

**ZONING ORDINANCE**  
**TOWN OF BOWERS, KENT COUNTY, DELAWARE**  
**TABLE OF CONTENTS**

1. Legal Framework
  - 1.1 Short Title
  - 1.2 Authority
  - 1.3 Purpose
  - 1.4 Findings
  - 1.5 Declaration of Intent
  - 1.6 Scope
  - 1.7 Interpretation
  - 1.8 Severability
  
2. Definitions
  - 2.1 Rules of Construction
  - 2.2 Words Not Defined
  - 2.3 Specific Definitions
  
3. Application of Zoning Code
  - 3.1 Use
  - 3.2 Height and Density
  - 3.3 Lot Occupancy
  - 3.4 Yard, Open Space Use Limitation
  - 3.5 Areas Under Water
  
4. General Provisions
  - 4.1 Classification of Uses
  - 4.2 One Principal Building Per Lot
  - 4.3 Minimum Lot Coverage for Dwellings
  - 4.4 Minimum Space for Habitation
  - 4.5 Accessory Buildings
  - 4.6 Fences
  - 4.7 Manufactured Homes/Mobile Homes
  - 4.8 Reduction in Lot Area
  - 4.9 Lots Fronting on Two or More Streets
  - 4.10 Street Access
  - 4.11 Interference With Traffic Control Devices
  - 4.12 Vision Clearance at Corners
  - 4.13 Public Utility Structures, Facilities, and Equipment
  - 4.14 Public Property Construction
  - 4.15 Temporary Building or Structure
  - 4.16 Parking or Storage of Construction Vehicles

- 4.17 Trailers; Recreational Vehicles
- 4.18 Outside Display of Merchandise
- 4.19 Restoration or Removal of a Damaged or Destroyed Building or Structure
- 4.20 Prohibited Uses

- 4.21 Uses Not Permitted Are Prohibited
- 4.22 Tables Are Part of This Ordinance

5. Establishment of Districts; Zoning Map

- 5.1 Establishment of Districts
- 5.2 Official Zoning Map
- 5.3 Determining District Boundaries
- 5.4 Boundary Tolerance
- 5.5 Zoning Map Amendments
- 5.6 Annexation
- 5.7 Replacement of Official Zoning Map
- 5.8 Controlling Map

6. R-1 Residential

- 6.1 Purpose
- 6.2 Uses Permitted
- 6.3 Uses Permitted When Authorized as a Special Exception by the Board of Adjustment
- 6.4 Accessory Uses, Buildings, Structures
- 6.5 Lot Frontage, Area, and Coverage
- 6.6 Height Limitations
- 6.7 Yard Setbacks

7. R-2 Residential

- 7.1 Purpose of District
- 7.2 Uses Permitted
- 7.3 Uses Permitted When Authorized as a Special Exception by the Board of Adjustment
- 7.4 Accessory Uses, Building, Structures
- 7.5 Street Frontage, Area, and Coverage
- 7.6 Height Limitations
- 7.7 Yard Set Backs

8. R-3 Residential-Townhouse

- 8.1 Purpose
- 8.2 Uses-Permitted
- 8.3 Uses Permitted When Authorized as Special Exception by

- the Board of Adjustment
- 8.4 Accessory Uses, Buildings and Structures
- 8.5 Street Frontage, Lot Area, Lot Coverage
- 8.6 Height Limitations
- 8.7 Yard Set Backs
- 9. C-R Commercial-Residential
  - 9.1 Purpose of District
  - 9.2 Uses Permitted
  - 9.3 Uses Permitted as Special Exception by Board of Adjustment
  - 9.4 Accessory Uses
  - 9.5 Lot Frontage, Area, and Coverage
  - 9.6 Height Limitations
  - 9.7 Yard Setbacks
    - 9.7.1 Commercial Uses
    - 9.7.2 Residential Uses
- 10. R-C Riverfront Commercial
  - 10.1 Purpose of District
  - 10.2 Uses-Permitted
  - 10.3 Uses Permitted When Authorized as a Special Exception by Board of Adjustment
  - 10.4 Accessory Uses, Buildings and Structures
  - 10.5 Street Frontage, Lot Area, Lot Coverage
  - 10.6 Height Limitations
  - 10.7 Yard Set Backs
- 11. C/A Conservation - Agriculture
  - 11.1 Purpose of District
  - 11.2 Uses Permitted
  - 11.3 Uses Permitted When Authorized as a Special Exception By Board of Adjustment
  - 11.4 Accessory Uses, Buildings, Structures
  - 11.5 Street Frontage, Area, Coverage
  - 11.6 Height Limitation
  - 11.7 Yard Setbacks
- 12. Non-Conforming Uses, Lots, Buildings, and Structures
  - 12.1 Non-Conforming Uses
    - 12.1.1 Continuation
    - 12.1.2 Extension
    - 12.1.3 Changes
    - 12.1.4 Restoration
    - 12.1.5 Abandonment

- 12.2 Non-Conforming Buildings, Structures
  - 12.2.1 Continuation
  - 12.2.2 Extension
  - 12.2.3 Restoration
- 12.3 Non-Conforming Lots
- 13. Signs
  - 13.1 Compliance
  - 13.2 Continuation; Amortization
  - 13.3 General Restrictions
  - 13.4 Use and Location Regulations
  - 13.5 Exemptions
- 14. Off Street Parking and Loading
  - 14.1 Size of Off-Street Parking and Loading Spaces
  - 14.2 Off-Street Parking and Loading Requirements
  - 14.3 Submission of Plans of Required Parking and Loading
  - 14.4 Connections to Streets and Alleys
  - 14.5 Location
  - 14.6 Joint Use of Off-Street Parking Areas
  - 14.7 Continuing Obligation
  - 14.8 Variance
- 15. Administration
  - 15.1 Enforcement
  - 15.2 Construction Begun or For Which Building Permit Previously Issued
  - 15.3 Requirements of Zoning Compliance Permits
  - 15.4 Application for Zoning Compliance Permit
  - 15.5 Issuance of Zoning Compliance Permit
  - 15.6 Requirement of Certificate of Zoning Compliance
  - 15.7 Issuance of Certificate of Zoning Compliance
  - 15.8 Fees: Zoning Compliance Permit, Certificate of Zoning Compliance, Board of Adjustment Application
- 16. Board of Adjustment
  - 16.1 Appointment
  - 16.2 Powers
    - 16.2.1 Appeals From Decisions of Zoning Compliance Officer
    - 16.2.2 Special Exceptions
    - 16.2.3 Variances

- 16.3 Meetings, Rules
- 16.4 Hearings, Oaths, Subpoenas, Ad Hoc Rules, Public Notice
- 16.5 Appeals, Stay of Further Proceedings
- 16.6 Application for Special Exceptions; Conditions; Governing Procedures
- 16.7 Variances
- 16.8 Appeals to the Court
  
- 17. Amendments
  - 17.1 Amendment by Town Council
  - 17.2 Citizen Protest Against Amendments
  - 17.3 Public Notice Requirements
  
- 18. Remedies; Penalties, Stop-Work Orders
  - 18.1 Remedies
  - 18.2 Penalties For Violation
  - 18.3 Violations Declared a Nuisance
  - 18.4 Revocation of zoning compliance permits and Stop Work Orders; Appeals
  
- 19. Repealer
  
- 20. Effective Date
  
- 21. Table of District Regulations

ZONING ORDINANCE

TOWN OF BOWERS, KENT COUNTY  
DELAWARE

Be it hereby enacted by the Town Council of the Town of Bowers a majority thereof concurring in Council duly met that the following ordinance be and hereby is adopted:

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

1. Legal Framework

- 1.1 Short Title. This ordinance shall be known as the "Bowers Zoning Ordinance" and may be cited as "BZO, §     ".
- 1.2 Authority. This ordinance is adopted pursuant to the authority delegated to the Town of Bowers, a municipal corporation of the State of Delaware, by Article II §25 of the Delaware Constitution of 1897, 22 Del.C. Chapter 3, the Town Charter (53 Del. Laws Chapter 279, 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 Plan to promote the health, safety, morals and general welfare of the inhabitants of the Town of Bowers 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 population; facilitating the adequate provision 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 Bowers has found and determined that the Town exists on a

relative "peninsula" formed by the St. Jones River to the north, the Murderkill to the south, and the Delaware Bay to the east, has only limited access by road (County Route 18), and is of limited suitability for 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 residential fishing or waterman's village which, in recent years, has been attracting seasonal visitors to the charter fishing boats and public boat ramp facilities in the town. 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, the Murderkill River, and the St. Jones River.
  - (b) the Delaware Coastal Zone (7 Del.C. Chapter 70).
  - (c) Delaware Wetlands (7 Del.C. Chapter 66).
  - (d) Delaware Subaqueous Lands (7 Del.C. Chapter 61).
  - (e) Delaware Beaches (7 Del.C. Chapter 68).
  - (f) the Coastal Flood Plain (42 U.S.C. §§4001 et seq).
  - (g) the Coastal Barrier Resources System (16 U.S.C. §3501 et seq.)
  - (h) the State of Delaware "Little Creek Wildlife Area"
  
- 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) limited remaining capacity in the central sanitary sewage collection system
  
  - (b) soil characteristics which impose significant to severe restrictions upon the construction of improvements thereon
  
  - (c) the absence of a 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 County Route 18 to accommodate large volumes of traffic or "wide-load" traffic; or to provide an adequate evacuation route in the event of severe coastal storm, flood, or other natural disaster

(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 residential fishing village in that over 60% of the existing properties in the Town consist of residential dwellings, with virtually no industrial uses and only 13 commercial uses.

