shall be a minimum of twenty (20) feet.

**5.2 One Principal Building Per Lot.** Within Residential (R-1), Residential (R-2) and Residential/Commercial (RC) zoning districts, no more than one principal building with its customary accessory buildings may occupy or be constructed upon any lot of record.

**5.3 Space for Habitation.** All buildings or structures erected or structurally altered and used for human habitation shall have a floor area of no less than 1,000 square feet.

**5.4 Vision Clearance at Corners.** No fence, wall, building, structure, sign, hedge, tree, planting, vehicle or other obstruction above a height of three (3) feet shall be permitted within 15 feet of the intersection of the right-of-way lines of two (2) streets.

**5.5 Garages.** The height for private garages in the Residential (R-1), Residential (R-2), and Residential/Commercial (RC) zoning districts shall be no greater than 18 feet. No garage or part of a garage shall be used as a dwelling.

### **5.6 Accessory Buildings.**

**5.6.1** Accessory buildings shall be placed in accordance with the following requirements:

(a) All accessory buildings shall be located on the lot on which a principal building is erected or is being erected.

(b) Accessory buildings shall be limited to two (2) in number, including any detached garage, no more than one of which may be a dog house.

(c) No accessory building shall violate the required bayfront building setback line.

(d) No accessory building shall be less than 15 feet from a street line.

(e) For properties zoned Residential (R-1), Residential (R-2), Residential/Commercial (R/C), and Commercial (C), accessory buildings may be placed 10 feet from a rear property line for lots with a frontage greater than or equal to 50 feet or 5 feet from a rear property line for lots with a frontage less than 50 feet.

### **5.7 Parking.**

**5.7.1** An off-street parking space shall have a minimum width of eight (8) feet and a minimum length of 18 feet. A loading space shall have a minimum width of 10 feet, a minimum length 40 feet, and a 14 foot vertical clearance.

**5.7.2** A property owner shall have sufficient parking spaces to accommodate all motor vehicles associated with the property. No new construction, enlargement in dimension or use of any existing building or structure shall be permitted unless the following minimum off-street parking requirements have been met:

(a) Any Residential (R-1) or Residential (R-2) lot shall have at least two (2) off-street

parking spaces with proper access to a street right-of-way and shall be located on the property.

(b) Any Residential/Commercial (R/C) District structure used strictly for residential purposes shall have at least two (2) off-street parking spaces with proper access to a street right-of-way and shall be located on the property. Any Residential/Commercial (R/C) District structure being used for mixed residential and commercial purposes shall have at least three (3) off-street parking spaces.

(c) Any Commercial (C) or Wharf (W) District activity shall be required to have one (1) parking space for every 300 square feet of commercial use.

## **5.8 Fences.**

**5.8.1 Existing fences.** Any fence lawfully existing as of the effective date of this ordinance may be repaired, reconstructed, or replaced in the exact location as the existing fence and using substantially the same type of materials as the existing fence but not exceeding the height limitations for new fences provided herein. The repair, reconstruction, or replacement of any existing fence under this Section shall not require a building permit.

**5.8.2 New fences.** Any fence erected after the effective date of this ordinance, other than as provided in Subsection 5.8.1 above, shall require a building permit and shall be subject to the following restrictions:

(a) Fences may be erected up to, but not on or exceeding, the owner's property lot line; provided that no fence shall extend seaward of the bayfront building setback line, except as may be permitted by DNREC or other agencies with jurisdiction.

(b) The height of a fence shall be measured from the lowest finished grade directly below and abutting the fence to the highest point of the fence, not including any post or other structural support as long as the post or structural support extends no more than six (6) inches above the primary portion of the fence.

(c) A fence erected on a property located within any Residential (R-1), Residential (R-2), or Residential/Commercial (RC) zoning district, which property's side lot lines and rear lot lines are only contiguous to other properties located within any R-1, R-2, or RC zoning district, shall not exceed four (4) feet in height.

(d) A fence erected on a property in a Residential (R-1), Residential (R-2), or Residential/Commercial (RC) zoning district, which property has at least one rear lot line or side lot line abutting a property in the Commercial (C) or Wharf (W) zoning district or abutting a side street, shall not exceed six (6) feet in height.

(e) A fence erected in the Wharf (W) or Commercial (C) zoning district shall not exceed four (4) feet in height

(f) For purposes of this Section, bulkheads, retaining walls, recreational enclosures, and dense plantings for screening purposes shall be considered fences.

(g) Excepting bulkheads, retaining walls, and dense plantings, fences shall be of design and material that shall permit the passage of air, light, and view. No fence shall be constructed of such design or material as to create a solid or substantially solid wall (e.g. stockade fence).

## **5.9 Outside Display of Merchandise, Produce Stands, Yard/Garage Sales, "For Sale by Owner."**

**5.9.1 Outside display of merchandise.** Except as permitted herein for produce stands and yard/garage sales, no merchandise shall be displayed outside a building in the Residential (R-1),

Residential (R-2), and Residential/Commercial (RC) zoning districts.

**5.9.2 Produce stands.** Produce stands may be permitted, in writing, by the Code Enforcement Official of the Town with reasonable restrictions concerning traffic safety and nuisance control. No permit may be granted during the months of November through and including April.

**5.9.3 Yard/Garage sales.** Yard/garage sales are permitted provided that the Town is notified of the yard/garage sale prior to the date of the sale. No yard/garage sale shall exceed three (3) consecutive days in duration, and not more than four (4) such yard/garage sales shall be held in any calendar year for any one property or lot in the Town. Participation in the Town of Slaughter Beach Annual Yard Sale does not require a permit.

## 5.10 Signs

**5.10.1 Compliance.** Any sign hereafter erected shall conform to the provisions of this ordinance and any other pertinent ordinance or regulation of the Town of Slaughter Beach. All signs shall be maintained in good order.

