



SLAUGHTER BEACH TOWN  
CODE JUNE 2020

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## **TITLE I**

### **CHAPTER 1 – ADMINISTRATIVE MATTERS**

#### **I.1.1 Adoption of Code**

The ordinances of the Town of Slaughter Beach, County of Sussex, State of Delaware, of a general and permanent nature, hereby adopted by the Town Council of the Town of Slaughter Beach, as revised, codified and consolidated into titles, chapters and sections and consisting of Titles I through V, are hereby approved, adopted, ordained and enacted as the Code of the Town of Slaughter Beach, hereinafter known and referred to as the "Code".

#### **I.1.2 Copy of Code on File**

A copy of the Code is filed in the office of the Town Clerk of the Town of Slaughter Beach. An electronic version is available for public use and examination on the Town website.

#### **I.1.3 Amendments to Code**

Any and all additions, deletions, amendments or supplements to the Code or any new ordinances, when enacted or adopted in such form as to indicate the intention of the Town Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements.

#### **I.1.4 Code Book to be Kept Up-to-Date**

It shall be the duty of the Town Secretary or such other authorized person to keep up-to-date the certified copy of the book containing the Code of the Town of Slaughter Beach and the electronic version of the Code as mentioned heretofore. All changes in said Code and all ordinances adopted by the Town Council subsequent to the enactment of this ordinance shall, when finally enacted or adopted, be included therein. All additions, deletions, amendments, or supplements codified as part of this Code shall reference, immediately beneath the revised paragraph or section, the date of adoption and the number of the ordinance effectuating the revision.

#### **I.1.5 Severability**

I.1.5.1 Each section of the Code and every part of each section,

is an independent section or part of a section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any section of part thereof.

I.1.5.2 Each section of Town Code is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause, shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

### **I.1.6 [RESERVED]**

### **I.1.7 When Effective**

All provisions of the Code shall be in full force and effect immediately upon its final adoption.

### **I.1.8 Definitions**

Except as otherwise expressly stated in the Town Code or Town Charter, the following terms shall for purposes of interpreting and applying all provisions of this Code have the following meanings:

- (a) Persons(s): Any natural person, partnership, joint venture, unincorporated association, limited liability company, corporation, or any artificial legal entity recognized at law or in equity.
- (b) Town: The Town of Slaughter Beach, a municipal corporation of the State of Delaware

### **I.1.9 Savings Clause**

I.1.9.1 Except to the extent specifically repealed, all ordinances adopted by the Town Council of Slaughter Beach and in force at the time of approval, acceptance and going into effect of this Code, are continued in force until the same or any of them shall be repealed, modified, or altered by the Town Council of Slaughter Beach.

I.1.9.2 All of the acts and/or doings of the Town Council of Slaughter Beach or of any official, or of the Mayor, or the Town, which shall have been lawfully done or performed under the provisions of any ordinance of the Town prior to the approval, acceptance and going into effect of this Code are hereby ratified and confirmed,

unless otherwise expressly provided herein to the contrary.

I.1.9.3 All taxes, assessments, license fees, penalties, fines, forfeitures, and other charges due to the Town, and all debts due from the Town of Slaughter Beach, shall remain unimpaired until paid to or by the Town, regardless of the adoption of this Code.

**I.1.10 Enforcement.**

I.1.10.1 The Town may enforce any violations of the Town Code or any other ordinance, law, or regulation adopted by the Town Council pursuant to any available legal means, including seeking an enforcement order from the Court of Chancery.

I.1.10.2 Any civil penalties imposed pursuant to the Town Code or any other ordinance, law, or regulation adopted by the Town Council that is final and non-appealable, including any civil penalties imposed by Sussex County, may be added to the property tax bill for the property that was the subject of the citation as authorized by 25 Del. C. §2901.

## **CHAPTER 2 - INDEMNIFICATION OF MUNICIPAL OFFICERS AND EMPLOYEES**

### **I.2.1 Indemnification; Defense to be Provided**

The Town of Slaughter Beach shall indemnify, from the general funds of the Town's treasury, to the extent not otherwise covered by appropriate insurance (and only to the extent not otherwise covered by appropriate insurance), any person who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Town of Slaughter Beach itself), by reason of the fact that he or she is or was a Town Council member, Mayor or other duly elected or appointed Town official or employee of the Town of Slaughter Beach or arising out of actions taken by each or any of them in connection with the performance of their official duties, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement, actually and reasonably incurred by him or her in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Town; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Town of Slaughter Beach and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was unlawful.

In making the determination as to whether or not the matter or claim is covered by "appropriate insurance", such policy(s) of insurance shall be construed, applied, and enforced as if this ordinance did not exist, and any amounts remaining thereafter shall then be deemed to be "not otherwise covered by appropriate insurance". This ordinance shall not create any right(s) in any insurance company to deny coverage or to assert that the coverage provided by it is secondary to the indemnification rights provided by this ordinance.

### **I.2.2 Monetary Settlements to be Approved**

In the event of monetary settlement, the Town Council shall first approve the amount and terms of the settlement before the right to indemnification shall vest.

### **I.2.3 Determination of Town Council**

Indemnification, as provided in this chapter, shall be made by the Town only as authorized in the specific case upon a determination that indemnification of any member of the Town Council, Mayor, and/or Town officer or employee is proper in the circumstances because he or she met the applicable standards of conduct set forth above. Such determination shall be made:

I.2.3.1 By a majority vote of a quorum of the Town Council consisting of Council members who were not parties to such action, suit or proceeding; or

I.2.3.2 If such a quorum is not obtainable, by independent legal counsel in a written opinion. Even if a quorum is obtainable, the Town Council may request a written recommendation from independent legal counsel prior to making a decision.

### **I.2.4 Expenses**

Expenses (including attorneys' fees) incurred by a municipal officer or employee in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the Town in advance of the final disposition of such action, suit or proceeding upon receipt of a written promise, with appropriate surety, by or on behalf of such municipal officer or employee to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Town as authorized in this ordinance.

### **I.2.5 Indemnification and Advancement of Expenses**

The indemnification and advancement of expenses provided by, or granted pursuant to this chapter, shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a municipal officer or employee, and shall inure to the benefit of the heirs, executors and administrators of such person. The right to indemnification shall be limited to the sum of the Town's total tax revenues for the two fiscal years immediately preceding the date of incident for which indemnification is sought.



## **CHAPTER 3 – ADOPTION OF ORDINANCES**

### **I.3.1 Amendment or Repeal of Existing Ordinances**

No existing ordinance or part of this Code shall hereafter be amended or repealed, except by an ordinance specifically amending or repealing the existing ordinance or section of this Code. The adoption of such an ordinance repealing or amending an existing ordinance shall be dealt with as the adoption of a new ordinance, except where otherwise stated herein.