1.4.4 By virtue of being a beach and waterfront community with substantial water frontage on the Delaware Bay, St. Jones and Murderkill Rivers, 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 Bowers 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 fishing village and seasonal 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 Bowers, 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 this 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.

## 2. Definitions

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:

Administrative Review. A hearing held by the Board of Adjustment upon an appeal alleging that there has been a misinterpretation or mis-application of this ordinance by a Town Official.

Accessory Building. A detached building, not for habitation, subordinate, accessory to, and on the same lot as the principal building, used for purposes clearly and customarily incidental to those of the main building.

Accessory Use. A use subordinate to the principal use of land or of a building on the same lot, clearly and customarily incidental thereto.

Apartment. One or more connected rooms, within a multi-unit building, containing a kitchen, sleeping, and bathroom facilities, containing not less than 450 square feet nor more than 999.9 square feet.

Bathroom. A room affording complete privacy containing a lavatory and toilet.

Boatyard. A place for sales, display, storage, repair, maintenance, and servicing of boats, both power and sail, private and commercial, including all associated parts, equipment, accessories, and supplies.

Buildable Area. The area of that part of a lot lying landward of the DNREC building line which is not included within the yards or open spaces herein required.

Building. Any roofed or partially-roofed structure supported by columns or walls for the housing or enclosure of persons or property of any kind. A building may be:

Detached - having no party walls

Semi-detached - having only one party wall in common with an adjacent building

Attached - having two or more party walls in common with adjacent buildings

Building, Apartment - A building containing two or more apartments.

Building, Multi-Dwelling Unit - A building containing more than one dwelling unit.

Building, Single Dwelling Unit - A building containing no more than one dwelling unit.

Building, Principal - A building in which is conducted the main use of the lot on which the building is located.

Condominium Building - A multi-dwelling unit building in which dwelling units are individually owned while the ground is held in common, pursuant to 25 Del.C. Chapter 22.

Condominium Unit - One dwelling unit in a condominium building.

Construction - The combining of labor and material into any portion of a structure, on the site thereof.

Construction Vehicle - A vehicle, self-propelled or drawn by another vehicle, not for human transportation, the use of which is as a mechanical aid, or storage, or office, for construction.

Day Care Center - A center which provides daytime care or instruction for four (4) or more children, on a commercial basis, and operates on a regular or seasonal basis.

Density - A numerical ratio of dwelling units per unit of ground area.

Dwelling Unit - Two or more connected rooms designed and used as a single housekeeping unit for human habitation and containing facilities for sleeping, a kitchen, and one or more bathrooms, and containing at least 1000 square feet of habitable floor area.

Family - Two (2) or more persons who are related by blood or marriage living together and occupying a single housekeeping unit with single culinary facilities or a group of not more than four (4) persons living together by joint agreement and occupying a single housekeeping unit with single culinary facilities on a non-profit, cost-sharing basis. Domestic servants, employed and residing on the premises, shall be considered as part of the family.

Floor Area - The sum total of all floor areas of the several floors within a building excluding garages, unfinished basements, unfinished attics, and open decks with a finished floor not more than 12 inches above grade, measured from the exterior faces of the

exterior walls or from the center line of party walls.

Floor Area, habitable - The enclosed floor area in a building designed and usable for human habitation; for purposes of calculating habitable floor area, only 20% of enclosed porches, or 200 square feet, whichever is greater, shall be included.

Garage, Private - A building accessory to a dwelling for the storage of vehicles, tools, or other personal property owned or used by the owner or tenant of the lot; (also including "tool shed", "storage shed", or "workshop").

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

Ground Floor - The lowest floor containing habitable floor area, of any building.

Height, Building or Structure - The vertical measurement from the average finished grade abutting the structure to the highest point of the building or structure on a lot; provided however, that in calculating the height of a building or structure, its chimneys, weathervanes, spires, belfries, flagpoles, antennas, tanks, and elevator penthouses shall not be included; and further provided that whenever a building or structure is required, by the Town's "flood zone ordinance," to be constructed on pilings or columns so that the lowest floor (zone A-7) or lowest structural member (zone V-7) is one foot above the elevation of the 100-year flood, the elevation of the structure shall be measured from the elevation point of one foot (1') above the elevation of the 100 year flood rather than from the average finished grade abutting such pilings or columns.

Height, Fence, Sign - The vertical measurement of a fence or sign from the grade abutting such fence or sign to the topmost point of such fence, sign, or its supporting members.

Home Occupation - An occupation or profession which:

- a. Is commonly carried on in a dwelling or in a building or other structure accessory to a dwelling
- b. Is carried on by a member of the family residing in the dwelling with not more than one assistant
- c. Is clearly incidental and secondary to the use of the dwelling for residential purposes
- d. Maintains the residential character of the building
- e. Does not maintain a display room or area, nor maintain a permanent display of goods, store a stock and trade (other than temporary storage of goods awaiting prompt delivery to the person(s) having previously ordered them, or the sale of commodities on the premises from inventory on hand.

By way of example and not in limitation, a "home occupation" includes: Art Studio, Dressmaking, Professional Office of a physician, dentist, lawyer, engineer, architect, certified public accountant, or salesman; and solicitation of orders by the occupant of the dwelling as a representative for distribution networks such as Amway, Avon, Mary Kay, and similar products.

Kitchen - A room or area containing facilities for food preparation and refrigerated storage.

Lodging Room, Commercial - One or two connected rooms designed or used as a single unit for human habitation containing a bathroom or access thereto, and sleeping facilities, but without a kitchen, available for rent to the public.

Lot - A parcel of ground; a plot of ground.

Lot Area - The total horizontal area within the lot lines of a lot.

Lot, Corner - A lot bounded by and abutting two intersecting streets.

Lot Coverage - The horizontal land area of a lot covered by buildings expressed as a percentage of the total land area of the lot which lies landward of the DRNEC building line. For purposes of calculating lot coverage, porches, gazebos, enclosed exterior stairways, and open decks with a finished floor exceeding 12 inches above grade, shall be

included. Cornices, eaves, gutters, chimneys, unenclosed outside steps or ramps, and open decks, patios, walkways, boardwalks or driveways having a finished surface less than 12 inches above grade shall not be included.

Lot Depth - The maximum horizontal distance between the front and rear lot lines.

Lot Frontage - Any portion of a lot line contiguous with a public street.

Lot Line - The boundary line enclosing any lot.

Lot Width - The maximum horizontal distance between the side lot lines measured at the required building setback line.

Manufactured Home - A structure transportable in one or more sections, the body of which is eight feet (8') or more in width and thirty-two feet (32') or more in length, and which is built on a permanent or temporary chasis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

Marina - A place for docking and/or dry-storage of private pleasure boats and/or commercial fishing boats, head boats, charter boats and the like, including providing services to same and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, and provision of food and beverages, as accessory uses. A yacht club shall be considered as a marina, but boat docks accessory to a multiple dwelling where no boat-related services are rendered shall not be considered a marina.

Mobile Home - see "Manufactured Home".

Motor Home - see "Recreational Vehicle."

Multi-Unit Building - A building containing two or more rooms or two or more combinations of rooms which are designed or used as self-contained units independent of the other units in the same building.

Non-Conforming Building or Structure - A building or structure which does not conform to the height, yard setback, lot coverage, or minimum floor space requirements of this ordinance.

Non-Conforming Lot - A lot, which does not meet the minimum lot area and/or street frontage requirements established by this ordinance.

Non-Conforming Use - The use of a structure or lot which does not conform to the use regulations of this ordinance for the district in which it is located.

Parking Space - An area on a lot, enclosed or unenclosed, for the temporary storage of a motor vehicle, to which there is access from a public street.

Porch - A roofed or partially roofed structure, generally open or only partially enclosed, projecting from the outside wall of a building.

Recreational Vehicles, "RVs" - Any self-propelled vehicle designed or used for temporary human habitation, containing, by way of example and not in limitation, one or more of the following: sleeping facilities, food preparation facilities, and/or bathroom facilities.

Satellite Antenna - A parabolic dish antenna or similar device or equipment of whatever nature or kind, including its structural supports, anchoring fixtures, and related equipment, the primary purpose of which is to receive television, radio, microwave, or other electronic signals from space satellites.

