

TOWN OF SLAUGHTER BEACH SUSSEX COUNTY, DELAWARE ZONING ORDINANCE

Be it hereby enacted by the Town Council of the Town of Slaughter Beach a majority thereof concurring in Council duly met that the Zoning Ordinance of the Town of Slaughter Beach as adopted on November 14, 2000, be repealed in its entirety and that the following Ordinance be and hereby is adopted:

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF SLAUGHTER BEACH, DELAWARE AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF.

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 seasonal, 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 (Del. C. Title 7, Chapter 70).
- (c) Delaware Wetlands (Del. C. Title 7, Chapter 66).
- (d) Delaware Subaqueous Lands (Del. C. Title 7, Chapter 61).
- (e) Delaware Beaches (Del. C. Title 7, 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.)

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 and County Route 224 to accommodate traffic of large volume or size, further aggravated by the drawbridge on State Route 36 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,
- (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, is that of a primarily seasonal, residential resort community or fishing village in that over 50% of the existing properties in the Town consist of single family residential dwellings, with virtually no apartment buildings or industrial uses and only three (3) commercial uses (one of which is located at the extreme northern border of 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 word "person" shall include a corporation, association, partnership, natural person, or any other legal entity recognized at law. 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:

Acre. A measurement of land area equivalent to 43,560 square feet.

Adjacent. Physically touching or bordering upon; sharing a common boundary, but not overlapping.

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

Apartment Building. A building having separate units (apartments) for tenants who rent or lease them. The owner provides common facilities and maintains common entrances and hallways.

Applicant. Any individual submitting a plan for development or demolition under the provisions of this ordinance.

Authorized Agent. A member of the Town Council or a representative appointed by the Town Council to act on behalf of the Town to carry out and/or enforce these Ordinances. The appointed authorized agent shall serve at the pleasure of the Town Council.

Board (BOA). Board of Adjustment for the Town of Slaughter Beach.

Bathroom. A room containing a toilet, sink and a bathtub/shower.

Bayfront Building Setback Line. Established by the DNREC Coastal Building Line.

Buildable Area. The area of the total lot area on which building may take place.

Building. Any structure having a roof supported by columns or walls for the shelter, housing or enclosure of persons or property of any kind.

Building, Accessory. A subordinate structure on the same lot as a main building in which is conducted a use that is clearly incidental and subordinate to the lot's principal use.

Building Height. The vertical distance from the crown of the closest road to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Line. A line parallel to the street line touching that part of a building closest to the street or DNREC Coastal Building Line. See also DNREC Coastal Building Line definition.

Building, Main or Principal. A building in which is located the primary or predominant use of the lot on which it is located.

Commission. Zoning Commission for the Town of Slaughter Beach.

Commercial Zoning District (C). See Section 4 Zoning Districts.

Comprehensive Land Use Plan (CLUP). A document prepared, adopted, and certified according to the provisions of Title 22, Chapter 7 and Title 29, Chapter 92 of the Delaware Code.

Code Enforcement Officer. Any person and/or organization employed by the Town or selected as their authorized agent through contract responsible for review, evaluation and compliance with the Town's zoning ordinances.

Condominium. A structure of two or more units, the interior space of which are individually owned. The balance of the property (both land and property) is owned in common by the owners of the individual units.

Conservation. The management of natural resources to prevent waste, degradation or destruction.

Conservation/Agricultural/Residential Zoning District (C/A/R). See Section 4 Zoning Districts.

County. Sussex, Delaware.

Demolition. The intentional act of substantially destroying or razing a building or structure so that the building or structure is no longer functional or no longer standing.

Density. The number of buildings allowed on a specific area of land.

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.

Development Plan. A plan for the development of one (1) or more lots, parcels, tracts, or properties on which is shown the existing and proposed conditions, including but not limited to topography, vegetation, drainage, floodplains, wetlands, waterways, landscaping and open spaces, walkways, exits and entrances, circulation, utility services, plot lines, easements, structures and buildings, signs, lighting, parking, screening, surrounding development, and any other information that may be reasonably required so that the municipality can make an informed decision; often called Site Plan.

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

DNREC Coastal Building Line (also known as bayfront building line). Line generally paralleling the coast, 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.

DNREC Dune Line. Line which separates private property from public property as part of the construction process.

DNREC Easement Line. Line which defines the minimum area for general access by the State and public.

Dune. A mound, hill or ridge of windblown sand, either bare or covered with vegetation, naturally or artificially accumulated.

Dune Zone. Area lying between the Building Line and elevation contours, which are used as a basis for determining the location of the Building Line.

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

Dwelling, Multi-Family. A building containing two (2) or more dwelling units, including units that are located one over the other.

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.

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.

Easement. Authorization by a property owner for another to use the owner's property for a specified purpose.

Family. A group consisting of a parent(s) and children related by marriage or blood living together in a household.

FEMA. Federal Emergency Management Agency.

Fifty per cent (50%) replacement costs. Certified cost to repair or replace damaged property. The property owner shall provide the certified cost as determined by the appropriate professional (e.g. civil engineer, certified real estate appraiser, insurance adjustor, etc.) licensed in the State of Delaware.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one (1) foot at any point.

Flood Discharge. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Floor Area. The total floor area of a structure. The ratio between floor area and lot area may be used to limit density.

Frontage. That side of a lot abutting on a street; the front lot line.