### **I.3.2 Preparation of Ordinances**

Ordinances may be prepared by the Town Solicitor, or by any member of Town Council (hereinafter called "Council"), but no ordinance shall be presented for final passage until reviewed by the Town Solicitor as to form and legality.

### **I.3.3 Introduction of Ordinances**

A proposed ordinance must be introduced and sponsored by a member of the council.

### **I.3.4 Adoption of Ordinances**

No ordinance shall be adopted, amended, or repealed unless at least 15 days public notice is given to the taxpayers, property owners, and voters of the Town.

Notice shall be provided by public posting in at least one public place in the Town and on any website operated by the Town. Nothing herein shall prohibit the Town Council from taking any action without such advance public notice where such action is required by emergency or other exigency; but in such event, notice as herein provided shall be given as soon as conveniently possible and in no event later than 15 days following the taking of such action.

The Town Council may combine notice of any number of such proposed and/or previously taken actions in one notice which may be included in the Town's Annual Newsletter if one exists.

### **I.3.5 Form of Ordinance**

I.3.5.1 Each new ordinance shall contain the following:

- (1) The number of the ordinance.
- (2) The title, which shall clearly express the subject of the ordinance. No ordinance shall relate to more than one (1) subject.

- (3) An enacting clause, stating that the ordinance has been duly adopted by a majority of the entire Council.
- (4) The body of the ordinance.
- (5) The civil penalty, if any.
- (6) The effective date.

I.3.5.2 Each amendment to an existing ordinance or the repeal of an existing ordinance shall, in addition to the items listed in Subsection I.3.5.1 above, contain the title and section and number of the ordinance being amended or repealed.

### **I.3.6 Authentication; Recording; Publication**

- A. Upon the adoption of any ordinance, the Mayor and Secretary of the council shall sign one (1) copy of the ordinance (dated as of its adoption) to authenticate that document as a true and correct record of the action taken by the council.
- B. The Town Secretary shall maintain a file of all ordinances passed, repealed or amended by the Council, which shall be organized according to title and ordinance number. The original signed copy of the ordinance shall be placed in this file and shall be an official record of the action taken by the council.
- C. Where any ordinance providing a penalty for violation is adopted or amended, the Town Council shall cause public notice thereof to be promptly given by posting notice thereof at one public place in Town and publishing notice thereof in a newspaper of general circulation in the Town; provided that failure to post and/or publish such notice shall not invalidate the ordinance or prevent its enforcement.

### **I.3.7 Internal Procedures Only**

The purpose of this ordinance is to provide an orderly procedure for the internal convenience and benefit of the Town Council in adopting, amending, or repealing ordinances. Substantial compliance herewith shall be sufficient. The failure of the Town Council to strictly comply with any or all of the provisions of this ordinance shall not invalidate any ordinance adopted by the Town Council that is otherwise in compliance with the provisions of the Town Charter nor shall any

such non-compliance give any citizen, other than a member of the Town Council, any right or standing to object to the Council's failure to strictly comply with the terms and provisions of this ordinance.

## Chapter 4 – Town Council Meetings

### I.4.1 Regular Meetings

The Town Council shall meet regularly during the year. The regular meetings shall be held monthly at such date, time, and location as established by the Town Council at the organizational meeting; however, Council shall not hereby be prohibited from rescheduling such meetings from time to time during the year as the need arises.

### I.4.2 Place of Meetings

No action of the Town Council may be taken by the Town Council except at a duly convened regular or special meeting held in the Town of Slaughter Beach. In times of public emergency and when authorized by the laws of the State of Delaware in effect at that time, a quorum of the Town Council may take action at meetings being held electronically via teleconference or video conference.

## Chapter 5 – Election Ordinance

### I.5.1 Voting Hours.

For regular municipal elections held in Slaughter Beach, all polling places shall be open for voting for at least four (4) hours.

### I.5.2 Proof of Eligibility to Vote.

- a. Sussex County Property Tax Records considered proof of address. The most recent Sussex County Property Tax records available as of May 1<sup>st</sup> of the year in which an election will be held shall be considered proof of address for all individuals identified in those records as Slaughter Beach property owners. All individuals identified in the Sussex County Property Tax records or on the Supplemental List of Property Owners maintained in accordance with paragraph d. hereof shall only be required to provide proof of identity at the time of voting in any of the forms authorized by 15 Del. C. Chapter 75 (“Municipal Elections”). All individuals seeking to vote in a municipal election whose names do not appear on the Sussex County Property Tax records or the Supplemental List of Property Owners shall be required to provide proof of identity and proof of residence or ownership address at the time of voting.

- b. Publication of Sussex County Property Tax Records. Each year in which a municipal election is to be held, at least twenty (20) days prior to the date of the election, the Town of Slaughter Beach shall make the Sussex County Property Tax Records and the Supplemental List of Property Owners created pursuant to section (d) herein available for review by property owners in Slaughter Beach by posting the Sussex County Property Tax Records and Supplemental List of Property Owners on the town's website and providing a copy for review at the regularly schedule Town Council meeting immediately prior to the annual election. Property owners shall also be permitted to submit a request to the Town via telephone or electronic mail to ascertain whether or not that individual is listed on the Sussex County Property Tax records or the Supplemental List of Property Owners.
  
- c. Notification. The Town newsletter (to be sent out no later than May 1 of each year) and the Notice of Elections posted by the Town shall include the ways in which property owners may review the Sussex County Property Tax Records and Supplement List of Property Owners to determine whether or not their names are listed in the Sussex County Property Tax Records or Supplemental List of Property Owners.
  
- d. Supplemental List of Property Owners. The Town of Slaughter Beach shall maintain a Supplemental List of Property Owners for those property owners whose names are not found in the Sussex County Property Tax Records and who have provided the Town with proof of address for purposes of voting in a municipal election. Once a property owner has provided proof of address, that individual's name and the address of the property owned by that individual shall remain on the Supplemental List of Property Owners until such time as the individual asks to have his or her name removed or until such time as the Town discovers the individual no longer owns property in Slaughter Beach.

### **I.5.3 Board of Elections.**

- a. Appointment. The Board of Elections shall be appointed annually by the Town Council prior to the regularly scheduled Town Council meeting held in May of each year.
  
- b. Number of members. The Board of Elections shall consist of three (3) members qualified pursuant to the Town Charter to serve on the Board of Elections.
  
- c. Alternate members. If the Town Council decides to appoint one (1) or more individuals as alternate Board of Elections

members, those individuals shall be ordered as first alternate, second alternate, third alternate, etc. In the event that a member of the Board of Elections resigns or is otherwise unable to fulfill his/her associated duties, the first alternate shall be sworn in as a Board of Elections member. Once an alternate has been sworn in as a member of the Board of Elections, the next vacancy on the Board of Elections shall be filled by the next alternate in the originally established order of alternates.