Setback Line, Building or Structure - The interior line of the required yard space on a lot.

Single and Separate Ownership - The ownership of a lot by one or more persons which ownership is separate and distinct from that of any adjoining lot.

Special Exception - A use which is not generally appropriate throughout a zoning district but which is specified by this ordinance as a use which may be permitted by the Board of Adjustment upon a finding of specified circumstances and subject to such conditions as imposed by that Board in order to

protect the character of the district in which it is located.

Street Frontage - That portion of a lot line contiguous with a public street.

Street, Public - A public way intended for purposes of vehicular travel (including the entire area within the right-of-way) dedicated to and accepted by the Town, or which is county or state-maintained.

Structure - That which is built, assembled, or constructed from two or more separate parts joined together in some manner which has a substantially fixed location on or in the ground; an edifice or building of any kind. Structures shall include, by way of example and not in limitation, buildings, porches, gazebos, decks, fences, bulkheads, docks, satellite antennas, swimming pools, tennis courts, stationary barbeque grills, flagpoles, mailboxes, and signs.

Structural Alteration - Any change in the supporting members of a building, such as footers, bearing walls, columns, beams, roofs, girders and the like so as to enlarge such building by the extension of or addition to its height, lot coverage, or cubic volume.

Swimming Pool - Any portable pool or permanent structure containing a body of water 36 inches or more in depth, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or other similar type of pool, located and designed so as not to be used for swimming or wading.

Temporary Building or Structure - A building or structure, not for human habitation, used for and during construction, including mobile homes used for construction offices and storage, commonly referred to as "construction trailers".

Trailer - Any conveyance (enclosed or unenclosed) for the transportation and/or storage of materials, goods, or equipment, but not self-propelled and not for human habitation.

Use - The type of activity carried on or engaged in on a lot or in a building.

Variance - Permission from the Board of Adjustment for a limited variation from the dimensional requirements of this ordinance after a public hearing in accordance with the procedures and conditions set forth in this ordinance.

Yard - The required open space on any lot measured horizontally from the lot line to the building setback line, and measured vertically from the ground to the sky.

Front Yard - The required open space located in the front area of a lot.

Rear Yard - The required open space located in the rear area of a lot.

Side Yard - The required open space located in the side area of a lot.

### 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.
- 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.

4. General Provisions

- 4.1 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 and apartments shall be classified as a residential use. The sale or rental of merchandise and services and the rental of lodging rooms shall be classed as a commercial use. Rental of dwelling units and apartments shall not be considered a commercial use and shall be permitted in all residential zones.
- 4.2 One Principal Building Per Lot - Within residential districts, no more than one principal building with its customary accessory buildings may occupy or be constructed upon any lot of record.
- 4.3 Minimum Lot Coverage for Dwellings - Exclusive of any attached garage, shed, or other attached structure not used or designed for human habitation, no building containing a dwelling unit shall occupy:
- a. less than one thousand square feet of horizontal area on the ground floor, or
  - b. less than 750 square feet of horizontal area on the ground floor in a dwelling containing not less than 1,500 square feet of habitable floor area.
- For purposes of calculating minimum lot coverage under this section, no more than 20% or 200 square feet (whichever is greater) of any porch may be included.
- 4.4 Minimum Space for Habitation - All buildings or structures erected or structurally altered and used

for human habitation shall conform with the following minimum habitable floor area requirements:

- a. A dwelling unit shall have no less than one thousand (1000) square feet.
- b. An apartment shall have not less than 450 square feet nor more than 999.9 square feet.
- c. A commercial lodging room shall have no less than 200 square feet.

4.5 Accessory Buildings - All accessory buildings shall be located on the lot on which a principal building is erected or is being erected and shall be limited to two in number, including any detached garage. Accessory buildings in the R-1, R-2, R-3, or C-R zoning districts may be located in, or project into, the rear or side yard, and in the case of lots having at least 50 feet of frontage on the Delaware Bay, St. Jones or Murderkill Rivers, in, or into, the front yard; but no accessory building or projection thereof shall be less than

- (a) five (5) feet from a property line or
- (b) ten (10) feet from a county or state maintained road.

All accessory buildings shall not, in the aggregate, occupy more than thirty percent (30%) of the yard in which they are located.

A satellite antenna shall be deemed to be an accessory building, and regulated as such, with the additional requirement that any satellite antenna shall be certified by a licensed professional engineer, to be capable of withstanding winds of up to 100 mph.

#### 4.6 Fences

##### 4.6.1 Existing Fences; Beach Preservation Snow Fences.

(a) 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.

(b) Beach Preservation Snow Fences. Any snow or other similar fence authorized or allowed by the State of Delaware Department of Natural Resources and Environmental Control and designed and installed for purposes of retaining and/or accumulating sand for purposes of beach preservation shall be excluded from the scope of this ordinance.

4.6.2 New Fences. Any fence erected after the effective date of this ordinance, other than as provided in Section 4.6.1 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.

(b) A fence erected on any property within any Residential Zoning District within the Town which is contiguous to another property located in any Residential Zoning District shall not exceed four (4) feet in height in the front yard set back, five (5) feet in height in the side yard set back, or six (6) feet in height in the rear yard set back; provided that where a building containing dwelling units or apartments in any residential zone is erected on pilings, the fence in the side yard set back area may be six (6) feet in height.

(c) Where any property in any Residential District abuts a property in any Commercial District, a fence up to six (6) feet in height may be erected on either property down or along their common property line.

(d) A fence erected on any property located within any Commercial Zoning District which is contiguous to another property located within any Commercial Zoning District shall not exceed six (6) feet in height.

(e) For purposes of this §4.6, bulkheads, retaining walls, recreational enclosures, and

dense plantings for screening purposes shall be considered "fences."

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

(g) For purposes of measuring the height of fences, measurements shall be from finished grade abutting the fence to the top most point of the fence.

4.7 Manufactured Homes/Mobile Homes - No manufactured home or mobile home shall be permitted within the Town of Bowers unless:

4.7.1 Such unit is securely attached and firmly anchored to a permanent foundation consisting of:

(a) Concrete piers with a depth below grade of not less than 24" properly installed in accordance with the manufacturer's specifications and to the standards of any applicable Federal regulations adopted pursuant to the "National Manufactured Housing Construction and Safety Act of 1974" as amended ("NMHCSSA") and

(b) A concrete block foundation running the entire perimeter of the unit, with a depth below grade of not less than 24 inches (24"), and

4.7.2 Such manufactured home meets the standards established by federal regulations adopted pursuant to the "NMHCSSA" for either:

(a) A "modular home" as defined at 24 C.F.R. 3282.12 (or any future corresponding federal regulation) or

(b) Displays a certification label as required by 24 C.F.R. 3280.8 (or any future corresponding federal regulation) and is designated as "Designed for Hurricane Zone" under 24 C.F.R. §3280.303 (d) (or any future corresponding federal regulation) in accordance with standards adopted by the U.S. Department of Housing and

Urban Development for coastal areas in accordance with 24 C.F.R. 3280.305(c)(2) or any future corresponding federal regulation; and

4.7.3 Such unit meets the minimum habitable floor area requirements and minimum lot coverage requirements for dwelling units as set forth in §§ 4.3 and 4.4 of this ordinance.

4.8 Reduction in Lot Area - Subject to the provisions of this Ordinance governing non-conforming lots, no lot of record whether created by the subdivision of an existing lot, or by the subdivision of acreage, shall have an area less than that required for the district in which it exists.

4.9 Lots Fronting on Two or More Streets - For purposes of determining whether or not a lot meets minimum street frontage requirements, the street frontage on each side of the lot shall be viewed independently of street frontage on any other side of the lot; a lot shall meet the minimum street frontage requirement on at least one side. Any lot having street frontage on two or more streets shall be required to provide frontyard setbacks from each street in accordance with the standards for that zoning district; provided however, that the front yard setback on the long side(s) of any such lot may be reduced by not less than ten (10') feet each.

#### 4.10 Street Access

4.10.1 Subject to the provisions of this Ordinance governing non-conforming lots, no building shall be constructed on any lot which does not have the required minimum frontage on a public street.