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).

Garage, Public. A building available to the general public (with or without charge) for the storage of tools, vehicles, or other personal property.

Ground Floor. The lowest, livable floor of a building at or nearest ground level around the building.

Height of Structure. See Building Height.

Impact Fee. Payment imposed on a developer, as a condition of approval, to fund the developer's proportional share of the cost of providing new public improvements.

Impervious Surface. A material through which water cannot pass, such as asphalt, brick, stone or concrete, in streets, buildings, parking lots and sidewalks.

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. See also *Yard*.

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

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 streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than 135 degrees.

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

Lot, Legal. A lot which was created and legally recorded prior to the adoption of this Ordinance, or any lot subdivided and legally recorded in full compliance with these regulations subsequent to the adoption of this Ordinance.

Lot Line. A line of record bounding a lot that divides one lot from another lot or from a public street or any other public space.

Lot Line, Front. The lot line separating a lot from a street right-of-way.

Lot Line, Rear. The 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 of Record. A lot that exists either by virtue of a metes and bounds description or by depiction on a plat or deed recorded in the Office of the County Recorder of Deeds.

Lot, Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line (i.e. the buildable width of a lot).

Major Subdivision Plan. A plan for the division of land that results in four (4) or more lots or that requires the

construction or extension of public utilities or streets.

Manufactured Housing (also known as prefabricated/modular housing). A type of housing unit largely assembled in off-site factories and transported to the site of use and affixed to a permanent foundation, 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.

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.

Minor Subdivision Plan. A plan for the division of land resulting in two (2) to four (4) lots, none of which requires the construction or extension of public utilities or streets.

Mobile Home. A living unit erected on a chassis/axle/wheel assembly not designed to be affixed to a permanent foundation.

Municipal Governing Body. The legislature for the Town of Slaughter Beach, Delaware, as it is defined in the Town Charter.

Municipality. The Town of Slaughter Beach, Delaware.

Non-conforming Situations. Uses, structures, lots, or signs that were lawful prior to the adoption, revision, or amendment of this Ordinance, but as a result of the adoption, revision, or amendment of this Ordinance no longer comply with the current provisions of this Ordinance.

Off-Street Parking. Permanently reserved or temporary storage area for one motor vehicle that is not located on, but is directly accessible to, a dedicated street right-of way.

Parcel. A tract or plot of land.

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

Record Plat. A map depicting the layout of a major subdivision, containing information as set forth in the Town of Slaughter Beach Major Subdivision Code and submitted for final approval.

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

Residential Zoning District (R). See Section 4 Zoning Districts.

Residential/Commercial Zoning District (RC). See Section 4 Zoning Districts.

Resubdivision. Any change in a map of an approved or recorded subdivision plat that affects any street layout on an area reserved for public use or on any lot line or any change that affects any map, plan, or plat recorded prior to the adoption of any regulations controlling subdivisions; includes the consolidation of parcels.

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.

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

Single-Family Development Plan. A plan for the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of either a Single-Family Detached Dwelling on a legal lot or an accessory building to an existing Single-Family Detached Dwelling on a legal lot.

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

Special Exception. A permitted use under this Zoning Ordinance so long as the conditions for its availability imposed by the Board of Adjustment are met and the proposed use does not seriously infringe 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 Municipal 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, Access. A street designed to provide vehicular access to abutting property and to discourage thru traffic.

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

Street, Centerline of. The center line of any street shown on any official State, County or Municipal record.

Street, Collector. A street that collects traffic from local streets and connects with minor and major arterials.

Street, Cul-de-Sac. A street with a single common ingress and egress with a turnaround at the end.

Street, Dead-End. A street with a single common ingress and egress.

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

Street, Main. The principal street of the Town, Bay Avenue.

Street, Private. A street that has not been accepted by the Municipality or the State.

Street, Side. A street intersecting a main street 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, including septic systems.

Structure. A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Subdivider. Any individual, firm, partnership association, corporation, estate, trust, or any other group or combination thereof acting as a unit that subdivides or proposes to subdivide land as defined in this Ordinance. This also includes agents of subdividers.

(a) The division of any tract or parcel of land into two (2) or more plots, parcels, lots, tracts, sites, or interests for the purpose of offer, sale, lease, or development, whether immediate or future; either on an installment plan or upon any other plans, terms, or conditions; or for any other purpose;

(b) The division or partition of land involving the opening, widening, or extension of any streets or access easements and the extension of any electrical, sewer, water, or any other utility line; or

(c) The assemblage or consolidation of tracts, parcels, lots or sites, or resubdivision.

Sunset Provision. Any subdivision or rezoning granted by the Town Council or special exception or variance granted by the BOA shall be rendered null and void if substantial construction, use(s), permitted activity(ies) and/or condition(s) is not commenced thereon within five (5) years of the date of the final approval. A one (1) year extension may be granted for good cause.

Swimming Pool. Any portable or permanent structure located and designed not to create a hazard, containing 36 inches or more of water, intended for recreational activities.

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 the principal use of the land, building, or structure and located on the same lot with the principal use.

Use, Principal. The primary or predominant use of any lot or parcel.

Variance. A form of relief from this Zoning Ordinance to permit the use of property/land 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.

Wharf Zoning District (W). See Section 4 Zoning Districts.