**5.10.2 Continuation, Amortization.** Any sign lawfully existing prior to the effective date of this ordinance that does not comply with the regulations found herein shall be considered a non-conforming sign that may continue to lawfully exist until such time as the sign is removed or damaged by wind, fire, neglect or any other cause such that the damage exceeds 60% of its replacement value.

**5.10.3 General restrictions.** The following restrictions shall apply to all permitted sign uses:

- (a) No sign shall be placed in such a position that it will cause danger to traffic on a public street by obscuring the view of vehicles.
- (b) With the exception of temporary signs, no sign other than official traffic signs shall be erected less than 10 feet from the front or rear lot lines or less than five (5) feet from the minimum side lot lines as defined in this Section unless specifically authorized by other ordinances of the Town of Slaughter Beach.
- (c) Waterfront properties shall comply with requirements of other entities (DNREC, DELDOT, Sussex County, Army Corps of Engineers, etc.) for erecting signs on the bayfront.
- (d) No sign shall be of the flashing, revolving, scrolling, animated, moving or sound accompanied-type. The message format of a sign must be kept within the frame of the sign.
- (e) Unless otherwise indicated in this Section, no sign shall exceed nine (9) square feet on a side.

**5.10.4 Use and location regulations for temporary signs.** Temporary signs are those signs intended to be posted for a temporary period of time, which are typically constructed from nondurable materials, including paper, cardboard, cloth, plastic, and/or wallboard. Temporary signs may be posted on property in all zoning districts of the Town, subject to the following requirements:

- (a) The total square footage for temporary signs posted on a lot in a residential zone, in the aggregate, shall not exceed thirty-two (32) square feet, with no individual sign exceeding nine (9) square feet. The total square footage for temporary signs posted on a building lot in all other zones, in the aggregate, shall not exceed sixty-four (64) square feet, with no individual sign exceeding thirty-two (32) square feet. The total square footage of a sign is measured to include all of the visible display area of one side of the sign.
- (b) No temporary sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.

- (c) A temporary sign shall be designed to be stable under all weather conditions, including high winds.
- (d) No temporary sign shall be illuminated or painted with light-reflecting paint.
- (e) A temporary sign shall only be posted with the consent of the property owner or occupant.
- (f) A temporary sign may be posted for a period of up to ninety (90) days, at which time the sign shall be removed or replaced.

**5.10.5 Authorization for Posting Temporary Signs in the Public Rights-of-Way.** Temporary signs shall not be posted in the public rights-of-way without obtaining a permit for such posting from the Town. This restriction includes the posting of temporary signs on trees, utility poles, and other structures within the rights-of-way.

**5.10.6 Removal Requirements for Temporary Commercial Signs.** In addition to the requirements stated above, temporary commercial signs shall comply with the following requirements:

- (a) A temporary real estate sign shall be removed within fourteen (14) days after the sale or occupancy of the property.
- (b) All other commercial temporary signs, including those announcing yard sales and special events to occur on one or more particular dates, shall be removed within fourteen (14) days of the conclusion of the sale or event that the sign is promoting.

**5.11 Street Access.** Subject to the provisions of this ordinance governing non-conforming lots, no building shall be constructed on any lot which does not have the required minimum frontage on a public street. All alleys and private ways shall be connected directly to one or more public streets.

**5.12 Conditional Use Approval.** A conditional use may be approved by the Mayor and Council, after holding a public hearing in compliance with the requirements of Section 12.9 of this ordinance, if it is found that the location is appropriate and not in conflict with the Comprehensive Plan, that the public health, safety, morals and general welfare will not be adversely affected, and that necessary safeguards will be provided for the protection of surrounding property, persons and neighborhood values. Unless otherwise specified in this section or specified as a condition of approval, the height limits, yard spaces, lot areas, signage, and parking requirements shall be the same as for other uses in the district in which the conditional use is located.

## **SECTION 6. NON-CONFORMING USES, LOTS, and STRUCTURES**

**6.1 Non-Conforming Uses.** A non-conforming use is a use or activity that was lawful before this ordinance was adopted, revised, or amended and which is not permitted under the uses of this ordinance.

**6.1.1 Continued Existence.** A non-conforming use may continue under the following conditions:

- (a) The use or portion of the structures accommodating the use shall not be enlarged, increased, or extended to occupy a greater area or land that was occupied on the date when this ordinance was adopted or amended. Repairs and renovations to a structure accommodating a non-conforming use shall be permitted as long as the structure is not enlarged, increased, or extended.
- (b) The use shall not be relocated from its location on or after the date this ordinance is adopted or amended unless it is placed in a zoning district that allows such use.

(c) A non-conforming use of a building or land may be changed to a non-conforming use of the same or more restricted classification. Whenever a non-conforming use of a building or land has been changed to a use of a more restricted classification or to a conforming use, such use shall not thereafter be changed to a use of a less restricted classification.

**6.1.2 Termination of legal non-conforming status.**

- (a) When a non-conforming use of land ceases for any reason for a period of more than one (1) year or if the structure housing the non-conforming use is enlarged, increased, or expanded in any way, its legal, non-conforming status is terminated.
- (b) Any subsequent use of such land shall conform to the provisions of this ordinance.

**6.2 Legal, Non-Conforming Lots.** A legal, non-conforming lot is a lot whose area and/or width were lawful before this ordinance was adopted, revised or amended, but does not meet the current lot area or lot width standards of the zoning district in which the lot is located.