**I.5.4 Absentee ballot voting.**

Beginning with the municipal elections to be held in the year 2015, the Town of Slaughter Beach shall offer absentee ballot voting to those individuals qualified under the Town's Charter to vote using absentee ballots, which voting shall be conducted in accordance with the absentee ballot voting procedures outlined in 15 Del. C. Ch. 75 ("Municipal Elections"), as it may be hereby amended from time to time, and in accordance with any other existing or future corresponding provisions of law.

## TITLE II

### CHAPTER 1 - PEACE AND GOOD ORDER

#### II.1 Garbage and Property Maintenance Standards

The regulations set forth in Sussex County Code Chapter 71 ("Housing Standards"), excluding Sections 71-26 ("Condemnation") and 71-32 ("Demolition"), are expressly adopted by the Town of Slaughter Beach and incorporated herein by specific reference thereto, provided that any inconsistencies between Chapter 71 of the Sussex County Code and specific provisions of the Slaughter Beach Town Code shall be resolved in favor of the Slaughter Beach Town Code.

#### II.2 Discharge of Air Guns and Firearms

##### II.2.1 Definitions

Air gun: A weapon which by compressed air or gas, discharges or projects a pellet, slug, bullet or BB shot.

Firearm: A weapon from which a shot, bullet, pellet, slug, or other projectile may be discharged by force of combustion, explosive, gas, and/or mechanical means.

Bow and arrow: Any bow designed to fire an arrow having a short petal or composite tip.

##### II.2.2 Discharge Prohibited

It shall be unlawful for any person to fire or discharge any air gun, firearm, or a hunting bow and arrow within the municipal limits of the Town. All those justification defenses found in Title 11 of the Delaware Code are incorporated herein by reference thereto

##### II.2.3 Penalty

Any person violating this ordinance shall be fined not less than \$100.00 nor more than \$150.00 for the first offense and not less than \$200.00 nor more than \$500.00 for any subsequent offense, including the costs of prosecution.

#### II.3 Bonfires and Marsh Burning

##### II.3.1 Bonfires

No person shall kindle or maintain any bonfire or authorize any such fire to be kindled or maintained on any private land unless;

(1) the location is not less than fifty (50) feet from any structure and adequate provision is made to prevent fire from spreading to within fifty (50) feet of any structure, or (2) the fire is contained in an approved waste burner located safely not less than thirty (30) feet from any structure. Bonfires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.

### **II.3.2 Fires on the Beach**

No person shall kindle or maintain any bonfire on the beach unless:

- A. That person is the owner of record title to the land comprising such beach or has the permission of such record owner, AND
- B. The location is at least fifty (50) feet from the nearest dune grass or other vegetation, AND
- C. The fire does not pose an unreasonable risk of spreading because of its size and/or wind conditions, AND
- D. Such fire is constantly attended by a competent person until fully extinguished, AND
- E. The wind is NOT blowing from any direction (e.g., north, north by northeast, northeast, northeast by east, east, east by southeast, southeast, south by southeast, south) so that smoke from any fire on the beach is being blown in the direction of any structure on any property fronting on the Delaware Bay.

### **II.3.3 Marsh Burning**

No person shall kindle or set fire to any marsh lands in the Town without prior approval from the Chief or Assistant Chief of the Slaughter Beach Memorial Fire Company and/or the appropriate State Authorities.

### **II.3.4 State Regulations**

All fires authorized pursuant to this II.3 ("Bonfires and Marsh Burning") shall be subject to those regulations found in Title 7, Section 1100 ("Air Quality Management), subsection 1113 ("Open Burning").



**II.3.5 Penalty**

Any person violating this ordinance shall be fined not less than \$100.00 nor more than \$150.00 for the first offense and not less than \$200.00 nor more than \$500.00 for any subsequent offense, including the costs of prosecution.

**II.4 Camping, Occupancy of Trailers, Recreational Vehicles**

**II.4.1 Definitions**

Trailer: Any vehicle or conveyance, used or designed to be self-propelled or towed, and used or designed for human habitation, containing one or more of the following features: sleeping facilities, bathroom facilities, facilities for storage, preparation and/or consumption of food for meals. "Trailer" shall include, but not be limited to: recreational vehicles, conversion vans, travel trailers, house trailers, campers, camper vans, and camper trailers.

Camping: Residing, temporarily or permanently, in quarters other than a unit designed and equipped for extended human habitation in all weather and seasons. Camping includes but is not limited to occupancy of a tent, lean-to, camper trailer, or exposed to the elements.

**II.4.2 Prohibition**

No person shall camp within the Town limits, excluding overnight camping by residents or property owners of the Town on property in their ownership or possession, or with written permission of the owner, for a maximum of seven (7) consecutive days, nor more than twenty-four (24) days in any calendar year.

**II.4.3 Penalty**

Any person violating this ordinance shall be fined not less than \$50.00 nor more than \$100.00 for the first offense and not less than \$150.00 nor more than \$200.00 for any subsequent offense, including the costs of prosecution.

**II.5 Regulating the Keeping of Dogs, Prohibiting Vicious and/or Noisy Dogs, Authorizing the Impounding and Destruction of Dogs**

**II.5.1 Definitions**

Dog shall mean either a male or female animal.

Owner shall mean any person or persons, firm, association, or corporation owning, keeping, harboring or having possession of a dog.

At Large shall mean off the premises of the owner and not under the direct and immediate control of a human being by physical restraining (e.g., lease, cord, chain, or rope).

Vicious dog shall mean any dog which constitutes a physical threat to human beings or other animals by virtue of one unprovoked attack resulting in serious physical injury or property damage or two or more unprovoked attacks resulting in other physical injury or property damage. Evidence of a prior instance of a dog biting a human being, without provocation, shall be prima facie evidence that the dog is vicious. A vicious dog will also include any dog away from the property of the owner which constitutes a physical threat to human beings or other animals by showing its teeth, snarling, growling, or barking in a menacing manner. Dangerous dog shall also include any dog deemed to be dangerous pursuant to 16 Del. C. § 3071F.

Noisy dog shall mean any dog that repeatedly, frequently, continuously, or habitually barks, whines or howls so as to make a disturbance.

**II.5.2 Keeping of Dogs**

The owner of any dog shall at all times maintain the area wherein said dog is kept, along with the yard of the property at which the dog resides, in a clean and sanitary condition, free of unreasonable accumulations of dog waste and refuse.

**II.5.3 Prohibition Against Running At Large**

- A. The owner of any dog within the Town shall keep the same securely upon his own premises or under the direct and immediate control of said owner or some other person by means of physical restraint (leash, cord, chain, rope or fence). No dog shall be permitted to run at large within the Town at any time.
  