Yard. An open space that lies between the principal building or buildings and the nearest lot line. See also *Lot*.

Yard, Front. A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building to the closest point of the front lot line. For purposes of this Ordinance, the front yard of bayfront property extends to the front lot line.

Yard, Rear. A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line. For purposes of this Ordinance, the rear yard of bayfront property extends to the DNREC building line.

Yard, Side. A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Zoning District. A specifically delineated area in the Municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

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 Density. Except as hereinafter provided, no building or structure shall hereafter be erected, moved, or structurally altered so as to exceed the height limit, nor shall any land be used or occupied hereafter in excess of the lot coverage requirements of this Ordinance for the district in which it is located.

3.3 Lot Occupancy. Except as hereinafter provided, no building or structure shall hereafter be erected, structurally altered, or moved so as to make any side, rear, or front yard narrower or smaller than is required for the district in which it is located; nor shall any building or structure be erected, structurally altered, or moved so as to violate the bayfront building line setback as required for the district in which it is located.

3.4 Yard, Open Space Use Limitation. Except as hereinafter provided, no yard or other open space provided about any building or structure for the purpose of complying with the regulations of this Ordinance shall be included as part of a yard or other open space for any other building or structure.

3.5 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 _____, 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.

4.2.1 Permitted Use. Convenience stores, parking lots, bait and tackle shops, cafés/restaurants, or business/professional offices not to exceed 1,000 square feet.

4.2.2 Permitted Use with Conditions. Public utility structures, facilities and equipment; medical services; marine supplies and services; marina gas stations (gas sold at the Dry Stack for motor boats only); public storage and sale of boats and related accessories; marina boat docks and repair facilities.

4.3 Conservation/Agricultural/Residential (C/A/R). The purpose of this zoning district is to regulate the possible development and/or annexation of conservation, agricultural or residential land within or adjacent to the Town.

4.3.1 Permitted Use. See Residential Permitted Use. Other permitted uses are general minimum tillable land and other existing uses.

4.4 Residential (R). The purpose of the Residential District is to provide for assembly and maintenance of single-family housing in the Town.

4.4.1 Permitted Use. Detached single-family dwelling and accessory buildings to support single-family residence.

4.4.2 Permitted Use with Conditions. Public utility structures, facilities and equipment; non-commercial parks and playgrounds; clubs and lodges that are used for non-commercial activities; libraries, municipal buildings, emergency services buildings and related structures.

4.5 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 a home-based business. A home-based business shall not exceed an aggregate of 600 square feet.

4.5.1 Permitted Use. See Residential Permitted Use. See Commercial Permitted Use with an exception that a home-based business shall not exceed an aggregate 600 square feet.

4.5.2 Permitted Use with Conditions. Public utility structures, facilities and equipment, medical services.

4.6 Wharf (W). The purpose of the Wharf District is to ensure that the Town’s waterfront is reserved for the maritime commercial and light industrial uses.

4.6.1 Permitted Use. Light industrial uses as defined in Section 2 of this Ordinance that are related to maritime industries. Such uses include, but are not limited to, commercial fishing, trapping and hunting; boat construction, maintenance, repair or storage; establishments that sell maritime related equipment and supplies.

4.6.2 Permitted Use with Conditions. Public utility structures, facilities and equipment.

4.7 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.

4.8 Prohibited Uses. No use shall be permitted on any lot within 300 feet of any Residential (R) 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.

4.9 Permitted Uses. For the purpose of this Ordinance, permitted uses are listed for the zoning districts. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.

SECTION 5. REQUIREMENTS FOR ZONING DISTRICTS.

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

Zoning District	Minimum Lot Width	Minimum Lot Depth	Minimum Front Setback	Minimum Side in Aggregate: 8’ and 12’	Rear Setback	Bayfront Rear Setback	Maximum Height*
C	75 feet	100 feet	15 feet	20 feet	20 feet	DNREC Building Line	35 feet
C/A/R	75 feet	100 feet	15 feet	20 feet	20 feet	DNREC Building Line	35 feet
R	50/75 feet	100 feet	15 feet	20 feet	20 feet	DNREC Building Line	35 feet
R/C	50/75 feet	100 feet	15 feet	20 feet	20 feet	DNREC Building Line	35 feet
W	50 feet	100 feet	15 feet	20 feet	20 feet		35 feet

*Maximum height is measured from the existing crown of the street located parallel to the front lot line.

5.2 One Principal Building Per Lot. Within Residential (R) 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 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 limitation for private garages in the Residential (R) 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 and Dog Houses. All accessory buildings and dog houses shall be located on the lot on which a principal building is erected or is being erected. Accessory buildings shall be limited to two (2) in number, including any detached garage, and dog houses shall be limited to one (1) in number. Accessory buildings and dog houses in the Residential (R), Residential/Commercial (RC) and Commercial (C) zoning districts may be located in or project into the rear or side yard. In the case of yards having at least 50 feet of frontage on the Delaware Bay or Cedar Creek, accessory buildings and dog houses may be located in or project into the front yard. No accessory building, dog house, or projection thereof shall be less than:

- (a) 10 feet from a property line,
- (b) 15 feet from a street line,
- (c) or violate the required bayfront setback.