4.10.2 Notwithstanding the requirements of subsection 4.10.1 of this section, a building or buildings may be constructed on a lot or lots that do not have frontage on a public street provided that:

(a) the street is not a through-street;

(b) there are no more than four (4) building permits issued for lots fronting the street;

(c) all State Fire Marshall regulations are complied with;

(d) each lot fronting the street shall be subject to a deed restriction. The owner and/or developer shall pay for the preparation of the legal document necessary to impose restrictive covenants on all lands subject to this subsection, have same approved by the town solicitor and the town council and record the same in the recorder of deeds office for the county. Restrictive covenants shall provide that:

(1) all lots fronting on the private street shall be subject to the restrictive covenants;

(2) the owner(s) of all lots fronting on the private street shall share in the equitable costs of maintaining the private street in accordance with the provisions of all deed restrictions and maintenance agreements, plan notes, or any other procedures established by the owner(s) of the lots;

(3) the Town is not responsible for any maintenance of the private street;

(4) the owner(s) of the lots fronting the street do agree to waive any claims and to indemnify, defend and hold harmless the Town and all employees and officers of the Town from any and all liability from any claims, action, judgments, any personal expenses or costs arising from and related to the private road;

(5) notwithstanding any other provision of this Ordinance, in the event the owner(s) of the lots fronting the street fail to maintain the street in accordance with the recorded plans or the requirements of recorded restrictions, the town, following reasonable notice may:

(a) Demand that the deficiency of maintenance be corrected; or

(b) Enter upon the private street to maintain same. The town shall have the right to perform or have performed the work itself and assess each property owner a fee to recover the cost. This money will be recovered during the normal real estate tax process as a special assessment to these lot owners;

(e) all other requirements of the Zoning Ordinance must be satisfied, including the minimum frontage requirements of subsection 4.10.1 of this section.

4.10.3 All alleys and private ways shall be connected directly to one or more public streets.

4.11 Interference with Traffic Control Devices - No temporary or permanent sign, structure, tree, planting, or vehicle shall protrude from any property, create confusion around, obstruct vision, or otherwise interfere with any traffic control device, sign, or signal.

4.12 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 fifteen (15) feet of the intersection of the right-of-way lines of two (2) streets.

- 4.13 Public Utility Structures, Facilities and Equipment - Public utility structures, facilities and equipment shall be permitted in any district by, and subject to the terms of, a Special Exception granted by the Board of Adjustment.
- 4.14 Public Property Construction - Materials, methods of construction, hours, and times for construction for the Town of Bowers or conducted on public property shall be under the direct control and supervision of the Town Council.
- 4.15 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 done shall be permitted, but shall be removed from the property upon completion or cessation of construction.
- 4.16 Parking or Storage of Construction Vehicles - Construction vehicles may be parked or stored subject to the following conditions:
- 4.16.1 Non-selfpropelled vehicles shall be kept at all times on the property on which construction is being done.
- 4.16.2 At times other than permitted construction hours, selfpropelled vehicles shall be kept on the property on which construction is being done.
- 4.17 Trailers; Recreational Vehicles; Motor Homes and Boats - No trailer, recreational vehicle, motor home or boat shall be parked, placed, stored, or maintained on any public road, street, or other public property for a period of time exceeding thirty (30) minutes; excepting herefrom, parking and storage of same on approved parking areas owned and designated as such by the State of Delaware.
- 4.18 Restoration or Removal of Damaged or Destroyed Building or Structure - Any building or structure which is destroyed or damaged by fire, explosion, natural catastrophe, or act of God, to the extent

that, in the judgement of the Zoning Compliance Officer, the building or structure is non-habitable or constitutes a hazard to public health, life, or safety shall be removed from the premises or restoration and repairs begun within one hundred and eighty (180) days of the date of destruction, or damage.

- 4.19 Prohibited Uses. No use shall be permitted on any lot within three hundred feet (300') of any residential district which is obnoxious or offensive by reason of odor, dust, vibration, illumination or noise, or which constitutes a public hazard.
- 4.20 Uses Not Permitted Are Prohibited. For the purpose of this Ordinance, permitted uses are listed for the various districts. Unless the contrary is clear from the context of the lists or other regulations of this Ordinance, uses not specifically listed are prohibited.
- 4.21 Tables Are Part of This Ordinance. Height, area, yard and bulk regulations applicable to each district are contained in a chart or table in Section 21. That table, and all of the notations and requirements which are shown in it or which accompany it, shall be a part of these regulations and have the same force and effect as if all of the notations and requirements were fully set forth or described herein. In general, the regulations applicable to a particular district are contained in the table to the right of the district name and between the same sets of horizontal lines which include the district name. The regulations contained in the tables are supplemented or modified by regulations contained in other Sections of this Ordinance.

5. Establishment of Districts; Zoning Map

- 5.1 Establishment of Districts - The Town of Bowers is hereby divided into the following five zoning districts:

R-1 Residential  
R-2 Residential  
R-3 Residential-Townhouse  
C-R Commercial/Residential  
R-C Riverfront/Commercial  
C-A Conservation/Agriculture

5.2 Official Zoning Map - The above districts are bounded and defined as shown on the map entitled "Zoning Map of the Town of Bowers, Kent County, Delaware" dated September 9, 1994. The Official Zoning Map shall be identified by the signature of the Mayor and Town Council members and shall bear the following words: "Approved and adopted by the Town Council of the Town of Bowers, on the 8th day of September, 1994".

Said map and all notations, data, and explanatory matter thereon is hereby incorporated by reference into this ordinance and will hereafter be referred to as the "Zoning Map". The Town Zoning Map shall be retained by the Town Solicitor and copies made available to the public for a reasonable fee.

5.3 Determining District Boundaries - Where uncertainty exists with respect to the boundaries of any of the districts shown on the Zoning Map, the following rules shall apply:

5.3.1 Where district lines are indicated as being in close proximity to and following the center or right-of-way lines of streets, such center lines or right-of-way lines shall be construed as the district boundary.

5.3.2 Where district lines are indicated as being in close proximity to and approximately following lot lines, said lot lines shall be construed to be the district boundary.

5.3.3 Where district boundaries are indicated as being in close proximity to and following the center or edge of a natural feature (such as a river or creek), the center or edge of the natural feature shall be construed to be the district boundary.

5.3.4 Where district boundaries do not follow the lines of any street, lot, or natural feature, unless dimensioned or otherwise clearly indicated, they shall be determined by use of the scale on the Zoning Map.

5.4 Boundary Tolerance - Where a district boundary line divides a lot held in single and separate ownership at the effective date of this Ordinance, the use of regulations applicable to the less restricted

district shall extend over the portion of the lot in the more restricted district a distance of not more than fifty (50) feet beyond the district boundary line.

- 5.5 Zoning Map Amendments – If, in accordance with the provisions of this ordinance and the laws of the State of Delaware, changes are made in the zoning district boundaries, such changes shall promptly be made on the official Zoning map by the Town Council.

The amending ordinance shall provide that such change or amendment shall not become effective until it has been duly entered on the Official Zoning Map and shall require that Public Notice of the change be published in the newspaper of general circulation in the Town within 30 days of the date of such amendment; provided that failure to publish such notice shall not invalidate the amendment.

- 5.6 Annexation – In the event that any additional lands are hereafter annexed into the Town, such lands shall come into the Town as "C/A - Conservation/ Agriculture" and shall remain such until re-zoned in accordance with the procedures established in this ordinance and by state statute ***with the following exception: Lands under ownership as of October 16, 2009 that are divided by the Town Line where a portion of a lot is within the Town limits and a portion of the same lot is outside of the Town limits may come into the Town as the same zoning classification within which the portion of the lot within the Town boundaries exists provided that district is "Residential R-1" or "Residential R-2". Amended ZOA-2009-12-10-01.***

- 5.7 Replacement of Official Zoning Map

- (a) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and/or additions thereon, the Town Council may, by resolution, adopt a duplicate of the then-current Official Zoning Map which shall supersede the prior Official Zoning Map.
- (b) The new Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Secretary and shall bear the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the Town of Bowers, Delaware."

- 5.8 Controlling Map. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the

office of the Town Solicitor shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the Town.

6. R-1 Residential

6.1 Purpose. The purpose of this district is to provide primarily for low-density single family residential development on smaller lots and to allow, only by special exception, a limited number of other uses which will blend with and support the single family residential nature of the district.

6.2 Uses Permitted - The following are permitted in the R-1 Residential District:

6.2.1 - Single-family detached one-dwelling unit buildings, including manufactured or mobile homes meeting the standards of §4.7.

6.3 Uses Permitted When Authorized As A Special Exception by the Board of Adjustment

6.3.1 - Two-dwelling unit and three-dwelling unit buildings.

6.3.2 - Day-Care Centers

6.3.3 - Churches, Synagogues, places of worship

6.3.4 - Public utility facilities, fixtures, structures or equipment

6.3.5 - Non-commercial parks, playgrounds, or recreational areas, including by way of example and not in limitation, tennis courts, basketball courts, racquetball courts, soccer, softball, and football fields, and playground equipment.

6.3.6 - Clubs or lodges organized for fraternal or social purposes, provided that: (1) the chief activity shall not be one which is customarily carried on as a business and (2) the buildings and services shall be for the exclusive use of members and their guests.

6.3.7 - Private educational institutions.