- B. The owner of any female dog in heat shall keep such dog confined at all times within an enclosure from which it cannot escape.

**II.5.4 Keeping of Vicious Dogs**

It shall be unlawful for any owner to keep any vicious dog within the Town of Slaughter Beach. Any dog found to be vicious shall be removed from the Town of Slaughter Beach within seven (7) days of

the issuance of an order to relocate the dog. Any owner who keeps such a dog after being notified by the Town of the requirement to relocate the dog. Furthermore, the Town may pursue all legal means necessary to effectuate the removal of the dog.

**II.5.5 Keeping of Noisy Dogs**

- A. It shall be unlawful for any owner to keep any noisy dog and such action is hereby declared to be a public nuisance and detrimental to the public health and welfare
  
- B. Any person so disturbed may advise the owner who keeps such dog. In the event that the nuisance is then not abated, any person so disturbed may then give notice of the facts to the Town Council and Town Council shall notify such owner of said facts and of the provisions of this ordinance.

**II.5.6 Appeals and State Regulations; Penalties**

- A. Appeals. Any owner who has been issued a violation under this ordinance or ordered to remove a vicious dog from the Town shall, as part of the violation order, be given notice of the right to appeal the violation within 5 business days of the notice. Appeals shall be submitted in writing to the Town and shall be heard by the Town Council as soon as practical to determine whether a preponderance of the evidence exists of the alleged violations of the ordinance. Failure of the dog owner to file a timely appeal shall be considered the owner's admission of an ordinance violation.
  
- B. State Regulations. No person owning or having custody of any dog shall violate any laws, rules, or regulations of the State of Delaware applicable thereto. Such laws, rules, and regulations are included herein by reference. Where the provisions of rules and regulations of the State of Delaware are less restrictive than the provisions of this ordinance, the provisions of this ordinance shall govern.
  
- C. Civil Penalties. Any owner who shall violate this Section II.5 shall be responsible to pay civil penalties as follows:

First Offense:	\$25.00
Second Offense:	\$50.00
Third & Subsequent Offense:	\$100.00

Each day of a continuing violation shall constitute a separate offense. The owner shall also be responsible for the costs of

prosecution.

## **II.6 Use of Specified Public Places and Facilities; Prohibited Hours**

### **II.6.1 Use of Public Places and Facilities**

The municipal pavilion may be reserved by any person once each calendar year for a period of time not to exceed six (6) consecutive hours, which reservation may be made with the Town up to 12 months in advance. Reservations shall be made on a first-come, first-served basis. As part of the reservation, an applicant may request to use the municipal pavilion for either up to one hour prior to sunrise or until 10:00 pm. Except when reserved pursuant to this section, the municipal pavilion and all other public places in Slaughter Beach shall be used by the public on a first-come, first-served basis.

### **II.6.2 Prohibited Hours**

No Person shall be or remain upon any of the following public places or facilities between the hours of 9:00 pm. and sunrise.

- A. The municipal park, including the tennis and basketball courts, parking area and play area.
- B. The municipal pavilion.
- C. Any street or alley lying east of Bay Avenue (State Route 36).
- D. The beach, excepting within the boundaries of properties fronting on the beach, the owners, residents, and/or guests thereof.

### **II.6.3 Penalty**

Any person violating this ordinance shall be fined not less than \$50.00 for the first offense and not less than \$100.00 for any subsequent offense, including the costs of prosecution.

## **II.7 Repair or Demolition of Dangerous Buildings**

### **II.7.1 Definitions**

Dangerous Building: All buildings or structures which have any or all of the following defects shall be deemed a dangerous building:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb

line passing through the center of gravity falls outside of the middle third of its base.

- B. Those which, exclusive of the foundation, show thirty-three (33) percent or more of damage or deterioration of the supporting member or members or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be unreasonably safe, for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, or the general health and welfare of the occupants, or to the people of the Town of Slaughter Beach.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation; or are likely to cause sickness or disease, so as to work injury to the health, morale, safety or general welfare of those living therein.
- F. Those having light, air, and sanitation facilities which are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways or fire escapes as defined by applicable codes and regulations.
- H. Those which have parts thereof which are so attached that they may fall and injure the occupants or members of the general public or the property of others, public or private.
- I. Those which because of their condition are unsafe, unsanitary, or dangerous to the health, safety or general welfare of the people of the Town.
- J. Those under construction, if the authorized work is substantially suspended or abandoned for a period of three months or more and the abandoned site creates risk or danger to the health, safety, and welfare of the occupants, neighboring properties, or the residents of the town.

**II.7.2 Standards for Repair, Vacation or Demolition**

The following standards shall be followed in substance by the Town Council in ordering repair, vacation, and/or demolition:

- A. Vacate: If the dangerous building is in such condition or if the authorized work is such as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated.
  
- B. Repair: If the dangerous building can reasonably be repaired so that it will no longer qualify as a dangerous building under the terms of this ordinance, it shall be ordered repaired. Factors that may be taken into consideration in determining whether it is "reasonable" to make repairs may include, but shall not be limited to: the extent and estimated cost of the repairs necessary in comparison to the fair market value of the building if such repairs were to be made; the practicality of making such repairs due to construction, engineering, safety, or similar constraints; the uniqueness of the building from an architectural or historic vantage point; and the financial ability of the owner or other party with a legal interest in the property to initiate such repairs and complete them in a workmanlike and timely manner.
  
- C. Demolish:
  - a. Whenever the reasonable cost to repair, restore, or reconstruct a dangerous building is estimated to exceed 60% of its estimated fair market value (excluding land value) were such repairs, restoration, or reconstruction performed, it shall be demolished.
  
  - b. Whenever a dangerous building cannot be repaired so that it will no longer qualify as a dangerous building under the terms of this ordinance, it shall be demolished.
  
  - c. Whenever a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance, or any other ordinance of the Town of Slaughter Beach, or any state statute or Fire Marshall's regulation, it shall be demolished unless the condition(s) making such building a fire hazard can reasonably be corrected at an estimated cost not exceeding 60% of the estimated fair market value of the building (excluding land value) if such corrections were made.

**II.7.3 Dangerous Buildings Nuisances**

All dangerous buildings as defined in Section II.7.1 of this ordinance are hereby declared to be public nuisances, and shall be repaired, vacated, and/or demolished, as hereinbefore and hereafter provided.

**II.7.4 Inspection and Notice of Violation**

The Town Council or its duly-appointed designee is hereby authorized to:

A. Inspection

- a. Inspect any building, wall, or structure about which complaints are filed by any person, to the effect that such building, wall or structure is or may be existing in violation of this ordinance.
- b. Inspect any building, wall or structure as shall from time to time come to the attention of the Town Council as a potentially dangerous building within the terms of Section II.7.1.