5.7 Parking.

5.7.1 A “motor vehicle 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 No new construction, enlargement in dimension or use of any existing building or structure shall be permitted unless the following off-street parking requirements have been met:

- (a) Any Residential (R) or Residential/Commercial (R/C) District activity 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. A property owner shall have sufficient parking spaces to accommodate all motor vehicles associated with that property.
- (b) Any Commercial (C) or Wharf (W) District activity shall be required to have one (1) parking space for each 200 square feet of commercial use.

5.7.3 Parking on the public main street is prohibited at all times. Parking on public side streets is prohibited from 9:00 p.m. to 7:00 a.m.

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 to or on, but not exceeding, the owner’s property line; provided that no fence shall extend eastward beyond the bayfront building setback line.
- (b) A fence erected on a property located within any Residential (R) or Residential/Commercial (RC) zoning district which is contiguous to another property located within any R or RC zoning district shall not exceed four (4) feet in height, measured from the finished grade abutting the fence to the topmost point of the fence.
- (c) A fence erected on any property located within any Wharf (W) zoning district which is contiguous to another property located within any W zoning district shall not exceed four (4) feet in height, measured from the finished grade abutting the fence to the topmost point of the fence.
- (d) A fence erected on a property in a Residential (R) or Residential/Commercial (RC) zoning district 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, measured from the finished grade abutting the fence to the topmost point of the fence. The fence may be erected on either property or along their common property line.
- (e) A fence erected in the Commercial (C) zoning district abutting a property in the C or W zoning district shall not exceed six (6) feet in height, measured from the finished grade abutting the fence to the topmost point of the fence. The fence may be erected on either property or along their common property line.

- (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) and Residential/Commercial (RC) zoning districts.
- 5.9.2 Produce stands.** Produce stands may be permitted, in writing, by an authorized agent 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 may be permitted, in writing, by an authorized agent of the Town with reasonable restrictions concerning traffic safety and nuisance control. No yard/garage sale permit shall exceed three (3) consecutive days in duration, and not more than four (4) such permits shall be granted 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 as of the effective date of this Ordinance, which is not in conformance with the restrictions in this Section, may be continued for a period of 90 calendar days, at the expiration of which time such sign shall either be made to conform or shall be removed.
- 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.
 - (b) No sign other than official traffic signs shall be erected less than 10 feet of the minimum front setback and rear setback and less than five (5) feet of the minimum side setback as defined in this Section unless specifically authorized by other ordinances of the Town of Slaughter Beach. [Waterfront properties shall comply with requirements of other entities (DNREC, Sussex County, Army Corps of Engineers, etc.) for erecting signs on the bayfront.]
 - (c) No sign shall be of the flashing, revolving, animated, moving or sound accompanied-type.
 - (d) Unless otherwise indicated in this Section, no sign shall exceed two (2) square feet on a side.
- 5.10.4 Use and location regulations.** The following types of signs and no other shall be permitted:
 - (a) Official traffic signs.
 - (b) Customary residential signs, such as mailbox signs and names of residences. No such sign shall be illuminated nor exceed two (2) square feet on a side.
 - (c) Professional, accessory use, home occupation or name signs indicating the name, profession, or activity of the occupant of a dwelling; ‘no trespassing’ signs; signs indicating the private nature of a driveway or premises; provided that the area on one (1) side of any such sign shall not exceed two (2) square feet.
 - (d) Real estate signs, including signs advertising the sale or rental of the premises, provided that the area on one (1) side of any such sign shall not exceed nine (9) square feet.
 - (e) Temporary signs, not exceeding nine (9) square feet, of contractors, architects, mechanics and artisans provided that such signs shall be removed promptly upon completion of the work.
 - (f) Governmental or quasi-governmental public function signs (including the Memorial Volunteer Fire Company) shall be of such dimensions and subject to such conditions, as prescribed by the BOA.
 - (g) Business signs may be erected and maintained in conjunction with a commercial use, provided:
 - (1) that the aggregate area on one (1) side of all such signs erected on one (1) street frontage of any one (1) premise shall not exceed 50 square feet, unless authorized as a special exception by the BOA.
 - (2) such sign, except a directional sign, is erected only on the premises on which the use, to which the sign relates, is conducted.

- (3) signs in the Commercial (C) district may be illuminated, but animated, revolving, flashing or moving signs, or sound devices, shall not be permitted. Pictures, paintings, symbols, or other similar visual indications of a business shall be deemed to be signs.
- (h) “Non-commercial Speech” signs (i.e. signs conveying a political, philosophical, religious, or other non-commercial public interest message) shall be permitted in all zoning districts as follows:
 - (1) not exceeding one four (4) square foot sign per lot, in addition to any other permitted sign on such lot, and
 - (2) in lieu of any other permitted sign on such lot.
- (i) Signs for “For Sale by Owner” items, other than houses, may be erected in the Residential (R) or Residential/Commercial (RC) zoning district for no more than 90 cumulative days in any calendar year.

5.10.5 Exemptions. The following shall be exempt from these sign regulations:

- (a) Signs required by Town ordinance.
- (b) Signs required by County, State or Federal regulations.

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

6.1 Non-Conforming Uses. A use or activity that was lawful before this Ordinance was adopted, revised or amended, 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 is adopted or amended.
- (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.

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 six (6) months or if the structure housing the non-conforming use is altered 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 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 this Ordinance.