- 6.3.8 - Public libraries.
- 6.3.9 - Municipal buildings, facilities, or structures.
- 6.3.10 - Firehouse, including associated parking areas, fund-raising, and community hall activities on-site or on adjoining site.
- 6.3.11 - Ambulance or paramedic station.
- 6.3.12 - Rental of dock space or boat slips for private pleasure boats, but not for commercial boats.
- 6.4 Accessory Uses, Buildings, Structures - The following are permitted provided that they are subordinate and accessory to the principal building or use on the same lot and incidental thereto:
  - 6.4.1 - Fences and bulkheads (subject to the provisions of §4.6 of this ordinance)
  - 6.4.2 - Decks, boardwalks, docks
  - 6.4.3 - Gazebos, stationary barbecue grills
  - 6.4.4 - Private garage
  - 6.4.5 - Private storage shed or workshop for tools, gardening equipment, bicycles, small boats or recreational equipment.
  - 6.4.6 - Swimming Pools, Tennis Courts
  - 6.4.7 - Flagpoles, Mailboxes
  - 6.4.8 - Home-occupation located in a dwelling in which the practitioner resides, or in a building accessory thereto.
  - 6.4.9 - Open storage of boat trailer, camp trailer, recreational vehicle, motor home, or boat, and provided it is not used for living purposes while so parked or stored; and not exceeding two such trailers or vehicles or any combination thereof on any one lot at any one time (provided that where a boat is stored on a boat trailer the

boat and trailer shall be counted together as one unit).

6.4.10 - Signs as permitted in §13 of this ordinance.

6.4.11 - Satellite antennas.

#### 6.5 Lot Frontage, Area, and Coverage

6.5.1 - Lot Frontage - The minimum street frontage shall be 50 feet per dwelling unit, subject to the provisions of §4.9 regarding lots having frontage on more than one street.

6.5.2 - Lot Area - The minimum lot area shall be 5000 square feet per dwelling unit.

6.5.3 - Lot Coverage - The maximum lot coverage shall be 40%. (see definition of "lot coverage") For minimum lot coverage, see §4.3.

#### 6.6 Height Limitations

6.6.1 - The maximum height for principal buildings shall be 35 feet.

6.6.2 - The maximum height for accessory buildings shall be 12 feet, excepting private garages which shall not exceed 20 feet.

#### 6.7 Yard Setbacks

6.7.1 - Front Yard - There shall be a front yard setback from each street on which a lot abuts of not less than twenty (20) feet; provided however that the front yard on the long side of a corner lot may be reduced to a depth of not less than ten (10) feet. The front yard setback shall be measured from the right-of-way line of the street(s) abutting such lot.

6.7.2 - Side Yard - There shall be two (2) side yards on each lot, each of which shall not be less than eight (8) feet.

6.7.3 - Rear Yard - There shall be a rear yard on each lot which shall be not less than fifteen (15) feet in depth.

### 7. R-2 Residential

- 7.1 Purpose of District - The purpose of this district is to provide for the same types of uses as permitted in the R-1 District but upon larger lots. The R-2 district is intended for existing largely-undeveloped areas within the existing municipal limits and undeveloped areas subsequently annexed into the Town, as well as those developed areas within the existing municipal limits which, as of the effective date of this ordinance consisted predominantly of lots with 75 feet or more of street frontage or of contiguous sub-75-foot frontage lots held in single ownership so as, together, to meet or exceed the 75 foot street frontage requirements.
- 7.2 Uses Permitted - Uses permitted in the R-2 residential district shall be the same as in the R-1 residential district.
- 7.3 Uses Permitted When Authorized as a Special Exception by the Board of Adjustment - Uses permitted in the R-2 residential district as a special exception by the Board of Adjustment shall be the same as those in the R-1 district.
- 7.4 Accessory Uses, Buildings, Structures - Accessory uses, buildings, and structures permitted in the R-2 district shall be the same as those permitted in the R-1 district.
- 7.5 Street Frontage, Area, and Coverage
- 7.5.1 - Street Frontage - Street frontage shall be 75 feet per dwelling unit, subject to the provisions of §4.9 regarding lots having frontage on more than one street.
- 7.5.2 - Area - The minimum lot area shall be 7500 square feet per dwelling unit.
- 7.5.3 - Lot Coverage - The maximum permitted lot coverage shall be 40%. (See definition of "lot coverage"). For minimum lot coverage see §4.3.
- 7.6 Height Limitations
- 7.6.1 - The maximum height limitation for principal buildings shall be 35 feet.
- 7.6.2 - The maximum height for accessory buildings shall be 12 feet, excepting private garages which shall not exceed 20 feet.

7.7 Yard Set Backs - Yard setbacks shall be the same as required in the R-1 district.

8. R-3 Residential-Townhouse

8.1 Purpose. The purpose of the R-3 Residential-Townhouse District is to provide for higher-density residential uses such as apartment buildings, townhouses, condominiums, and other multi-unit buildings. Because the Town Council has determined that the Town is incapable of and unsuitable for dense residential development, the R-3 district shall be limited predominantly to those areas of the Town already developed at such higher densities as of the effective date of this ordinance (9/09/94).

8.2 Uses - Permitted. Attached or semi-detached:

8.2.1 - Multi-Dwelling Unit Buildings

8.2.2 - Condominiums

8.2.3 - Apartment Buildings

8.2.4 - Townhouses

8.3 Uses Permitted When Authorized as a Special Exception by the Board of Adjustment.

8.3.1 - Public Utility Facilities, Fixtures, Structures or Equipment.

8.3.2 - Non-commercial parks, playgrounds, or recreational areas, including by way of example and not in limitation, tennis courts, basketball courts, racquetball courts, soccer, softball, and football fields, and playground equipment.

8.3.3 - Rental of dock space or boat slips for private pleasure boats, but not for commercial boats.

8.4 - Accessory Uses, Buildings, Structures - The following are permitted provided that they are subordinate and accessory to the principal building or use on the same lot and incidental thereto:

8.4.1 - Fences and bulkheads (subject to the provisions of §4.6 of this ordinance)

- 8.4.2 - Decks, boardwalks, docks
- 8.4.3 - Gazebos, stationary barbecue grills
- 8.4.4 - Private garage
- 8.4.5 - Private storage shed or workshop for tools, gardening equipment, bicycles, small boats or recreational equipment.
- 8.4.6 - Swimming Pools, Tennis Courts
- 8.4.7 - Flagpoles, Mailboxes
- 8.4.8 - Signs as permitted in §13 of this ordinance.
- 8.4.9 - Satellite antennas

8.5 Street Frontage, Lot Area, Lot Coverage

- 8.5.1 - Lot Frontage - The minimum street frontage shall be 20 feet per dwelling unit, subject to the provisions of §4.9 regarding lots having frontage on more than one street.
- 8.5.2 - Lot Area - The minimum lot area shall be 1,800 square feet per dwelling unit or 1,500 square feet per apartment in the case of an apartment building.
- 8.5.3 - Lot Coverage - The maximum lot coverage shall be 60%. (see definition of "lot coverage"). For minimum lot coverage, see §4.3.

8.6 Height Limitations

- 8.6.1 - The maximum height for principal buildings shall be 35 feet.
- 8.6.2 - The maximum height for accessory buildings shall be 12 feet, excepting private garages which shall not exceed 20 feet.

8.7 Yard Setbacks

- 8.7.1 - Front Yard - There shall be a front yard setback from each street on which a lot abuts of not less than twenty (20) feet; provided however that the front yard on the long side of a corner lot may be reduced to a depth of not

less than ten (10) feet. The front yard setback shall be measured from the right-of-way line of the street(s) abutting such lot.

8.7.2 -Side Yard - No side yard setback shall be required.

8.7.3 -Rear Yard - There shall be a rear yard on each lot which shall not be less than fifteen (15) feet in depth.

9. C-R - Commercial-Residential.

9.1 The purpose of the district is to provide for a variety of light commercial uses which are consistent with the Town's essential character as a primarily residential fishing village and seasonal resort/recreational community and which will serve the immediate needs of the community, giving due recognition to the major commercial establishments and business communities in the nearby cities of Milford and Dover.

9.2 Uses Permitted

9.2.1 Any use permitted in the R-1 or R-2 districts.

9.2.2 Apartments, Apartment Buildings.

9.2.3 Retail convenience store, including sales of groceries and alcoholic liquors; sales of boats, boat parts, and accessories; bait and tackle shops

9.2.4 Public parking lot for automobiles; public garage.

9.2.5 Sandwich shop, Cafe, Luncheonette, Restaurant; establishments selling alcoholic beverages for on-premises consumption.