**6.2.1 Legal, Non-Conforming lots.**

- (a) A legal non-conforming lot may be developed, without a variance or special exception, with a single-family detached dwelling, including accessory buildings allowed by this ordinance, provided it complies with all setback and dimensional standards of this ordinance, other than standards for minimum lot area and width.
- (b) A legal, non-conforming lot legally deeded prior to this ordinance can be developed and/or sold subject to the requirements of this ordinance.

**6.3 Non-Conforming Structures.** A structure whose dimensional characteristics were lawful before this ordinance was adopted, revised or amended, but does not meet the dimensional standards of this ordinance.

**6.3.1 Continued existence.** A non-conforming structure may be continued under the following conditions:

- (a) Normal repair and maintenance is permitted;
- (b) A non-conforming structure shall not be enlarged or altered in a way that increases its non-conformity. It may be altered in a way that does not increase its non-conformity or decreases its non-conformity;
- (c) Non-conforming structures shall not be used as grounds for the addition of other structures or uses that do not conform to the standards of the zoning district; and
- (d) If a non-conforming structure is moved, it shall be located in a manner that conforms to the requirements of the zoning district in its new location.

**6.3.2 Termination of legal non-conforming status**

- (a) When a non-conforming structure or a portion thereof is damaged by more than 50% of its replacement cost due to any reason (e.g. neglect, fire, flood, etc.), its legal, non-conforming status is terminated unless reconstruction of the structure commences within one (1) year and is completed within two (2) years of said disaster. Otherwise, any subsequent construction activities shall be in accordance with this ordinance.
- (b) When a non-conforming mobile/manufactured home is damaged by more than 50% of its replacement cost due to any reason (e.g., neglect, fire, flood, etc.), its non-conforming status is terminated, and any subsequent use of such land shall conform to all provisions of this ordinance.
- (c) Any mobile/manufactured home removed for any reason on or after the effective date of this ordinance shall only be replaced by structures that conform to all provisions of this ordinance.

(d) If a property owner believes damage to a property is less than 50% of the replacement costs, it shall be the responsibility of the property owner to provide the Town with a cost to improve, repair or replace property as determined and certified to by the appropriate professional (e.g. civil engineer, certified real estate appraiser, insurance adjustor, etc.) licensed in the State of Delaware.

**6.3.3 Flood Damage Mitigation.** When a non-conforming structure that was not legally constructed under the regulations existing at the time of its construction or a legal, non-conforming structure does not have its lowest floor located above the based flood elevation in accordance with the most recent floodplain regulations in the Town, any such structure may have its lowest floor elevated to the elevation requirements contained in the Town's floodplain regulations, despite its non-conforming nature, provided that the non-conformity is not increased, and the structure does not violate the building height requirements included herein.

## **SECTION 7. BUILDING PERMITS**

**7.1 Building Permit Requirement.** No building or other structure shall be erected, moved, added to, or structurally altered without obtaining a Certificate of Zoning Compliance with the Town of Slaughter Beach, a building permit from Sussex County, and any other letters of approval as may be needed from the Delaware Department of Natural Resources and Environmental Control, the Army Corps of Engineers, etc. The Town's Code Enforcement Official should be contacted prior to starting any construction activities to confirm the need for a building permit. There is no fee associated with any such inquiries.

**7.1.1** Examples of activities requiring a building permit include, but are not limited to, the following:

- (a) plumbing upgrades and installation (excluding replacement of sinks, toilets, etc.);
- (b) electrical upgrades and installation;
- (c) structural alterations (defined in Section 2) including enlargement of windows, doors, garage doors, etc.;
- (d) enclosure of an area(s) above or below an existing structure (excluding screens, lattice, etc.);
- (e) any work which alters the footprint of an existing structure, such as a principal or accessory structure, including decks, patios, and walkways that are elevated more than twelve (12) inches above grade;
- (f) installation of fences;
- (g) construction, installation, or placement of any new principal or accessory structure, including portable sheds;
- (h) swimming pools, exterior hot tubs, and any related accessories required for compliance with any county and state laws or regulations;
- (i) septic system (replacement of existing system, installation of new system);
- (j) new alternative energy structure(s);
- (k) general maintenance, repairs, and cosmetic changes to the exterior of a building or structure for items not otherwise specifically mentioned herein where the cost of labor and materials will exceed \$25,000 (e.g. replacement of windows, roofs, siding, decking, etc.);
- (l) any activities that require a letter of approval and/or permit from any other entity (e.g., DNREC, Sussex County, Army Corps of Engineers, etc.); and
- (m) any activities that require a building permit under the Town's floodplain regulations.

**7.2 Certificate of Zoning Compliance Application.** Applicant shall submit in writing an application for a Certificate of Zoning Compliance to the Town. The application shall be completed in full and shall be accompanied by the following:

**7.2.1** Construction plan, in duplicate, drawn to scale and bearing the signature and seal of a registered Delaware land surveyor showing the following:

- (a) lot dimensions;
- (b) the exact size and location of any existing buildings or structures and proposed buildings and structures, including underground septic tanks or systems; and
- (c) the height of all existing and proposed buildings and structures on the subject lot calculated in accordance with the provisions of this ordinance and which drawings shall also certify the elevation of the average finished grade of the lot.

**7.2.2** For new construction, payment of the Town transfer tax according to Title V, Chapter 4, Section 3 of the Town of Slaughter Beach Ordinance; and

**7.2.3** Certificate of Zoning Compliance fee paid in full.

Applicant may request the requirement for the construction plan be waived, in whole or in part, where the improvements being made are of such minor proportions or will otherwise clearly not be impacted by any one or more of the dimensional limitations of this ordinance (e.g. yard setbacks, height limitations) and where the improvements will not in any other way affect the property's compliance with the zoning district regulations; provided, however, that the risk of not providing all data, certified by a registered land surveyor or engineer, shall be borne by the applicant, and should any building or structure subsequently be determined to be in violation of any provision of this ordinance, it shall be no excuse that the Town issued a Certificate of Zoning Compliance on the basis of inadequate or incorrect information from the applicant. Certificate of Zoning Compliance fees shall be non-refundable and set according to the Town's fee schedule and subject to change by the Town Council. The fee shall be doubled if construction activities occur without a building permit.