6.2.1 Legal, Non-Conforming lots.

- (a) A legal, non-conforming lot is a non-conforming lot of record in a zoning district where single-family dwellings are permitted and was legally created by a recorded deed prior to the effective date of this Ordinance which made the parcel of land non-conforming.
- (b) Regulation. A legal non-conforming lot may be developed, without a variance or special exception, with a single-family home, including accessory buildings allowed by this ordinance, provided it complies with all setback, dimensional and density standards of this ordinance, other than standards for minimum lot area and width.
- (c) A lot, at least 50 ft. wide, legally deeded prior to this Ordinance, would become a legal, non-conforming lot under this Ordinance and could be developed and/or sold subject to Section 6 of the new Ordinance.
- (d) The Slaughter Beach Town Council shall provide a grace period expiring no more than one (1) year after the effective date of this Ordinance for property owners, at their discretion, to separate a single deed containing contiguous lots into a separate deed for each non-conforming lot of at least 50 ft. width. Contiguous non-confirming lots that remain combined on a single recorded deed after the allotted grace period in this Ordinance may be sub-divided subject to the restrictions and conditions of this Ordinance.

6.3 Non-Conforming Structures. A structure, whose dimensional and density characteristics were lawful before this Ordinance was adopted, revised or amended, but does not meet the dimensional and density 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 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;
- (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, 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.
- (c) Any subsequent use of such land shall conform to all provisions of this Ordinance.
- (d) 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.

SECTION 7. SINGLE LOT DIVISION, MINOR/MAJOR SUBDIVISION AND REZONING.

7.1 Requirements for lot division, subdivision and rezoning. No lands shall be divided or subdivided unless direct access to a public collector street is provided to every lot to be divided or subdivided. Hereafter, any lot with a street frontage width of 75 feet or more shall not be divided or subdivided into a lot(s) with a street frontage width less than 75 feet, nor shall any lot be divided or subdivided creating a remnant or tract less than 50 feet.

7.1.1 Single Lot Division. Any division of land that results in two (2) lots that conform to the requirements of this Ordinance.

7.1.2 Minor Subdivision. Any division of land resulting in two (2) to four (4) lots, none of which requires the construction or extension of public utilities or streets and that conform to the requirements of this Ordinance.

7.1.3 Major Subdivision. Any division of land that results in four (4) or more lots or that requires the construction or extension of public utilities or streets and that conform to the requirements of this Ordinance.

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

7.2 Approval for lot division, subdivision and rezoning. Approval to divide, subdivide or rezone a lot(s) shall require approval from the Town Council. Procedures and required documents for single lot division, minor subdivision and major subdivision are set forth in the Town's *Subdivision Ordinance*. Procedures and required documents for rezoning are set forth under Section 8 of this Ordinance.

7.3 Sunset Provision. See Section 2, *Definitions*, of this Ordinance.

SECTION 8. APPROVAL FOR REZONING. Approval to rezone a lot(s) shall require approval from the Town Council.

8.1 Zoning Commission. Commission comprised of three (3) members appointed, as required, by the mayor and confirmed by the Town Council to review requests to amend, supplement or change zoning districts and to 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

8.2 Application for Approval. Applicant shall submit in writing an application to rezone furnished by the Town. The application shall be completed in full and shall be accompanied by, but not limited to, the following:

- (a) applicable address(es) or lot number(s) of the subject parcel,
- (b) nature of requested rezoning,
- (c) specific sections of the Ordinance pertinent to the request, and
- (d) site plan drawn to scale showing the size and location of the parcel, structures involved, adjoining properties and streets, and the area where the rezoning will be confined.

Such request shall be accompanied by a filing fee to be paid in full before the Town Council will schedule a hearing on the request.

8.3 Process for Approval.

- (a)** Applicant shall submit a fully completed application accompanied by requisite documentation (the proposal) and filing fee to the Town Council. A public hearing shall be scheduled by the Town Council no later than 30 calendar days after receipt of the proposal.
- (b)** Applicant shall present the proposal to Town Council at the public hearing. Based on information presented and heard at the hearing, Town Council may reject the application, schedule a continuance for no more than 15 business days to allow the applicant to amend the application/documentation, or Council shall refer the application to the Zoning Commission for review and recommendation. Referrals to the Commission shall occur no later than five (5) business days after conclusion of the hearing. In the event the matter is continued, applicant shall attend and present amended application/documentation to the Town Council on the date announced at the present hearing. Council's rejection with explanation, continuance with explanation or referral to the Commission shall be in writing no later than five (5) business days after being announced to the applicant.
- (c)** The Commission shall review the proposal for completeness and compliance with Slaughter Beach ordinances as well as any County, State and Federal laws and regulations which may apply. The Chairperson of the Commission shall schedule a public hearing no later than 30 calendar days of receipt of the referral from Town Council.
- (d)** Applicant shall submit a processing fee paid in full prior to the Zoning Commission's review and recommendation.
- (e)** Applicant shall present the proposal to the Commission at the hearing. No later than 15 business days after conclusion of the hearing, the Commission shall submit its written recommendation with explanation to the Town Council that the application be rejected, approved or approved with conditions specified by the Commission.
- (f)** At any time during its review and recommendation period, the Chairperson of the Commission may require the applicant to submit new information for the proposal's completeness and compliance, allowing up to 15 business days for the deferral. The 30-day and 15-day periods allotted the Commission to perform its duties will stop during any deferrals and will resume after the applicant fulfills the Commission's requirement(s)
- (g)** No more than 15 business days of receipt of the Commission's recommendation, Town Council will schedule a public hearing to render its decision on the proposal. Town Council shall reject or approve the proposal or approve the proposal with conditions. Council's decision with explanation shall be in writing no more than five (5) business days after its decision is announced to the applicant.
- (h)** Applicant shall have a total of 90 calendar days for deferrals to amend the proposal, provide new information and, at his request, to reschedule hearing date(s). In the event the applicant fails to amend the proposal or provide new information within the prescribed time or fails to appear for a scheduled hearing without good cause and without advance notice to the respective body, the application shall be null and void. Deferrals for good cause by the Town Council or the Commission shall not exceed a total of 30 calendar days each.