9.2.6 Offices for medical doctors, dentists, optometrists or the like, including private clinics

9.2.7 Laundromat containing not more than twelve washers and twelve dryers.

9.2.8 Business offices (e.g. real estate, insurance, accountants, engineers, lawyers, salesmen)

- 9.2.9 Commercial Lodging Rooms in a building the principle use of which is permitted under §§9.2.1 through 9.2.8 above.
- 9.2.10 Public storage for boats and boat trailers.
- 9.2.11 Places of amusement, recreation, or assembly, other than theaters, when conducted completely within a building (e.g. video arcade, pool hall, dance hall).
- 9.2.12 Municipal buildings, facilities or structures.
- 9.2.13 Firehouse, including associated parking areas, fundraising or community hall activities on site or on an abutting site.
- 9.2.14 Ambulance or paramedic station
- 9.2.15 Roadside stand for the sale of farm products
- 9.3 Uses Permitted as Special Exception by Board of Adjustment
  - 9.3.1 Public utility facilities, fixtures, or equipment.
  - 9.3.2 Gas stations, including sales of gasoline, oil and/or service or repairs.
- 9.4 Accessory Uses - The following are permitted provided they are subordinate and accessory to the principal building or use on the same lot and incidental thereto:
  - 9.4.1 Fences and bulkheads, subject to the provisions of §4.6 of this ordinance.
  - 9.4.2 Decks, boardwalks, docks
  - 9.4.3 Storage sheds or buildings.
  - 9.4.4 Signs as permitted in §13 of this ordinance.
- 9.5 Lot Frontage, Area, and Coverage
  - 9.5.1 Lot Frontage.

- a. Commercial Use Only - The minimum street frontage shall be 75 feet per lot;
- b. Residential Use - Any lot in the Commercial District upon which one or more dwelling units is situate shall require a minimum street frontage of fifty feet (50') per dwelling unit, subject to the provisions of §4.9 regarding lots having frontage on two or more streets.

9.5.2 Lot Area.

- a. Commercial Use Only - The minimum lot area shall be 7,500 square feet per lot.
- b. Residential Use - Any lot in the Commercial District upon which one or more dwellings is situate shall require an area of five thousand square feet (5,000 sq. ft.) per dwelling unit.

9.5.3 Lot Coverage.

- a. Commercial Use - The maximum lot coverage shall be sixty per cent (60%).
- b. Residential Use - Any lot in the Commercial District upon which is situate one or more dwellings shall not exceed forty per cent (40%) lot coverage

9.6 Height Limitations.

- 9.6.1 - The maximum height for principal buildings shall be thirty five feet (35').
- 9.6.2 - The maximum height for all accessory buildings shall be twenty feet (20').

9.7 Yard Setbacks.

9.7.1 Commercial Uses

- a. Front Yard - There shall be a front yard setback from each street on which a lot abuts of not less than fifteen feet (15'); The front yard setback shall be measured from the right-of-way line(s) of the street(s) abutting such lot.
- b. Side Yards - None required, except where abutting Residential District or lot in Commercial District upon which one or more dwelling units

is situate, in which case a ten foot (10') side yard is required.

- c. Rear Yard - There shall be a rear yard setback on each lot of not less than twenty five feet (25').

9.7.2 Residential Uses. Any lot in the Commercial District upon which is situate one or more dwelling units shall require the following yard setbacks:

- a. Front Yard - There shall be a front yard setback from each street on which a lot abuts of not less than twenty feet (20'), provided however that the long side on a corner lot may be reduced to a depth of not less than ten feet (10'). The front yard setback shall be measured from the right-of-way line of the street(s) abutting such lot.
- b. Side Yard - There shall be two (2) side yards on each lot, each of which shall not be less than eight feet (8').
- c. Rear Yard - There shall be a rear yard on each lot which shall be not less than fifteen feet (15').

10. R-C Riverfront/Commercial.

10.1 Purpose of District. The purpose of this district is to both:

- a. provide for a variety of light commercial uses to serve the immediate needs of the community, giving due recognition to the major commercial establishments and business communities in the nearby cities of Milford and Dover, and
- b. make special provision for uses consistent with the Town's essential character as a bayfront fishing and seasonal resort/recreational community on small parcels of land, which, for the most part, have been long developed and used for such purposes.

10.2 Uses Permitted

10.2.1 Single Family Dwellings.

- 10.2.2 Apartments, Apartment Buildings.
  - 10.2.3 Retail convenience store, including sales of groceries and alcoholic liquors; sales of boats, boat parts, and accessories; bait and tackle shops.
  - 10.2.4 Public parking lot for automobiles.
  - 10.2.5 Sandwich shop, Cafe, Luncheonette, Restaurant; establishments selling alcoholic beverages for on-premises consumption.
  - 10.2.6 Laundromat containing not more than twelve washers and twelve dryers.
  - 10.2.7 Commercial Lodging Rooms in a building the principle use of which is permitted under §§10.2.1 through 10.2.6 above.
  - 10.2.8 Public storage for boats and boat trailers.
  - 10.2.9 Marinas, wharfs, boat docks, slips, and other facilities for both private pleasure boats and commercial fishing boats, charter boats, head boats, and the like.
  - 10.2.10 Boat yards.
  - 10.2.11 Places of amusement, recreation, or assembly, other than theaters, when conducted completely within a building (e.g. video arcade, pool hall, dance hall).
  - 10.2.12 Municipal buildings, facilities or structures.
  - 10.2.13 Ambulance or paramedic station.
  - 10.2.14 Buildings and facilities for the U.S. Coast Guard, Delaware Marine Police, and other similar rescue and marine law enforcement organizations and activities.
- 10.3 Uses Permitted as Special Exception by Board of Adjustment
- 10.3.1 Public utility facilities, fixtures, or equipment.

10.3.2 Gas stations, including sales of gasoline, oil and/or service or repairs.

10.4 Accessory Uses - The following are permitted provided they are subordinate and accessory to the principal building or use on the same lot and incidental thereto:

10.4.1 Fences and bulkheads, subject to the provisions of §4.6 of this ordinance.

10.4.2 Decks, boardwalks, docks

10.4.3 Storage sheds or buildings.

10.4.4 Signs as permitted in §13 of this ordinance.

10.5 Lot Frontage, Area, and Coverage

10.5.1 Lot Frontage. - The minimum lot frontage shall be 50 feet per lot.

10.5.2 Lot Area. The minimum lot area shall be 1,250 square feet per lot.

10.5.3 Lot Coverage. The maximum lot coverage shall be one hundred percent (100%).

10.6 Height Limitations.

10.6.1- The maximum height for principal buildings shall be thirty five feet (35').

10.6.2- The maximum height for all accessory buildings shall be twenty feet (20').

10.7 Yard Setbacks.

10.7.1- Front Yard - The minimum front yard setback shall be zero feet from the front property line, but in no event less than 5 feet from the travelled portion of any public or private road.

10.7.2- Side Yards - The minimum side yard setback shall be five (5) feet on each side.

10.7.3- Rear Yard - The minimum rear yard setback shall be zero (0) feet.

10.7.4- Sections 10.7.1 through 10.7.3 notwithstanding, no building or structure shall be erected within five (5) feet of the right-of-way line of any state or county road.

11. C/A Conservation - Agriculture

11.1 Purpose of District. The purpose of this district is to permanently preserve the Town's wetlands, wildlife areas and areas of special environmental quality, recreation potential, natural beauty, ecological importance, and areas needing special protection from erosion and pollution, to protect flood plains from inappropriate development, and where appropriate, to encourage agricultural use of productive soils.

11.2 Uses Permitted

11.2.1 Fish Hatchery and/or Fish Farm

11.2.2 Commercial Trapping

11.2.3 Game and wildlife preserve; nature trails

11.2.4 On parcels of not less than three (3) acres, the keeping of large or small animals, reptiles, fish, birds (not including poultry flocks larger than 300 birds) and insects; and cultivation of field crops, orchards, groves, or nurseries for growing plants, turf, trees, and shrubs.

11.2.5 On parcels of not less than five (5) acres, agriculture, including general farming, dairy farming, truck gardens, cultivation of field crops, orchards, groves, or nurseries for growing plants, turf, trees, and shrubs; and the keeping of large or small animals, reptiles, fish, insects, or birds (not including poultry flocks larger than 1,000 birds).

11.2.6 Recreational uses and facilities commercially operated or for a private membership such as camping areas, picnic grounds, fishing or boating, archery range, and similar activities.

11.2.7 Tree Farm

11.3 Uses Permitted When Authorized As a Special Exception By Board of Adjustment

11.3.1 Seasonal sale of fruits and vegetables not grown on the premises but not permanent commercial markets, groceries, or similar operations.

11.3.2 Radio or television transmission or receiving station or tower, not exceeding sixty feet (60') in height.

11.3.3 Public utility facilities, fixtures, structures or equipment.

11.3.4 Storage of hay, grain and feed.

11.3.5 Storage of boats, boat trailers, and recreational vehicles, campers, vans.

11.3.6 Windmills, not exceeding sixty feet (60') in height.

11.4 Accessory Uses, Buildings, Structures

11.4.1 Fences, barns, livestock sheds, stables.

11.4.2 Structures for storage of feed for animals kept on the property.

11.4.3 Structures for storage of tools, farm equipment, and agricultural supplies for use on that premises.

11.4.4 Docks, wharves, boat slips for private pleasure boats owned by the property owner only.

11.4.5 Bulkheads; Boardwalks; docks for private use only.

11.4.6 Flagpoles, mailboxes.

11.5 Street Frontage, Area, Coverage

11.5.1 Street Frontage - none required.

11.5.2 Lot Area - The minimum lot area shall be two (2) acres.

11.5.3 Lot Coverage - not applicable.

11.6 Height Limitation - The maximum height for any building or structure, excepting windmills and radio or television towers, shall be thirty five feet (35').