**7.3 Building Permit, Letters of Approval, and Construction Permit.** After obtaining a Certificate of Zoning Compliance, an applicant shall apply for a building permit from Sussex County and/or for those letters of approval that may be required by DNREC, the Army Corps of Engineers, and any other agencies. Once an applicant has obtained a Sussex County building permit and all necessary letters of approval, an applicant may file the same with the Town, along with the Construction Permit fee set forth in the Town's fee schedule, for review and issuance of a Construction Permit. Adherence to the permitted construction plan shall be required. A construction permit shall be valid up to 12 months from the date of issue. If construction activities are not started within the 12 months, a new application for a Certificate of Zoning Compliance shall be filed according to this subsection. When construction activities are started but not completed within the 12 months, the applicant shall obtain an extension of the existing permit at the discretion of the Town's Code Enforcement Official.

**7.4 Construction Standards.** The Town of Slaughter Beach recognizes the current Building Code as adopted, amended, and enforced by Sussex County, as the same may from time to time be amended, including subsequent revisions thereto, as the formal construction codes in the enforcement of this ordinance.

**7.5 Public Property Construction.** Materials, methods of construction, hours, and times for construction for the Town or conducted on public property shall be under the direct control and supervision of the Town Council.

**7.6 Temporary Building or Structure.** Temporary buildings or structures, including construction trailers, not for habitation, used in connection with and during construction and located on the property on which construction is being performed shall be permitted, but the same shall be removed from the property upon completion or cessation of construction.

**7.7 Parking or Storage of Construction Vehicles/Equipment.** Construction vehicles may be parked or stored subject to the following conditions:

**7.7.1** Construction trailers and equipment (e.g. dumpster) shall be kept on the property on which construction is being performed at all times.

**7.7.2** At times other than permitted construction hours, vehicles shall be kept on the property on which construction is being performed.

**7.8 Construction Trailers and Tractor Trailers.** Subject to the provisions of subsections 7.6 and 7.7 above, no construction trailer or tractor trailer shall be parked, placed, stored or allowed to remain on any public road, street, or other public property for any period of time exceeding four (4) hours. Relocation of any trailer from one public road, street, or other public property to some other public road, street, or other public property within the Town to interrupt the running of the time period shall not be permitted.

**7.9 Clean Hands.** The issuance of a Certificate of Zoning Compliance or Construction Permit shall be subject to Section 16 “Clean Hands Provision” of this ordinance.

**7.10 Hours of Construction.** Between September 1 and May 31, construction shall be permitted from dawn to dusk. Between June 1 and August 31, construction shall be permitted from 7:30 a.m. to 7:00 p.m.

**SECTION 8. CONSTRUCTION IN A FLOOD PLAIN.** See Town’s *Flood Plain Ordinance*.

**SECTION 9. CERTIFICATE OF OCCUPANCY.** Certification of a structure’s approved occupancy and use shall be required by the Town of Slaughter Beach. A Certificate of Occupancy (“CO”) shall be required prior to any occupancy or permanent use of any new construction or alteration of an existing dwelling or business in such a way that a building permit is required.

**9.1 Issuing Certificate of Occupancy.** Applicant shall contact the Town’s Code Enforcement Official to request a CO. The Code Enforcement Official shall issue a CO no later than seven (7) business days from the applicant confirming and providing the following:

- (a) Permitted construction activities are wholly completed in compliance with this ordinance;
- (b) Proof that a CO from Sussex County has been issued (if applicable);
- (c) Any repairs/replacements/payments sanctioned by the Town for damaged Town property are paid in full;
- (d) For new construction, payment of Town transfer tax according to Title V, Chapter 4, Section 3 of the Town of Slaughter Beach Ordinance has been made;

- (e) CO fee is paid in full; and
- (f) A flood elevation certificate indicating that all requirements for construction within a floodplain have been satisfied.

**9.2 Certificate of Occupancy Fee.** CO filing fees shall be set according to the Town's fee schedule and subject to change by the Town Council. CO filing fees shall be non-refundable.

## **SECTION 10. DEMOLITION.**

**10.1 Demolition Permit Requirement.** No building, accessory building or structure shall be demolished unless a valid demolition permit is acquired from the Town of Slaughter Beach. Where a building, accessory building, or structure poses an imminent threat to public health or safety, the Code Enforcement Official of the Town may sanction immediate demolition.

**10.2 Demolition Permit Application.** Applicant shall submit in writing an application for a demolition permit furnished by the Town. Application shall be fully completed and accompanied by a demolition permit filing fee paid in full. All applicable permits required by other agencies having jurisdiction (i.e. DNREC, Sussex County, etc.) shall be obtained by the applicant prior to application to the Town. The Town's Code Enforcement Official may waive application when immediate demolition is sanctioned for a building, accessory building, or structure that poses an imminent threat to public health or safety.

**10.3 Demolition Permit Fees.** Demolition permit filing fees shall be set according to the Town's fee schedule and subject to change by the Town Council. A permit fee shall be doubled if demolition activities occur without a permit or prior to approval for immediate demolition from the Town's Code Enforcement Official. Where the Code Enforcement Official sanctions immediate demolition, a demolition permit fee shall be paid in full to the Town no later than 15 business days after the date of demolition. A demolition permit fee shall be non-refundable.