8.4 Public Hearings

Public hearings shall be scheduled for consideration of the proposal and to allow parties in interest and Town residents an opportunity to be heard. At least 15 calendar days' notice of the time and place of such hearings shall be sent by certified mail to the applicant at the address listed on the application and posted in a paper of general circulation in the Town. Applicant's attendance shall be required at all scheduled hearings. In the event a hearing is rescheduled or continued during the course of a scheduled hearing, mailed and posted notice of the new date shall not be required. The Council and Commission 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.

8.5 Application and Processing Fees.

- a) A filing fee for a rezoning application shall be set according to the Town's fee schedule and subject to change by the Town Council. An application will not be considered without the filing fee paid in full. The filing fee is non-refundable.
- b) A processing fee for the Zoning Commission's consideration of an application shall be set according to the Town's fee schedule and subject to change by the Town Council. An application will not be considered by the Zoning Commission without the processing fee paid in full. The processing fee is non-refundable.
- c) The applicant may accrue additional fees during the pendency of the matter based on additional costs incurred by the Town that exceed the original filing fee or processing fee and which are the result of any delay(s) without good cause or frivolous or unwarranted action(s) initiated by the applicant. 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 Town Council will render its final decision. Additional fees are non-refundable.

8.6 Sunset Provision. See Section 2, *Definitions*, of this Ordinance.

SECTION 9. BUILDING PERMITS

9.1 Building Permit Requirement. Prior to starting any construction activities [i.e., new construction, structural alteration (defined in Section 2) or certain general maintenance/repairs/cosmetic changes], an application for and issuance of a Building Permit from the Town of Slaughter Beach shall be required. In addition, letters of approval from DNREC and/or permits from other entities (Sussex County, Army Corps of Engineers, etc.) may be required.

9.1.1 Examples of construction activities requiring a Building Permit. The Town's authorized agent should be contacted prior to starting any construction activities to confirm the need for a permit from the Town before starting construction activities. Communication may be made in person, by telephone or by email. The authorized agent shall have up to five (5) business days to respond to a request to confirm if a permit is needed. There is no fee for this confirmation. Examples of activities requiring a building permit include but are not limited to:

- (a) plumbing installation and upgrades
- (b) electrical installation and upgrades
- (c) structural alterations (defined in Section 2)
- (d) decks
- (e) enclosure of an area(s) above or below an existing structure
- (f) any work which alters the footprint of an existing structure (dwelling, shed, deck, etc.)
- (g) fences
- (h) new accessory building, including portable shed
- (i) new building
- (j) swimming pool, as well as compliance with any county and state laws or regulations
- (k) installation or replacement of entire exterior siding or roof of a building or accessory building
- (l) installation or replacement of window(s), doors(s) or garage door(s) involving any structural alteration
- (m) exterior hot tub
- (n) septic system (replacement of existing system, installation of new system)
- (o) new alternative energy structure(s)
- (p) modification to existing alternative energy structure(s)
- (q) general maintenance/repairs/cosmetic changes involving any structural alteration
- (r) driveway, patio, or walkway
- (s) 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.)

9.1.2 Building Permit Application. Applicant shall submit in writing an application for a Building Permit furnished by the Town. The application shall be completed in full and shall be accompanied by the following as applicable:

- (a) Verification of compliance with any other entity(ies) (e.g. DNREC, Sussex County, Army Corps of Engineers, etc.) requiring a letter(s) of approval/permit(s),
- (b) Verification that a letter(s) of approval/permit(s) is not required by any other entity(ies) (e.g. DNREC, Sussex County, Army Corps of Engineers, etc.),

- (c) Construction plan, in duplicate, drawn to scale and bearing the signature and seal of a registered Delaware land surveyor,
- (d) For new construction, payment of the Town transfer tax according to Title V, Chapter 4, Section 3 of the Town of Slaughter Beach Ordinance,
- (e) Building Permit fee paid in full.

9.1.3 Building Permit Fees. Building 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 construction activities occur without a permit. A nominal processing fee, set according to the Town's fee schedule and subject to change by the Town Council, shall be required when a Building Permit is denied by the Town or withdrawn by the applicant prior to the start of any construction activities. Permit fees shall be non-refundable after any construction activities commence.

9.1.4 Issuing Building Permit. A Building Permit shall be issued by an authorized agent of the Town within 15 business days of receipt of a completed Building Permit application with requisite documentation, as applicable, and payment in full of the Building Permit Fee. Requirements for letters of approval/permits from other entities (e.g. DNREC, Sussex County, Army Corps of Engineers, etc.) shall be confirmed by the applicant prior to a Building Permit being issued. Adherence to the permitted construction plan shall be required. A Building Permit shall be valid up to 12 months from date of issue. If construction activities are not started within the 12 months, a new application shall be filed according to Subsections 9.1 through 9.1.4. 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 authorized agent.