B. Notice of Violation.

- a. The Town Council, or a duly appointed designee, shall send notice by certified mail to the last known address of the owner, occupant, and all other persons having a legal interest in said building as shown by the land records of the Recorder of Deeds of Sussex County, of any building determined to be a dangerous building as defined in Section II.7.1 of this ordinance, that shall include:
  - i. A description of the building or structure deemed unsafe, which shall be sufficient if it sets forth the tax map parcel number and street or mailing address;
  - ii. A statement of the particulars which make the building or structure a dangerous building;
  - iii. An order requiring that the building be repaired, demolished, and/or vacated in accordance with the terms of the notice and this ordinance within a reasonable length of time, not exceeding 60 days;
  - iv. Notice that any person having a legal interest in said building as shown by the land records of the Recorder of Deeds of Sussex County may, at

his/her/their own risk, repair or demolish said building; and

v. Notice that any owner, occupant, or person having a legal interest in the building may, in writing, delivered to the Town Council within 15 days of the date of the Town Council's Notice of Violation, request a hearing before the Town Council on the issue of whether or not the building is a dangerous building as herein defined.

b. In addition to the notice sent by certified mail, the Town Council, or its duly appointed designee, shall place a notice on such dangerous building reading substantially as follows:

"This building has been determined to be a Dangerous Building by the Town Council of the Town of Slaughter Beach. This notice shall remain on this building until it is repaired or demolished in accordance with the notice which has been given the owner, occupant(s), and all other persons having a legal interest in said building as shown by the records of the Recorder of Deeds of Sussex County. It is unlawful to remove this notice until such notice is complied with. Any owner, occupant, or person having a legal interest in the building may, in writing, delivered to the Town Council within 30 days of the date of the Town Council's Notice of Violation, request a hearing before the Town Council on the issue of whether or not the building is a dangerous building."

c. Failure to Repair: Where any building has not been repaired within the timeframe prescribed in the notice and order to repair and no timely appeal has been filed, the Town may presume it is unreasonable to repair the building and the building meets the standards to be ordered demolished pursuant to Section II.7.2. Prior to having the dangerous building demolished, the Town shall issue a demolition notice and order as outlined in this ordinance.

#### **II.7.5 Hearing Before the Town Council**

A. Upon receipt of a written request for a hearing, the Town Council shall give written notice by certified mail to the



owner, occupant(s), and all other persons having a legal interest in said building as shown by the records of the Recorder of Deeds of Sussex County to appear before it on the date specified in the notice to show cause why the building or structure should not be repaired, vacated, and/or demolished.

- B. At such hearing, the Town Council shall hear such testimony from the building inspector, code enforcement official, owner, occupant, and/or other person having an interest in said building as shown by the land records of the Recorder of Deeds of Sussex County, testimony which may be offered relative to the dangerous building. Evidence may include a personal inspection and view of the building.
- C. At the conclusion of such hearing, the Town Council shall decide whether or not such building is a dangerous building as defined herein, and if so, the Town Council shall issue an order commanding the owner(s), occupant(s), and all other persons having a legal interest in said building as shown by the land records of the Recorder of Deeds of Sussex County, to vacate, repair, and/or demolish such building as appropriate under the standards of this ordinance, and specifying a time within which said building shall be vacated, repaired, and/or demolished.

#### **II.7.6 Corrective Action by Town**

If the order issued pursuant to §II.7.5 is not complied with within the time specified in the order, the Town Council shall cause such building or structure to be vacated, repaired, and/or demolished as provided in such order and shall cause the costs of such vacation, repair, and/or demolition to be added as a lien against the property and added to the town's property tax bill for the property pursuant to 25 Del. C. Chapter 29. The Town may also recover such amounts owed in a suit at law against the owner or through any other legal proceeding.

#### **II.7.7 Emergency Cases**

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building, as defined herein, is immediately vacated, repaired, and/or demolished, the Town Council may cause the immediate vacation, repair, and/or demolition of such dangerous building. The costs of such emergency vacation, repairs and/or demolition of the dangerous building shall be collected in the same manner as provided in §II.7.6.

**II.7.7 Penalties**

- A. Owner(s). The owner(s) of any dangerous building who shall fail to comply with any notice or, in the event a hearing before the Town Council is requested, an order to vacate, repair, or demolish said building shall, in addition to any other sanction or lien imposed hereby, forfeit and pay a civil penalty of not less than \$100.00 and not more than \$500.00 for each offense; each day of a continuing violation shall constitute a separate offense, punishable as herein provided.
- B. Occupants, lessees in possession. Any occupant(s) or lessee(s) in possession who fail to comply with any notice to vacate or who fail to repair said building in accordance with any order given by the Town Council as provided in this section shall forfeit and pay a civil penalty of no more than \$100.00 for each offense; each day of a continuing violation shall constitute a separate offense.
- C. Removal of posted notice. Any person removing the notice provided for in this section shall forfeit and pay a civil penalty of \$50.00 for the first offense and \$100.00 for each subsequent offense, including the costs of prosecution.

**II.8 Controlling the Height of Grass, Weeds, and Other Vegetation**

The regulations set forth in Sussex County Code Chapter 80 ("Lot Maintenance") are expressly adopted by the Town of Slaughter Beach and incorporated herein by specific reference thereto, provided that it shall not be a violation of this section to allow grass, weeds, and phragmites growing in areas designated as wetlands by the Delaware Department of Natural Resources and Environmental Control to exceed the maximum height outlined in the Sussex County Code. Additionally, any inconsistencies between Chapter 80 of the Sussex County Code and the specific provisions of the Slaughter Beach Town Code shall be resolved in favor of the Slaughter Beach Town Code.

**II.9 Construction Hours**

**II.9.1 Prohibited Hours**

No construction or site preparation work shall be carried on between the hours of 7:00 p.m. prevailing time and 7:00 a.m. prevailing time on any day of the year.

**II.9.2 Definitions**

For the purposes of this ordinance, the following terms shall have the meanings described to them:

Construction: To build, erect, assemble, or place a building or structure.

Site Preparation: To clear, grub, excavate, grade, or fill a vacant lot.

**II.9.3 Penalties**

Any person violating this ordinance shall be fined not less than \$50.00 for the first offense and not less than \$100.00 for any subsequent offense, including the costs of prosecution. Violations can also result in the issuance of a stop work order.

**II.10 [RESERVED]**

**II.11 [RESERVED]**

**II.12 Abandoned, Wrecked, Junked, or Dismantled Vehicles**

**II.12.1 Short Title.**

This division shall be known and may be cited as the "Abandoned, Wrecked, Dismantled or Inoperable Vehicle Ordinance."