**10.4 Issuing Demolition Permit.** A demolition permit shall be issued within 15 business days by an authorized agent of the Town after receipt of a demolition permit application with payment in full of the demolition permit filing fee. Adherence to the permitted demolition shall be required. A demolition permit shall be valid up to 90 calendar days from date of issue.

**10.5 Completion of Demolition Activities.** Permitted demolition shall be wholly completed, including removal of all debris, no later than 90 calendar days from the demolition permit's date of issue.

## **SECTION 11. DAMAGE TO TOWN PROPERTY.**

**11.1** Any person, firm or corporation, including but not limited to the property owner, general agent, contractor, lessee, tenant or occupant of property in the Town of Slaughter Beach may be required to replace or repair or pay for the replacement or repair of Town property damaged during any demolition or construction activities.

**11.2** Within 60 calendar days after the Town's discovery or the Town's replacement or repair of the damaged property, the Town Council or the Code Enforcement Official may send via certified mail

to any person, firm or corporation as listed under subsection 11.1, a notice of replacement or repair requiring the replacement or repair or payment of any costs incurred by the Town for replacement or repair of the damaged property. The notice of replacement or repair shall contain a reasonable amount of time for the contacted person to fulfill the requirement(s). The notice shall state that an appeal may be filed with the Town Council by sending the Town written notice of appeal within 15 days of the date the individual was sent the receipt of the notice of damages.

**11.3** For any appeal filed under this section, a hearing shall be held at the next special or regular Town Council meeting that is scheduled at least 7 days after receipt of the notice of appeal. If the Town Council concludes at such a hearing that the Town shall be compensated by either replacement or repair or by payment of any costs incurred by the Town to replace or repair the damaged property, a reasonable amount of time shall be allotted for the contacted person to fulfill the requirement(s).

## **SECTION 12. BOARD OF ADJUSTMENT.**

**12.1 Membership.** Members of the Board of Adjustment (“BOA”) are appointed by the Mayor, subject to confirmation by the Town Council, and shall serve at the pleasure of the Council. The BOA shall consist of not less than three (3) nor more than five (5) members who shall be residents of the Town of Slaughter Beach. At the time of appointment and throughout the term of office, a BOA member shall not be a candidate or member of the Town Council or Planning and Zoning Commission nor an employee of the Town. All appointments shall be for a period of three (3) years. Terms of service shall be established in such a manner that at least one (1) member’s term shall expire each year and the successor shall be appointed for a term of three (3) years. The BOA shall elect from among their own numbers a chairperson and a secretary.

**12.1.1** Any member of the BOA may be removed from office for cause after a hearing by a majority vote of the Town Council. A vacancy occurring prior to the expiration of a term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

**12.2 Compensation.** BOA members shall be compensated no more than \$50 per member per each BOA meeting attended (Town Charter, §5.1).

**12.3 Rules, meetings, administration of oaths, records.** The BOA shall adopt rules in accordance with the provisions of this ordinance as it deems necessary or appropriate to carry out its responsibilities under this section. Meetings of the BOA shall be held at the call of the chairperson and at such other times as determined by the Board. The BOA may establish, as appropriate, ad hoc rules for the conduct of any meeting. Such rules may set reasonable limits on the total time of a hearing, the length and number of times any person will be permitted to speak, the prohibition of repetitive testimony or comments, and such other matters pertaining to the reasonable conduct of the meeting.

**12.3.1** The chairperson and, in his/her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All BOA meetings shall be open to the public. The BOA shall keep minutes of its proceedings showing the vote of each member upon each question or showing if absent or failing to vote. The BOA shall keep records of its examinations and other official actions, all of which shall be maintained in the Town’s office and available to the public for a nominal processing fee set according to the Town’s fee schedule and subject to

change by the Town Council.

**12.4 Determinations of the BOA.** As set forth under 22 *Del. C.* Chapter 3, Subchapter II, the BOA may do the following:

**12.4.1 Appeals.** Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official (i.e., Code Enforcement Official of the Town, Town Council, or a member of the Town Council) in the enforcement of this ordinance or any other ordinance authorizing the BOA to hear appeals. In deciding any such appeal, the BOA may reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as may be appropriate under the circumstances. To that end, the BOA shall have all the powers of the administrative officer from whom the appeal is taken.

**12.4.2 Special Exceptions.** Hear and decide special exceptions to the terms of this ordinance, based on the following stipulations and guiding principles:

- (a) The use for which application is being made is specifically authorized as a special exception use for the zoning district in which it is located.
- (b) The design, arrangement and nature of the particular use is such that the public health, safety, and welfare will be protected and reasonable consideration is afforded to the character of the neighborhood, conservation of property values, health and safety of residents and workers on adjacent properties and in the surrounding neighborhood, potential congestion of vehicle traffic or creation of undue hazard, and those principals and objectives of this ordinance and the Town Comprehensive Plan.
- (c) If approved, the BOA may impose any appropriate conditions consistent with the terms of this ordinance and reasonably calculated to minimize the impact of the special exception upon adjoining and nearby properties including, but not limited to, the following:
  - i. Limiting the hours of operation;
  - ii. Requiring additional off-street parking above that otherwise required by the terms of this ordinance;
  - iii. Requiring the erection of fences, shrubbery or other screening devices;
  - iv. Further limiting the size, location and number of signs otherwise permitted by this ordinance;
  - v. Limiting the number of persons involved in the use at any one time, including those conducting the use and those being served by the use;
  - vi. Limiting the use to a specific percentage of floor area or lot area or a specific portion of the lot or structure involved;
  - vii. Limiting the number and hours of deliveries; and
  - viii. Any other condition reasonably calculated to protect the community and nearby properties from any adverse effects resulting from the use if permitted as a special exception.
- (d) No special exception shall be granted for a term of less than one (1) year. There shall be no limit on the number of times a special exception can be renewed. In the case where the BOA grants an extension or renewal, the BOA may impose new or alternate conditions to respond to changing circumstances and/or the impact the use has had upon adjacent and nearby properties. All new and alternate conditions shall be consistent with the terms of this ordinance and calculated to minimize the impact of the special exception upon adjoining and nearby properties.