9.2 Constructions Standards. The Town of Slaughter Beach recognizes the International Building Standards as the formal construction code in the enforcement of this Ordinance.

9.3 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.

9.4 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 shall be removed from the property upon completion or cessation of construction.

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

- (a) Construction trailers and equipment (e.g. dumpster) shall be kept on the property on which construction is being performed at all times.
- (b) At times other than permitted construction hours, vehicles shall be kept on the property on which construction is being performed.

9.6 Construction Trailers and Tractor Trailers. Subject to the provisions of subsections 9.4 and 9.5 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.

SECTION 10. CONSTRUCTION IN A FLOOD PLAIN. See Town's *Flood Plain Ordinance*.

SECTION 11. CERTIFICATE OF OCCUPANCY (CO). Certification of a structure's approved occupancy and use shall be required by the Town of Slaughter Beach. A CO shall be required prior to any occupancy or permanent use of any new construction or alteration of an existing dwelling or business.

11.1 Issuing Certificate of Occupancy. Claimant shall contact the Town's authorized agent to request a CO. The authorized agent shall issue a CO no later than seven (7) business days from the date of request and the Claimant has shown the following:

- (a) permitted construction activities are wholly completed in compliance with these Ordinances,

- (b) proof that a CO from Sussex County has been issued,
- (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, and
- (e) CO fee is paid in full.

11.2 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 12. DEMOLITION.

12.1 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, an authorized agent of the Town may sanction immediate demolition.

12.1.1 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. The Town's authorized agent 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.

12.1.2 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 authorized agent. Where an authorized agent 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.

12.1.3 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.

12.1.4 Completion of Demolition Activities. Permitted demolition shall be wholly completed, including removal of all debris, no later than 90 calendar days from date of issue.

SECTION 13. DAMAGE TO TOWN PROPERTY.

13.1 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.

13.2 Within 60 calendar days after the Town's discovery or the Town's replacement or repair of the damaged property, the Town Council or an authorized agent may send via certified mail to any person, firm or corporation as listed under subsection 13.1, a notice requiring the replacement or repair or payment of any costs incurred by the Town for replacement or repair of the damaged property. The notice also shall advise the contacted person that he may dispute the requirement(s) by notifying the Town Council and presenting his dispute with or without counsel before the Council. The notice thereof shall contain a reasonable amount of time for the contacted person to fulfill the requirement(s) or to notify the Council of his intent to dispute the requirement(s).

13.3 If at a hearing to dispute the requirements, the Town Council concludes 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).

13.4 Failure of the contacted person to notify the Town Council of his intent to dispute or to fulfill the requirement(s) within the allotted time period may result in further action by the Town Council. At any time, the contacted person may appeal the Town's requirements in a court of competent jurisdiction.

SECTION 14. BOARD OF ADJUSTMENT. The Board of Adjustment (BOA) is appointed by the Town Council and shall serve at the pleasure of the Council.

14.1 BOA members. The BOA shall consist of not less than three (3) nor more than five (5) members who shall be property owners 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 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 the term of 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.

14.1.1 Any member of the BOA may be removed from office for cause after a hearing before and 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.

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

14.3 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.

14.3.1 The chairperson and, in his 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.

14.4 Determinations of the BOA.

14.4.1 As set forth under Del. C. Title 22, Chapter 3, Subchapter II, the BOA may:

(a) 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., authorized agent of the Town, Town Council, or a member of the Town Council) in the enforcement of this Zoning Ordinance or any ordinance adopted pursuant thereto.

(b) Hear and decide special exceptions to the terms of this Zoning Ordinance upon which the BOA is required to pass under such Ordinance.

(c) 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 is 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.

14.4.2 In exercising its powers in subsection 14.4.1 and in maintaining conformity with this Zoning Ordinance, the BOA may:

(a) in deciding an appeal, 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.

(b) in deciding a request for a special exception, approve or deny such special exception. 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. 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. 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.

- (c) in deciding a request for a variance, grant or deny such variance. A variance may be granted where the terms of this Zoning Ordinance, if literally applied, would result in unnecessary hardship or exceptional practical difficulties to the owner of the property. Absent serious hardship, a variance shall be denied. 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.

14.5 Appeals to the Board of Adjustment

14.5.1 Appeals. Any person filing an appeal shall submit in writing a notice of appeal specifying the grounds thereof. 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 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.

14.5.2 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 which may be granted by the BOA or by a court having jurisdiction on application, on notice to the Town officer from whom the appeal is taken and on due cause shown.

14.6 Special Exceptions. Any person filing a request for a special exception to the terms of this Zoning Ordinance shall submit in writing a description of the details of the requested exception to the BOA chairperson or, in his 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 above 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.

14.7 Variances. Any person filing a request for variance to the terms of this Zoning 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 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.

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

14.8 BOA Fees. Filing and processing fees shall be set 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.

14.9 Hearings Upon receipt of an appeal or request for a special exception or variance, the BOA chairperson or, in his 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.