**II.12.2 Definitions.**

For the purposes of this division, the following terms, phrases, words, and their derivations shall have the meaning given herein.

*Abandoned vehicle* is any vehicle which is left unattended on public property for a period in excess of five days that is unregistered or is left under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

*Person* is any person, firm, partnership, association, corporation, company or organization of any kind.

*Private property* is any real property within the town which is privately-owned and which is not defined as public property herein.

*Public property* is any real property in the town which is owned by a governmental body and includes buildings, parking lots, parks, streets, sidewalks, rights-of-way, easements and other similar property.

*Town* is the Town of Slaughter Beach

*Vehicle* shall mean a machine propelled by power other than human power designated to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation,

automobile, truck, trailer, motor cycle, tractor, buggy and wagon.

*Wrecked, junked, dismantled, or inoperable vehicle* is any vehicle the condition of which is wrecked, junked, dismantled, partially dismantled, is in such a state of disrepair to be incapable of being operated in the manner for which it was designed, or from which the wheels, engine, transmission, or any substantial part thereof have been removed, regardless of whether said vehicle bears a current registration.

**II.12.3 Wrecked, dismantled, or inoperable Vehicles on public property prohibited; declared a nuisance.**

No person shall abandon or leave any wrecked, dismantled or inoperable vehicle, whether attended or not, upon any public property within the town for a period of time in excess of five days. The presence of such vehicles, or parts thereof, on public property is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this division. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the five-day period. This section does not apply to vehicles parked or stored on public property by the town.

**II.12.4 Abandonment of vehicles on public property prohibited; declared a nuisance.**

- (a) No person shall abandon or leave unattended any vehicle (not otherwise prohibited as a wrecked, dismantled or inoperable vehicle, even if bearing a current registration), upon any public property within the town for a period of time in excess of five days under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. The presence of such vehicles under such circumstances is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this ordinance. This section does not apply to vehicles parked or stored on public property owned by the town.
- (b) Any person may notify the town, in writing, of the fact that they will be absent from the town or otherwise unable to move their vehicle for an extended period of time (as specified therein) and, in such event, that person's vehicle shall not be deemed to be in violation of this section of this division until the expiration of two weeks from the time specified by the written notice to the town. Provided, however, that nothing in this paragraph shall excuse such persons from compliance with other town ordinances regulating the parking and/or storage of vehicles on public property in the town.

**II.12.5 Wrecked, dismantled or inoperable vehicles on private property prohibited; declared a nuisance; exceptions.**

- (a) No person shall park, store, leave or permit the parking, storing or leaving of any wrecked, dismantled or inoperable vehicle of any kind, whether attended or not, upon any private property within the town in excess of five days. The temporary or intermittent movement or removal of such vehicle shall not be deemed to interrupt the running of the five-day period. The presence of such vehicles, or parts thereof, on private property is hereby declared a public nuisance which may be abated in accordance with the provisions of this division.
- (b) This section shall not apply to:
  - (1) Any vehicle enclosed within a building or fence on private property in such a manner that it is not visible from without such enclosure. Covering the vehicle with a tarp or similar device shall not satisfy the requirements of this section.
  - (2) Any vehicle held in connection with a business enterprise lawfully licensed by the appropriate governmental agency for the servicing and repair of such vehicles and property operated in an appropriate business zone of the town.

**II.12.6 Order for removal.**

- (a) *On public property.* Whenever it comes to the attention of the town that any nuisance as defined in section II.12.4 of this division appears to exist on public property, it shall cause a written order to be affixed to the vehicle, declaring the existence of the nuisance and ordering whoever has an interest in the vehicle to comply with this division by removing said vehicle within 5 business days of the notice.
- (b) *On private property.* Whenever it comes to the attention of the town that any nuisance as defined in section II.12.5 appears to exist on private property, it shall, in addition to affixing an order to the vehicle itself as provided in subsection (a) above, deliver a copy of such notice to the owner and occupant, a copy of the order shall be left at the property with a duplicate copy sent to the owner and occupant by certified mail, return receipt requested.
- (c) *Form of order.* Any orders required under subsection (a) or (b) above shall contain the following information:
  - (1) A description of such vehicle, including the make, year, model, color and registration number if known;
  - (2) The location of such vehicle;
  - (3) The date and time that the order was affixed to the vehicle;

- (4) An order for removal within 5 business days from the time the order was affixed to the vehicle;
- (5) That upon failure to comply with the order for removal, the town shall impose a civil penalty and remove or cause to be removed such vehicle at the expense of the owner of the vehicle and/or the owner or occupant of the property; and
- (6) That the owner of the vehicle or the owner or occupant of the property on which the vehicle is situated may appeal the removal order by filing a written appeal with the Town Council within 5 business days of the time the order was affixed to the vehicle.

**II.12.7 Removal of vehicles.**

If the violation is not remedied within the time set forth in the order as outlined herein, the town is hereby authorized to remove or have removed such vehicle from the premises. Such vehicles shall be removed only by wreckers or towing services duly licensed by the state. It shall be unlawful for any person to interfere with, hinder or refuse to allow the town and/or any person acting in concert with or at the direction of the town to enter upon private property for the purpose of removing a vehicle under the provisions of this division.

**II.12.8 Notice of removal.**

Within five days of the removal of such vehicle, the town shall give written notice (by certified mail, return receipt requested) to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed, that said vehicle has been impounded and stored for violation of this ordinance. The notice shall give the location of where the vehicle is stored.

**II.12.9 Disposition of motor vehicles.**

Any person who tows, removes, stores, or keeps a vehicle at the direction of the town acting under the provisions of this division shall, from the time of taking possession thereof, be entitled to all rights, remedies and authority as provided under the Delaware "garageman's lien" statute, 25 Del. C. Chapter 39 as it may be amended from time to time hereafter or any future corresponding provision of law. In exercising such rights, remedies, and authority, such persons shall be governed, in all respects, by the terms of that statute.

**II.12.10 Liability for towing and storage expenses.**

In the event that the town should be or become liable for all or any portion of the expenses incurred in the removal and storage of such vehicle, the town may:

- (1) Recover same from the owner of the vehicle and/or the owner of the private property from which it was removed in an action for debt; or
- (2) As authorized by 25 Del. C. Chapter 29, add that amount to the property tax bill of the person owning the private property from which the vehicle was removed, or both; provided, however, that wherever the private property from which such vehicle has been removed is occupied by a person other than the owner of that property, the occupant shall be primarily responsible and the town shall not seek to recover from the owner of the property (either in an action at law or by tax collection proceedings) before it exhausts reasonable efforts to recover from the occupant, but this shall not prohibit the town from joining both the property owner and occupant in one action for debt.