11.7 Yard Setbacks

11.7.1 Front Yard - One hundred feet (100') from each street on which a lot abuts.

11.7.2 Side Yard - One hundred feet (100') on each side.

11.7.3 Rear Yard - Fifty feet (50').

12. Non-Conforming Uses, Lots, Buildings, and Structures

12.1 Non-Conforming Uses

12.1.1 Continuation - Any lawful use of a building, structure, or land existing at the effective date of this ordinance may be continued although such use does not conform to the provisions of this ordinance.

12.1.2 Extension

- a. Land. The non-conforming use of unimproved land may be extended up to fifty per cent (50%) of the land area occupied by such use as of the effective date of this ordinance if approved by the Board of Adjustment as a special exception provided that such extension or enlargement is immediately adjacent to the existing non-conforming use and conforms to the dimensional requirements for the district in which it is situate.
- b. Buildings, Structures. The non-conforming use of a building or structure may be extended within the interior of such building or structure if approved by the Board of Adjustment as a special exception; and provided that neither the exterior dimensions (height, length, width), lot coverage, or cubic volume of the building or structure is increased, and that such extension meets all other dimensional and supplementary requirements of this ordinance for either the district in which it is located or the type of use involved, whichever is more restrictive (e.g. off-street parking, signs, yard space).

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

12.1.4 Restoration.

(a) No building or structure containing a non-conforming use which building or structure is wholly or substantially destroyed by voluntary demolition shall be restored or reconstructed and used except in compliance with the use provisions of the district in which it is located. For purposes of this paragraph, the gradual replacement of 50% or more of the structural members of the building or structure within any 24 consecutive months shall be prohibited unless the use is in compliance with the regulations of the district.

(b) A building or structure containing a non-conforming use wholly or partially destroyed by fire, explosion, flood, tide, windstorm or other Act of God, may be reconstructed and used for the same non-conforming use, provided that reconstruction shall be commenced within six (6) months from the date the building was destroyed and shall be carried on without interruption to completion within one year of commencement.

(c) Anything in the ordinance to the contrary notwithstanding, any mobile home, "house trailer", or manufactured home lawfully existing in any district in the Town limits as a non-conforming use as of the effective date of this ordinance may be removed and replaced by a modular or "stick-built" single-family dwelling unit on such lot provided that the degree of dimensional non-conformity is not increased unless a variance is first obtained from the Town Board of Adjustment.

12.1.5 Abandonment. If a non-conforming use of a building or land is voluntarily abandoned and ceases for a continuous period of one (1) year or more, subsequent use of such land or building

shall be in conformity with the provisions of this Ordinance.

The casual, intermittent, temporary, or illegal use of land or buildings shall not be sufficient to establish the existence of a non-conforming use, and the existence of a non-conforming use on a part of a lot shall not be construed to establish a non-conforming use on the entire lot.

## 12.2 Non-Conforming Buildings, Structures

12.2.1 Continuation. Any building or structure lawfully existing as of the effective date of this ordinance may be continued although such building or structure does not conform to the height, yard setback, lot coverage, or minimum habitable area requirements of this ordinance.

12.2.2 Extension. Any non-conforming building or structure may be enlarged or extended provided that such extension or enlargement complies with the height, yard setback and lot coverage provisions of this ordinance.

### 12.2.3 Restoration.

(a) No non-conforming building or structure which is wholly or substantially destroyed by voluntary demolition shall be restored or reconstructed except in compliance with the height, yard setback, and lot coverage requirements of this ordinance. For purposes of this subparagraph the gradual replacement of 50% or more of the structural members of a building or structure within any 24 consecutive months shall be prohibited unless in compliance with the height, yard setback, lot coverage requirements, and minimum habitable area requirements of this ordinance.

(b) Any non-conforming building or structure which is wholly or substantially destroyed by fire, explosion, flood, windstorm, tide, or other Act of God (to the point where it is not economically feasible to repair) may be replaced or reconstructed in the same location and dimensions as the building or structure existed just previous to its destruction, provided that reconstruction shall be commenced within six (6) months from the date of destruction and carried

on without interruption to completion within one year of commencement. Such reconstruction shall not increase the previous degree of dimensional non-conformity in any way.

12.3 Non-Conforming Lots

12.3.1 Any lot which is not of the required minimum street frontage or area, or is of such dimensions that the owner would have difficulty providing the required open spaces, may be utilized for a single family detached dwelling and permitted accessory uses if:

a. such lot was held in single and separate ownership as of September 9, 1994 or

b. As of September 9, 1994, such lot and any contiguous lot not held in single and separate ownership have characteristics or features which significantly preclude their being "merged" to meet the lot area or street frontage requirements of this ordinance. By way of illustration and not in limitation, the following are examples of characteristics or features which would permit contiguous non-conforming lots held by the same identical owner to be treated as separate non-conforming lots: a valid enforceable easement in favor of a third party separating the two existing lots; existing detached buildings containing dwelling units or commercial uses on each of the contiguous non-conforming lots; significant differences in natural features, elevations, or contours such that such contiguous non-conforming lots could not, as practical matter, be merged and utilized as one lot.

12.3.2 Approval by Board of Adjustment. Where any single family structure or accessory use is constructed on any non-conforming lot as permitted under §12.3.1 above, Board of Adjustment approval shall be required only where such construction or alteration will not meet the requirements of this ordinance for height, yard setbacks, or lot coverage.

13. Signs

- 13.1 Compliance. Any sign hereafter erected shall conform with the provisions of this Ordinance and any other pertinent Ordinance or regulation of the Town of Bowers.
- 13.2 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 three years, at the expiration of which time such sign shall either be made to conform or shall be removed.
- 13.3 General Restrictions. The following restrictions shall apply to all permitted sign uses:
- 13.3.1 No sign shall be placed in such a position that it will cause danger to traffic on a public street by obscuring the view.
- 13.3.2 No sign other than official traffic signs shall be erected within the lines of any street unless specifically authorized by other ordinances of the Town of Bowers.
- 13.3.3 No sign shall be of the flashing, revolving, animated, moving, or sound-accompanied type.
- 13.4 Use and Location Regulations. The following types of signs and no other shall be permitted:
- 13.4.1 Official traffic signs.
- 13.4.2 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.
- 13.4.3 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 side of any such sign shall not exceed two (2) square feet.
- 13.4.4 Identification signs for churches and for clubs, lodges, farms, estates, or similar uses, provided that the area on one side of any such sign shall not exceed nine (9) square feet.

- 13.4.5 Real Estate signs including signs advertising the sale or rental of the premises, provided that the area on one side of any such sign shall not exceed nine (9) square feet.
- 13.4.6 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.
- 13.4.7 Governmental or quasi-governmental public function signs (including the Bowers Volunteer Fire Company) shall be of such dimensions and subject to such conditions, as prescribed by the Board of Adjustment.
- 13.4.8 Business signs may be erected and maintained in conjunction with a commercial use located within the Town, provided:
- (a) that the aggregate area on one side of all such signs erected on one street frontage of any one premise, shall not exceed sixty-four (64) square feet, unless authorized as a special exception by the Board of Adjustment, and
  - (b) except as provided in §13.4.9, such sign, except a directional sign, is erected only on the premises on which the use, to which the sign relates, is conducted.
  - (c) signs in the commercial 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.
- 13.4.9 Off-premises Business Signs. No business sign shall be erected or maintained within the Town that is not located on the premises on which the use to which the sign relates is conducted without the granting of a special exception by the Board of Adjustment; provided that in granting any such special exception:
- (a) the aggregate area on one side of any such sign shall not exceed 100 square feet.

(b) such sign shall not be located within the public right-of-way nor less than 10 feet from the shoulder, curb, or otherwise marked or improved edge of any road or street.

(c) no more than two off-premises signs shall be permitted within the Town limits for any one establishment, company or business; and further provided that no two off-premises signs shall be placed or erected side by side or in such close proximity as to be viewed as one sign.

(d) the applicant shall pay such license fee as established for all such signs (which fee may vary according to the square footage of such signs) as established by the Town Council by resolution or ordinance of general application.

(e) such other reasonable conditions as imposed by the Board of Adjustment.

13.4.10 "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:

(a) not exceeding one four-square foot sign per lot, in addition to any other permitted sign on such lot, and

(b) in lieu of any other permitted sign on such lot.