14.9.1 Notice of hearing. The BOA shall provide public notice of the hearing at least 15 calendar days before the hearing date. Notice shall be posted at the Town billboard, on the Town's website and visibly on the property location. Notice also shall be published in a newspaper of general circulation in the Slaughter Beach area. At least 15 calendar days before the hearing date, the BOA shall send personally or via U.S. Postal Service copies of the public notice to the appellant/requestor and adjoining property owners. 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,
- (d) a brief description of the nature of the appeal or request, and
- (e) notification of property owners in a 200' radius of the property making the BOA request.

14.10 Sunset Provision. See Section 2, *Definitions*, of this Ordinance.

14.11 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, 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 15. 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 16. EFFECTIVE DATE. This Ordinance shall be in full force and effect on the first day after adoption by the Town Council.

SECTION 17. 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 18. CLEAN HANDS PROVISION. Any applicant, appellant or requestor of the Town or of an authorized agent of the Town (e.g. Building Inspector, Code Enforcer, BOA, Zoning Commission, Town Council, etc.) that seeks approval from the Town (e.g. any type of permit/certification, subdivision, 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 19. EXISTING TOWN ORDINANCES. This zoning code is to replace Title IV, Chapter 2 of the Town of Slaughter Beach Ordinances only. Any properly adopted ordinance in place prior to the adoption of this Ordinance will not be considered void and will remain in effect.

SECTION 20. VIOLATIONS DECLARED A NUISANCE. Any violation of the provisions of this Ordinance is hereby declared to be a common nuisance.

SECTION 21. ENFORCEMENT. It shall be the duty of the Town Council or its authorized agent 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 enforcing officer by reporting to him any seeming violation in new construction, reconstruction or land uses. The Town's authorized agent shall respond to complaints within 30 days of notification of the complaint.

SECTION 22. REMEDIES, STOP-WORK ORDERS, REVOCATION OF BUILDING PERMIT

22.1 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 or its authorized agent may institute, in addition to other remedies, any appropriate action or proceeding to prevent, abate, restrain, enjoin or correct such violation(s).

22.2 Stop-work order and revocation of Building or Demolition Permit. Any time it appears that any construction activities are being undertaken in violation of any provision of this Zoning Ordinance, the Mayor or his authorized agent may issue a stop-work order or revoke a Building or Demolition Permit under which the work is being performed. Prior to a stop-work order or revocation of a permit, the Mayor or his authorized agent shall provide the on-site builder or contractor or the property owner, if available, with written notice containing the following:

- (a) alleged Zoning Ordinance violation(s), stating the nature of the violation(s) and its pertinent section(s) of this Ordinance,
- (b) 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 his authorized agent 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 in (b) is held and concluded.

Where the property owner is not available, the Mayor or his authorized agent 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.

22.2.1 At the hearing, the builder/contractor/owner 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 Zoning Ordinance, he 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.

22.2.2 The decision by the Mayor or his authorized agent shall be put in writing within seven (7) business days after the hearing.

22.2.3 The decision by the Mayor or his authorized agent under subsection 22.2.2 may be appealed to the Town's Board of Adjustment within 15 business days after the hearing under Section 14 of this Ordinance.

SECTION 23. PENALTIES. 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 guilty of a misdemeanor 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 be guilty of a separate offense and, upon conviction thereof, shall be fined as hereinbefore provided.

23.1 Any building or portion thereof or part of a foundation wall 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.

23.2 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 or 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. If continued violation(s) occurs beyond a period of 30 calendar days, then the Town may attach a lien against the property in violation for the sum of all fines.

23.3 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.

SECTION 24. 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.

24.1 Public Notice.

24.1.1 Content of public notice. Public notice of any public hearing under Section 24 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).

24.1.2 Posting public notice. Public notice shall be posted at the Town billboard and on the Town's website at least 30 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 also shall be published in a newspaper of general circulation in the Slaughter Beach area at least 30 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.

24.1.3 Mailing public notice. At least 30 calendar days before the public hearing date, notice of the public hearing shall be mailed by first class mail to the taxpayers and property owners at their address as shown on the Town's tax records and to non-property owning residents at their last known address as provided to the Town. Notice of the public hearing shall be posted in a public place no less than 15 days before the public hearing date.

24.2 Citizen Protest Against Amendments. In case of a written protest against any amendment, supplement, change, modification or repeal signed by the owners of 20 per cent 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.

24.3 Requirement of Hearing on Amendment Proposed by Citizens' Petition. Upon presentation of a petition duly signed by 75 property owners of the Town setting forth a proposed amendment to this Zoning Ordinance and/or Zoning Map, the Town Council shall, within 60 days from receipt of such petition, hold a public hearing thereon and give notice thereof in accordance with Subsection 24.1.

24.3.1 Any petition submitted under this Section shall set forth in writing:

- (a) the purpose of the petition;
- (b) the specific language of the proposed amendment to the text of this Zoning Ordinance [or, in the case of a proposed Zoning Map amendment, the name(s) of the owner(s), the approximate size and location of the property, and the Sussex County Tax Map parcel number(s)];
- (c) the signature, address, and telephone number of each person signing the petition; and
- (d) shall contain a sworn statement by the person(s) presenting such petition that all of the signatures thereon are the actual signatures of persons who are either property owners or residents of the Town or both.

Passed and approved this 9th day of April 2012, by the Town Council Town of Slaughter Beach, Sussex County, Delaware.

Mayor Attest

Date