**II.12.11 Appeal and Civil Penalties.**

- (1) Any appeal of a removal order shall be heard by the Town Council as soon as reasonably possible. The filing of an appeal shall stay any enforcement action by the Town. The Town Council shall hear evidence at the hearing from all interested parties to determine whether a preponderance of the evidence exists of the alleged violations of the ordinance.
- (2) Any person found to be in violation of the terms of this Section II.12 shall be fined a civil penalty in the amount of \$50, with each day the violation remains constituting a new and separate offense. Any civil penalties imposed for violations of this Section II.12 on private property may be added to the property tax bill of the private property owner pursuant to 25 Del. C. §2901 once the time for filing an appeal has run or an appeal has been heard and a violation of this Section II.12 has been found to exist.

## TITLE III

### ENVIRONMENT

#### CHAPTER 1 REMOVING SAND FROM THE BEACH

##### III.1.1 Definitions.

Beach: That area which extends from the low water mark of the Delaware Bay landward to the "building line" established by the Delaware Department of Natural Resources pursuant to 7 Del.

Chapter 68, or DNREC easement line, whichever is closest to the low water mark, and seaward 1,000 feet from the low-water mark of the Delaware Bay.

Private Beach: Any beach which is not a public beach as defined herein.

Public Beach: Any beach which is owned in fee simple by the Federal, State, County, or Town government, or for or over which a permanent easement has been obtained by any of those governmental entities.

##### III.1.2 Removal of Sand

No person shall dig, mine, remove or carry away, or cause to be dug, mined, removed or carried away, any sand from any public or private beach within the municipal limits of the Town; provided that nothing herein shall prohibit the casual and occasional removal- of small quantities of sand, not exceeding two gallons in volume, for personal use.

##### III.1.3 Removal of Sand

Any person violating this ordinance shall be fined \$100.00 for the first offense and no more than \$300.00 for any subsequent offense, including the costs of prosecution.

#### CHAPTER 2 REMOVAL OR DESTRUCTION OF BEACH VEGETATION AND EVERGREEN TREES

##### III.2.1 Definitions

Beach: That area which extends from the low water mark of the Delaware Bay landward to the "building line" established by the Delaware Department of Natural Resources pursuant to 7 Del. Chapter 68, or DNREC easement line, whichever is closest to the low water mark, and seaward 1,000 feet from the low-water mark of the Delaware Bay.



Private Beach: Any beach which is not a public beach as defined herein.

Public Beach: Any beach which is owned in fee simple by the federal, state, county, or Town government, or for or over which a permanent easement has been obtained by any of those governmental entities.

Beach Vegetation: Any vegetation (other than cactus, or sand burs) adapted to sand or sandy soils, including but not limited to: "Cape American beach grass (ammophila breviligulata) saltmeadow cordgrass (spartina patens), seaoats (uniola paniculata), bayberry, beach plumb, and Japanese sedge.

Evergreen Trees: Any tree, shrub, bush or plant of the evergreen or conifer genus, including pine trees and cedar trees.

### **III.2.2 Prohibitions**

No person shall dig up, remove, carry away, nor intentionally burn, mow, cut, chop down or otherwise kill or destroy any dune grass, evergreen trees, or other beach vegetation growing on or within any public or private beach within the municipal limits of the Town.

### **III.2.3 Exceptions**

- A. Nothing in this ordinance shall prohibit the pruning, trimming or cutting back of any evergreen tree or beach vegetation as part of normal maintenance and care, provided that such efforts do not jeopardize such tree's or beach vegetation's continued viability; nor shall this ordinance prohibit the removal of any dead or diseased evergreen tree or beach vegetation.
- B. Nothing in this ordinance shall apply to the accidental destruction of beach vegetation incidental to pedestrian access to and from the beach.

### **III.2.4 Penalty**

Any person violating this ordinance shall be fined \$100.00 for the first offense and \$200.00 for any subsequent offense, including the costs of prosecution.

## **CHAPTER 3 PROHIBITING MOTOR VEHICLES ON THE BEACH**

### **III.3.1 Definitions**

Beach: That area which extends from the low water mark of the

Delaware Bay landward to the "building line" or "easement line", whichever is closest to the low water mark, established by the Delaware Department of Natural Resources pursuant to 7 Del. H Chapter 68, and seaward 1,000 feet of the low-water mark of the Delaware Bay.

Private Beach: Any beach which is not a public beach as defined herein.

Public Beach: Any beach which is owned in fee simple by the federal, state, county, or Town government, or for or over which a permanent easement has been obtained by any of those governmental entities.

Motor Vehicle: Any self-propelled vehicle including but not limited to automobiles, trucks, tractors, dune buggies, jeeps, dune bikes, motorcycles, motorbikes, and "all-terrain" vehicles (ATVs) .

### **III.3.2 Prohibition**

No person shall operate any motor vehicle on any public or private beach in the Town except on the eastern terminus of any clearly designated public street or parking area in the Town.

### **III.3.3. Exceptions**

This ordinance shall not prohibit the operation of any motor vehicles operated by any governmental agency or the Slaughter Beach Volunteer Fire Company in connection with emergency or public health and safety measures or routine beach maintenance; nor by any private entity operating under contract with the Town for the removal of horseshoe crabs and/or trash from the beach.

### **III.3.4. Penalty**

Any person violating this Chapter shall pay a civil penalty of not less than \$50.00 nor more than \$100 for the first offense and not less than \$150.00 nor more than \$500.00 for each subsequent offense, plus costs of prosecution.

**TITLE IV**

**ZONING, SUBDIVISION, FLOOD INSURANCE, HOUSING CODES**

**CHAPTER 1**

Incorporated into the Town Code are the following, which have been previously adopted by the Town Council:

Appendix A: Slaughter Beach Zoning Ordinance

Appendix B: Slaughter Beach Subdivision Ordinance

Appendix C: Slaughter Beach Flood Damage Reduction Ordinance

## **TITLE V**

### **REVENUE AND TAXATION: FISCAL MATTERS**

#### **CHAPTER 1 ASSESSMENTS FOR MUNICIPAL TAXATION**

##### **V.1.1 Legislative Authority; Election to Use County Assessments**

In accordance with the provisions of Title 22, Del. C. §1101, the Town of Slaughter Beach hereby elects to use the assessments and supplementary assessments for property situated in the Town as established annually or quarterly by the Sussex County Board of Assessment, subject to statutory judicial appeal, as the assessments for the Town for Town taxation.

##### **V.1.2 Continuation of Election to Use County Assessments**

The aforesaid election by the Town to use the Sussex County assessments shall continue in effect from year-to-year until revoked by ordinance adopted by the Town.