(e) A violation of any condition imposed by the BOA shall be deemed a violation of this ordinance and may result in revocation of the special exception by the BOA after written notice and a hearing.

**12.4.3 Variances.** Authorize such variances from any zoning ordinance, code, or regulation that will not be contrary to the public interest, where, owing to special conditions or exceptional situations, a literal interpretation of any zoning ordinance, code, or regulation will result in unnecessary hardship or exceptional practical difficulties to the property owner. A variance may be granted as long as the spirit of the ordinance, code or regulation shall be observed and substantial justice done, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning ordinance, code, regulation, or map. In granting a variance, the BOA may prescribe appropriate conditions and safeguards that are in conformity with this ordinance. A violation of any condition or safeguard shall be deemed a violation of this ordinance and may result in revocation of the variance by the BOA after written notice and a hearing.

## **12.5 Appeals to the Board of Adjustment**

**12.5.1 Appeals.** Any person filing an appeal shall submit in writing a notice of appeal specifying the grounds thereof for the appeal. Information contained in the notice of appeal shall include, but is not limited to:

- (a) address of the subject property,
- (b) nature of the alleged error, and
- (c) specific sections of the ordinance pertinent to the appeal.

Such notice shall be submitted to the administrative officer from whom the appeal is taken and to the BOA chairperson or, in his/her absence, the acting chairperson. The notice of appeal shall be filed no later than 30 calendar days from the date of the alleged error. A filing fee paid in full shall accompany the notice of appeal submitted to the BOA chairperson or acting chairperson in order for an appeal to be filed. The administrative officer from whom the appeal is taken shall immediately transmit to the BOA all the papers constituting the record upon which the action appealed from was taken.

**12.5.2 Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer from whom the appeal is taken certifies to the BOA after the notice of appeal has been filed with the officer that, by reason of facts stated in the certificate, a stay would in the officer's opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order granted by a court having jurisdiction over the matter.

**12.6 Special Exceptions.** Any person filing a request for a special exception to the terms of this ordinance shall submit in writing a description of the details of the requested special exception to the BOA chairperson or, in his or her absence, the acting chairperson. Such description shall include, but is not limited to:

- (a) address of the subject property,
- (b) nature of and specified period of time for the requested special exception,
- (c) specific sections of the ordinance pertinent to the request, and
- (d) site plan drawn to scale showing the size and location of the lot and structures involved, adjoining properties and streets, the area where the exception will be confined, and the location of off-street parking.

Such request shall be accompanied by a filing fee paid in full before the BOA will schedule

a hearing on the request. A request for an extension or renewal of a special exception shall be in writing with a detailed description of any changes in the requirements (a) through (d) of this subsection. A processing fee shall be paid in full before the BOA will consider a request for an extension or renewal.

**12.7 Variances.** Any person filing a request for a variance to the terms of this ordinance shall submit in writing a description of the details of the requested variance to the BOA chairperson or, in his absence, the acting chairperson. Such request shall be accompanied by a filing fee paid in full before the BOA will schedule a hearing on the request. Such description shall include, but is not limited to:

- (a) address of the subject property,
- (b) nature of requested variance,
- (c) detailed description of hardship that will result without the variance,
- (d) specific sections of the ordinance pertinent to the request, and
- (e) site plan drawn to scale showing the size and location of the lot and structures involved, adjoining properties and streets, and the area where the variance will be confined.

**12.8 BOA Fees.** Filing and processing fees shall be according to the Town's fee schedule and subject to change by the Town Council. Filing fees are non-refundable once a hearing date is scheduled. Processing fees are non-refundable. The appellant/requestor may accrue additional fees during the pendency of the matter based on additional costs incurred by the Town that exceed the original filing fee and which are caused by any delay(s) without good cause or frivolous or unwarranted action(s) initiated by the appellant/requestor. Additional fees shall be set according to the Town's fee schedule and subject to change by the Town Council. Additional fees shall be paid in full before the BOA will render its final decision. Additional fees are non-refundable.

**12.9 Hearings.** Upon receipt of an appeal or request for a special exception or variance, the BOA chairperson or, in his/her absence, the acting chairperson, shall schedule a reasonable date, time and place for a hearing. Absent compelling circumstances presented by the BOA or appellant/requestor, a public hearing shall be held within 30 calendar days from receipt of the appeal/request. The appellant/requestor shall attend the hearing with or without counsel.

**12.9.1 Notice of hearing.** At least 15 calendar days before the hearing, the BOA shall provide public notice of the hearing by posting notice at the Town bulletin board, on the Town's website, visibly on the property at issue, and by publishing notice in a newspaper of general circulation in the Slaughter Beach area. At least 15 calendar days before the hearing date, the BOA shall deliver personally or send via U.S. Postal Service copies of the public notice to the appellant/requestor and those owners of property located within 200 feet of the property at issue. Such public notice shall contain:

- (a) the date, time, and place of the hearing;
- (b) the name of the appellant/requestor;
- (c) a brief description of the property; and
- (d) a brief description of the nature of the appeal or request.

**12.10 Sunset Provision.** Any special exception or variance granted by the BOA shall be rendered null and void if substantial construction, uses, permitted activities and/or conditions are not commenced thereon within five (5) years of the date of the final approval. A one (1) year extension may be granted by the Board of Adjustment for good cause shown.

**12.11 Appeal to Superior Court.** Any person or persons aggrieved by any decision of the BOA may present to the Superior Court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 calendar days after the filing of the BOA's decision.