##### **V.1.3 Notice of Election**

Notice of the aforesaid election shall be given to the Sussex County board of Assessment and published at least once a week for two (2) weeks prior to March 1 of each year until revoked by the Town, in two (2) newspapers of general circulation in Sussex County; provided that failure to provide such notice shall not invalidate the adoption of such assessments.

##### **V.1.4 Payment for Copies Authorized**

The Town Treasurer is hereby authorized to pay to Sussex County the cost of producing a copy of the county assessments for the properties situated in the Town.

#### **CHAPTER 2 REALTY TRANSFER TAX**

##### **V.2.1 Imposition**

There is hereby imposed upon the transfer of all real property located within the Town limits, as they now or hereafter exist, a tax of one and one-half percent of the value of the property conveyed in conformance with the definitions and exceptions governing the State realty transfer tax as contained within 30 Del. C. § 5401 et seq., and all amendments theretofore or thereafter adopted.

##### **V.2.2 Allocation of Taxes: Duty to Pay**

Any tax imposed by this Chapter shall be apportioned equally between the grantor and the grantee; provided, however, that

the parties to any transaction which is subject to the realty transfer tax imposed by this Chapter may, as between themselves, agree to allocate the tax otherwise; but in all events, it shall be the ultimate responsibility of the grantee to see that the appropriate amount of tax is paid no later than the presentation of the document involved in such a transaction for recording at the appropriate Recorder of Deeds office. Upon receipt of the appropriate amount, the Town Office or its duly authorized agent shall, upon the document relating to such transaction, confirm that the tax imposed by this Chapter has been paid. The Town may appoint the County Recorder of Deeds or any attorney-at-law as its duly authorized agent to collect a realty transfer tax imposed by this Chapter and to confirm such payment on the face of the document presented for recording.

**V.2.3 Realty Transfer Tax on New Construction**

- A. Anything in Sections V.2.1 or V.2.2 to the contrary notwithstanding, there is hereby imposed on all documents described in 30 Del. C. § 5401(9) (as it may from time to time hereafter be amended or in accordance with any future corresponding provision of law) a real estate transfer tax at the rate of one percent on amounts in excess of \$10,000.00, which tax shall be borne by the owner of the building whose construction is made subject to the tax under 30 Del. C. § 5401(9).
- B. Any person(s) desiring to obtain a building permit from the Town shall submit a copy of the form(s) previously submitted to the State Division of Revenue pursuant to 30 Del: C. § 5401(9)(b), and the corresponding receipt received from the State Division of Revenue, evidencing the cost of such construction. The Town shall not issue a building permit for any building, construction of which was subject to the State transfer tax imposed by 30 Del. C. § 5401(9), until the Town transfer tax imposed upon such construction under subsection V.2.3.A above has been paid.
- C. Any person(s) desiring to obtain a certificate of occupancy from the Town shall submit a copy of the form(s) previously submitted to the State Division of Revenue pursuant to 30 Del. C. § 5401(9)(c), and the corresponding receipt from the State Division of Revenue evidencing the actual cost of such construction. The Town shall not issue a certificate of occupancy for any building subject to any additional State transfer tax as a result of such re-certification until the Town transfer

tax imposed upon such construction under subsection V.2.3.A above has been paid to the Town.

**V.2.4 Effect of Failure to Pay; Interest; Penalties**

Where any real property within the Town is transferred without payment of the appropriate real estate transfer tax in violation of this Chapter:

- A. The amount due shall bear interest at the rate of one and one-half (1 1/2) percent per month commencing with the date that such document is duly recorded in the Recorder of Deeds Office of the appropriate county, and the transferee in such transaction shall be personally liable for the full amount of such tax plus all accrued interest to date of payment.
- B. The amount of such tax, together with the accrued interest thereon, shall constitute a charge or assessment against the property so transferred and shall be a lien against the property so transferred in accordance with the procedures set forth in the Charter of the Town and/or in accordance with the procedures set forth in the general statutes of the State regarding municipal liens.
- C. Where any document involved in a transaction subject to the tax imposed by this Chapter is recorded without payment thereof, the grantee shall, upon conviction before any Court of competent jurisdiction, pay a fine as provided in §V.2.6 of this Ordinance.

**V.2.5 Construction, Operation and Interpretation**

This Chapter shall be applied, construed and interpreted according to the provisions of the State realty transfer tax as set forth in 30 Del. C. § 5401 et seq., as it may have heretofore been or is hereafter amended, it being the intent of this article that it applies whenever the State's realty transfer tax applies; provided, however, that:

- A. In applying the provisions of the State's realty transfer tax statute through this Chapter, the "Town of Slaughter Beach" shall be substituted (where appropriate) for the "State of Delaware", "Department of Finance", "Division of Revenue" or the like.
- B. The provisions of 30 Del. C. §§ 5405 ("Documentary Stamps; Affixing; Cancellation; Other Methods"), 5406 ("Furnishing Stamps; Sales; Agents; Compensation; Bond

Premiums"), 5407 ("Enforcement ; Rules and Regulations"), 5408 ("Failure to Affix Stamps"), 5412 ("Grantor to Pay Tax"), 5414 ("Tax Lien"), and 5415 ("Distribution of Tax Receipts") or any future corresponding provisions of law shall not be held applicable to the operation and application of this Chapter.

- C. The unlawful acts set out at 30 Del. C. § 5410 now and as it may hereafter be amended shall, to the extent applicable to the Town Ordinances and not otherwise superseded hereby, likewise be unlawful acts under this Chapter, conviction for which shall result in a fine as provided in §V.2.6 of this Chapter.
- D. Where any provision of 30 Del. C. § 5401 et seq., is inconsistent with this Chapter, the provisions of this Chapter shall control; and wherever any provision of 30 Del. C. § 5401 et seq. is not applicable or appropriate, it shall be disregarded or construed so as to best achieve the purpose of this Chapter, which is that whenever a realty transfer tax becomes due to the State under 30 Del. C. § 5401 et seq., a realty transfer tax of one and one-half percent shall likewise become due to the Town.

**V.2.6 Penalties**

- A. The amount of any unpaid realty transfer tax, the payment of which is required pursuant to this Chapter, shall constitute a debt due the Town. The Town Solicitor, shall, at the direction of the Town Council, institute a civil suit in the name of the Town to recover any unpaid tax, interest, the costs of said suit and reasonable attorney's fees. No civil judgment or any act by the Town Solicitor, or the violating licensee, shall bar or prevent a criminal prosecution for each violation of this Chapter.
- B. Any individual, firm, business, association or corporation failing to comply with the provisions of this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$250.00 nor more than \$1,000.00, plus costs for said action, reasonable attorney's fees, and shall be liable for the payment of any unpaid realty transfer tax. Each day of non-payment shall constitute a separate, severable and

distinct violation of this Chapter.