**SECTION 13. ADMINISTRATIVE VARIANCES.** Pursuant to 22 *Del. C.* § 327, the Code Enforcement Official is hereby authorized and vested with authority to administratively grant a dimensional variance for existing conditions that do not exceed one (1) foot of the required dimension restrictions without the application being considered by the Board of Adjustment. In order for such a request to be granted, a property owner shall submit a site plan prepared, signed, and sealed by a licensed surveyor or engineer in Delaware and shall pay the application fee established by the Town Council in the fee schedule (which amount shall be subject to change from time to time). No administrative variance shall be granted where the violation of the dimensional requirement is greater than one (1) foot.

**SECTION 14. TABLES ARE PART OF THIS ORDINANCE.** Any chart, table and all of the notations and requirements shown in or which accompany any chart or table shall be part of these regulations and shall have the same force and effect as if all of the notations and requirements were fully set forth or described herein.

**SECTION 15. GRANDFATHER CLAUSE.** Any proposed projects presented to the Town prior to the effective date of this ordinance will be reviewed and considered under the previous zoning standards.

**SECTION 16. CLEAN HANDS PROVISION.** Any applicant, appellant or requestor that seeks from the Town or an authorized agent of the Town (e.g. Building Inspector, Code Enforcer, BOA, Zoning Commission, Town Council, Code Enforcement Official, etc.) any type of permit/certification, subdivision approval, rezoning, special exception, variance, etc., and has failed to satisfy an action required by the Town and/or is delinquent in any monetary obligation owed to the Town (e.g. Town taxes or fees, fines, penalties, etc.), shall be required to satisfy in full such action or monetary delinquency before the application, appeal, or request is accepted or acted on by the Town or its authorized agent.

**SECTION 17. PLANNING AND ZONING COMMISSION.** The Commission shall be established subject to those regulations found in 22 *Del. C.* Ch. 7 and any other applicable laws and regulations. The Commission shall be comprised of five (5) members appointed by the Mayor and confirmed by the Town Council. As determined necessary by the Town Council, the Commission shall review requests to amend, supplement or change zoning districts and regulations and make recommendations to the Council on such requests. At the time of appointment and throughout the term of office, a Commission member shall not be a candidate or member of the Town Council nor an employee of the Town. The Commission shall elect a chairperson from among its own numbers. Commission members shall be compensated no more than \$50 per member per each commission meeting attended.

**SECTION 18. EXISTING TOWN ORDINANCES.** This ordinance is to only replace the Town of Slaughter Beach, Delaware Zoning Code. Any properly adopted ordinance in place prior to the adoption of this ordinance will not be considered void and will remain in full force and effect.

**SECTION 19. VIOLATIONS DECLARED A NUISANCE.** Any violation of the provisions of this ordinance is hereby declared to be a common nuisance.

**SECTION 20. ENFORCEMENT.** It shall be the duty of the Town Council or its Code Enforcement Official to enforce the provisions of this zoning ordinance and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of said ordinance. It shall be the duty of all Town officers, employees and authorized agents of the Town to assist the Code Enforcement Official by reporting to the Code Enforcement Official any apparent violation in new construction, reconstruction or land uses. The Town's Code Enforcement Official shall respond to complaints within 30 days of notification of the complaint.

**SECTION 21. REMEDIES, STOP-WORK ORDERS, REVOCATION OF BUILDING PERMIT.**

**21.1 Remedies.** In case any building or structure is or is in the process of being erected, constructed, reconstructed, altered, repaired, converted, maintained, or demolished or any building, structure, or land is used in violation of any provision of this ordinance, the Town Council, the Code Enforcement Official, or the Town's authorized agent may institute, in addition to other remedies, any appropriate action or proceeding to prevent, abate, restrain, enjoin or correct such violation(s).

**21.2 Stop-work order and revocation of Construction or Demolition Permit.** Any time it appears that any construction activities are being undertaken in violation of any provision of this ordinance, the Mayor or the Code Enforcement Official may issue a stop-work order or revoke a construction or demolition permit under which the work is being performed.

**21.2.1** Prior to a stop-work order or revocation of a permit, the Mayor or the Code Enforcement Official shall immediately provide the permit holder with written or electronic notice containing the following:

- (a) the alleged ordinance violation(s), stating the nature of the violation(s) and the pertinent section(s) of this ordinance;
- (b) the specific place and time (not less than 24 hours nor more than 72 hours from delivery of the notice) of a hearing before the Mayor or the Code Enforcement Official for the builder/contractor and/or property owner to respond to the alleged violation(s); and
- (c) notice that all construction/demolition activities shall cease until the hearing is held and the issue resolved. Where the property owner is not available, the Mayor or the Code Enforcement Official shall attempt to promptly provide actual notice thereof to the property owner by telephone communication and shall immediately send a copy of the written notice to the property owner at his address listed in the Town's public records. Failure of the property owner to receive the notice shall not void the hearing so long as the on-site builder/contractor received actual notice.

**21.2.2** At the hearing, the permit holder may appear with or without counsel to respond to the alleged violation(s). At the end of the hearing, if the person conducting the hearing concludes that the construction activities/demolition are in violation of this ordinance, he/she shall issue a stop-work order or revoke the permit as appropriate. In such an event, a stop-work order shall not be lifted or a permit shall not be issued or re-issued until the violation(s) have been corrected.

**21.2.3** The decision by the Mayor or the Code Enforcement Official shall be put in writing and

delivered to the permit holder within seven (7) business days after the hearing.

**21.2.4** The decision by the Mayor or the Code Enforcement Official may be appealed to the Town's Board of Adjustment within 15 business days after the written decision is issued by the Mayor or the Code Enforcement Official.

**21.2.5** Upon the submission to the Code Enforcement Official of such information as is necessary in the Code Enforcement Official's discretion to evidence the violation has been resolved, the permit holder shall be required to apply for a new construction permit, including payment of the associated fee, before construction activities may be resumed at the property.

## **SECTION 22. PENALTIES.**

**22.1** Any person or corporation who shall violate any of the provisions of this zoning ordinance or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be in violation of this ordinance and shall be liable to a fine of not more than \$100, and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof where anything in violation of the ordinance shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who has assisted in the commission of any such violation shall each be deemed to be individually in violation of this ordinance for a separate offense, and as determined by a court of competent jurisdiction, shall be liable for a fine of not more than \$100 per offense.

**22.2** Any structure or portion thereof hereafter erected or placed upon any lot or premises within the Town in violation of the provisions of this ordinance is hereby declared to be a common and public nuisance and may be abated in the same manner provided by the Charter of the Town of Slaughter Beach for the abatement of other nuisance in addition to the provisions of this ordinance.

**22.3** In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or structure or parcel of land improved or unimproved is used in violation of or contrary to the provisions of this ordinance, the Town may institute an action to enjoin, or any other appropriate action or proceeding, to prevent such erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.

**22.4** The Town may file suit in a court of competent jurisdiction against any property owner that took or failed to take any action that resulted in a violation of this ordinance, and the Town may petition the Court to require the property owner to pay the Town's attorney fees associated with the legal action.

**SECTION 23. AMENDMENTS.** The Town Council may from time to time amend, supplement, change, modify or repeal this ordinance, including the Zoning Map. No such amendment, supplement, change, modification or repeal shall become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard.

**23.1 Rezoning Application.** Any request to amend the Zoning Map by a property owner shall be submitted in writing and shall contain the following: applicable address(es) or lot number(s) of the subject parcel, the nature of the requested rezoning, and the specific sections of the ordinance

pertaining to the request. A site plan showing the size and location of the parcel, the structures involved, and adjoining streets may be required by the Town when it is necessary as a result of the circumstances surrounding the rezoning. Such request shall be accompanied by a non-refundable filing fee to be paid in full before the Town Council will schedule a hearing, which filing fee shall be set according to the Town's fee schedule and subject to change by the Town Council.

**23.2 Public Hearing.** The Town Council shall hold a public hearing prior to considering any proposed amendment to the text of this ordinance or the Zoning Map at which time all parties in interest and citizens shall have an opportunity to be heard. Notice of the public hearing shall be as specified herein. The Council may establish, as appropriate, ad hoc rules for the conduct of any public hearing. Such rules may set reasonable limits on the total time of a hearing, the length and number of times any person will be permitted to speak, the prohibition of repetitive testimony or comments, and such other matters pertaining to the reasonable conduct of the meeting. After holding a public hearing, the Town Council shall vote on a proposed amendment to the text of this ordinance or the Zoning Map based on consistency with the Comprehensive Plan, the surrounding zoning, and the goals of the Town Council for development in the surrounding area.

**23.3 Public Notice.** Public notice of any public hearing under Section 23 shall contain the following:

- (a) the date, time and place of the hearing;
- (b) a brief description of the nature of the proposed amendment; and
- (c) if involving a specific lot(s), a description thereof, including the name of the owner(s).

**23.4 Posting public notice.** Public notice shall be posted at the Town bulletin board and on the Town's website at least 15 calendar days before the public hearing date. If a specific lot(s) is involved, notice also shall be posted visibly on such lot(s). Notice shall also be published in a newspaper of general circulation in the Slaughter Beach area at least 15 calendar days before the public hearing date. Such published notice shall be in bold print or bordered in black so as to call attention thereto.

**23.5 Mailing public notice.** If a specific property is involved, at least 15 calendar days before the public hearing date, notice of the public hearing shall be mailed by first class mail to the property owners of any specific property at issue at their address as shown on the Town's tax records and to the owners of any property within 200 feet of the specific property at issue.

**23.6 Citizen Protest Against Amendments.** In case of a written protest against any amendment, supplement, change, modification or repeal signed by the owners of 20 percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent thereto extending 100 feet therefrom, or of those directly opposite thereto extending 100 feet back from the street frontage of such opposite lots, such amendment, supplement, change or modification shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the Town Council.

**SECTION 24. EFFECTIVE DATE.** This ordinance shall be in full force and effect on the first day after adoption by the Town Council.

**Passed and approved this 19th day of January, 2015, by the Town Council Town of Slaughter Beach, Sussex County, Delaware at a duly called meeting at which a quorum of the Town Council was present.**

**Attest:** \_\_\_\_\_  
**Secretary**

\_\_\_\_\_  
**Mayor**

This shall certify that a public hearing on the foregoing ordinance was held on January 19, 2015, at 3:00 p.m., at the Slaughter Beach Volunteer Fire Company Fire Hall and that Notice of such hearing was given as follows:

- (a) Notice was posted on 12/18/14 (being at least thirty (30) days before the date of the hearing) at the Slaughter Beach Volunteer Fire Company Fire Hall and at the Town bulletin board and telephone pole across the street.
- (b) Notice was mailed, via regular mail, on 12/18/14 (being at least thirty (30) days before the date of the hearing) to all taxpayers and property owners at their addresses as shown on the Town's tax records and to non-property owning residents at their last known addresses as provided to the Town.
- (c) Notice was published in the Delaware State News on 12/19/14 (being at least fifteen (15) days before the date of the hearing) or bordered in black in the legal notices section.

**SO CERTIFIES:**

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

\_\_\_\_\_  
**MAYOR**

NOTE >> The Original Signed Document is on file as part of the Town Records  
Bill Krause  
Mayor