13.4.11 Temporary Signs, Banners. No sign or banner of a temporary nature (e.g. advertising special events, sales) shall be permitted to exceed 100 square feet on one side, nor, without special permission from the Board of Adjustment, be permitted to remain in place for more than thirty (30) days out of any calendar year.

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

13.5.1 Official signs erected by the Town of Bowers Beach.

13.5.2 Signs required by State or Federal regulations.

14. Off Street Parking

14.1 Size of Off-Street Parking. An "automobile parking space" shall have a minimum width of 8 feet and a minimum length of 18 feet.

14.2 Off-Street Parking. No new construction, or enlargement in dimensions or use of any existing building or structure, shall be permitted unless the following off-street parking requirements have been met:

14.2.1 Off-Street Parking

a. Residential single dwelling unit, multi-dwelling unit, and two (2) or more bedroom apartments, two (2) spaces per dwelling unit or apartment.

b. One (1) bedroom apartments and commercial lodging rooms: One (1) space per rental unit in addition to other normal requirements.

c. Offices, retail and personal service stores, laundromat, restaurants, cafes, sandwich shops, luncheonettes, and establishments selling alcoholic beverages for on-premises consumption: One (1) parking space for every 250 square feet of gross floor area.

d. Home Occupations in residential areas: two (2) parking spaces plus residential requirements.

e. Churches, synagogues, places of worship: one (1) parking space for every ten (10) seats.

f. Private Educational Institutions and Day Care Centers: one (1) off-street parking space for each employee.

g. Clubs or Lodges, Municipal buildings, Fire House, Ambulance or Paramedic Stations, and Public Libraries: One (1) space for each 400 square feet of gross floor area.

14.3 Submission of Plans of Required Parking. Plans and specifications for the required off-street parking must be approved by the Zoning Compliance Officer before a building permit is issued.

- 14.4 Connections to Streets and Alleys. Each required parking space shall be connected directly with a street or alley or by a driveway no less than ten (10) feet in width in Commercial Zones and eight (8) feet in Residential zones providing adequate ingress and egress for vehicles to the required off-street parking spaces.
- 14.5 Location. Where the Board of Adjustment determines that the provision of off-street parking on the same lot as the principal use is impractical, a Variance may be granted permitting the required off-street parking space to be provided on another lot within four hundred (400) feet of the subject lot's boundaries.
- 14.6 Joint Use of Off-Street Parking Areas. Nothing in this ordinance shall be construed to prevent the combined use of off-street parking and provided that the total number of spaces is not less than the requirements for each use computed separately in accordance with Section 14.2.1 of this Ordinance.
- 14.7 Continuing Obligation. Off-street parking space required by this ordinance shall be maintained for the duration of the particular use for which the building permit has been issued and for any subsequent use that requires off-street parking, in accordance with Section 14.2.1 of this Ordinance. Presently existing off-street parking facilities may not be reduced below the requirements of this Ordinance.
- 14.8 Variance. The Board of Adjustment may, upon showing of appropriate circumstances, grant a variance from the number of off-street parking spaces required by this ordinance.
15. Administration
- 15.1 Enforcement. The Town Council shall appoint a Zoning Compliance Officer to enforce the provisions of this Ordinance. It shall be the Zoning Compliance Officer's duty to:
- 15.1.1 Examine all applications for zoning compliance permits, and for certificates of zoning compliance and issue permits and certificates of zoning compliance only for construction and uses which are in accordance with the provisions of

this Ordinance; any zoning compliance permit or certificate of zoning compliance issued in violation of the provisions of this Ordinance shall be voidable by the Zoning Compliance Officer, the Board of Adjustment or by any Court of competent jurisdiction.

15.1.2 Record and file: (a) applications for zoning compliance permits and certificates of zoning compliance with any accompanying plans and documents; (b) zoning compliance permits and certificates of zoning compliance issued with notation of any specified conditions thereon.

15.1.3 Make such on-site inspections of any building, structure, or lot within the town as necessary to ensure compliance with the terms of this ordinance.

15.1.4 Make such reports as the Town Council may require.

15.2 Construction Begun or For Which Building Permit Previously Issued. Nothing herein contained shall require any change of plans for construction of an otherwise lawful use, the construction of which is started, or a permit for which is obtained before the effective date of this Ordinance and which construction is completed within one (1) year of the effective date of this Ordinance.

15.3 Requirement of Zoning Compliance Permits. A zoning compliance permit shall be required prior to the erection or structural alteration of any building, structure, or portion thereof, provided however, that nothing in this Ordinance shall require a zoning compliance permit where the out-of-pocket expense for such construction is less than \$500.00; provided however, that if required by the Kent County Building Inspector's Office, the zoning compliance officer shall issue an appropriate letter or zoning compliance permit upon request.

Application shall be made in writing on forms furnished by the Town if such forms are adopted by the Town.

15.4 Application for Zoning Compliance Permit. All applications for Zoning Compliance Permits shall be accompanied by:

- 15.4.1 the appropriate fee as set by the Town Council by resolution.
- 15.4.2 A copy of the deed, Will, or other satisfactory evidence showing the owner(s) of record of such land.
- 15.4.3 Subject to the provisions of §15.4.5, plans, in duplicate, drawn to scale, and bearing the signature and seal of a registered land surveyor, which plans shall show:
- (a) the dimensions of the lot.
  - (b) the exact size and location of any buildings or structures, including sanitary sewer lines existing on the lot; and the location of any well on the lot.
  - (c) the exact size and location of any proposed buildings, structures, additions, or structural alterations, including any proposed sanitary sewer lines and/or wells.
  - (d) the existing and intended use of each building or structure shown on the drawing.
  - (e) the number of dwelling units, apartments, or lodging rooms which the existing or proposed building(s) on the subject property are designed to accommodate.
  - (f) the height of all existing and proposed building(s) and structure(s) on the subject lot calculated in accordance with the provisions of this ordinance.
  - (g) the percentage of lot coverage after the proposed construction or structural alterations, including all data necessary to verify such calculations (e.g. total lot area, total lot area landward of DNREC building line, lot area occupied by buildings and structures).
  - (h) the location of all required off-street parking spaces.
  - (j) for all parcels having frontage on the Delaware Bay, the location of the "DNREC-building line".

15.4.4 Any other permits required under regulations adopted pursuant to the Delaware Beach Preservation Act, Wetlands Act, Subaqueous Lands Act, or any other pertinent State or Federal regulations.

15.4.5 Where the Zoning Compliance Officer reasonably concludes that the proposed construction or structural alteration is of such minor proportions or will otherwise clearly not be impacted by any one or more of the dimensional limitations of this ordinance (e.g. lot coverage, yard setbacks, height limit, DNREC building line), the Zoning Compliance Officer may, in writing, waive the requirement of certification by a registered land surveyor, and/or any of the plan data requirements specified in §15.4.3; provided however, that the risk of not providing all data, certified by a registered land surveyor, shall be on the applicant, and should any building or structure subsequently be determined to be in violation of any provision of this ordinance, it shall be no excuse that Town issued a zoning compliance permit on the basis of inadequate or incorrect information from the applicant.

15.5 Issuance of Zoning Compliance Permit.

15.5.1 Zoning Compliance permits shall be granted or refused within fifteen (15) days after all required documents and information have been filed with the Zoning Compliance Officer. No zoning compliance permit shall be issued until:

(a) the Zoning Compliance Officer has certified that the proposed building, structure, or structural alteration complies with all the provisions of this Ordinance.

(b) written approval from the appropriate government body or agency authorizing connection to the Kent County Sanitary Sewer System.

(c) where appropriate, a well permit from the Delaware Department of Natural Resources and Environmental Control has been provided to the Zoning Compliance Officer.

(e) any other permits, data, or information reasonably required by the Zoning Compliance Officer in order to ascertain that the proposed construction or structural alteration will comply with the terms of all relevant Town ordinances.

15.5.2 All applications with accompanying plans and documents shall become a public record.

15.5.3 It shall be an implied condition of every Zoning Compliance Permit issued under this ordinance, that the Zoning Compliance Officer (and other persons accompanying and assisting the Zoning Compliance Officer) shall have the right, at all reasonable times, to enter upon lands and into premises for purpose of inspecting the same for compliance with the terms of this ordinance, which right shall continue until a Certificate of Zoning Compliance has been issued.

15.6 Requirement of Certificate of Zoning Compliance. A Certificate of Zoning Compliance shall be required for any of the following: (a) occupancy and use of any building hereinafter erected or of any building for which a zoning compliance permit was obtained to perform structural alterations; (b) change in use of an existing building to a use of a different classification; (c) occupancy and use of vacant land, or change in the use of land to a use of a different classification; and (d) any change in use, or extension of, a non-conforming use. This permit shall indicate that the proposed use of such building or land is in conformity with the provisions of this Ordinance.

15.7 Issuance of Certificate of Zoning Compliance.

(a) Upon completion of the erection or structural alteration of any building or portion thereof authorized by any zoning compliance permit obtained in compliance with this Ordinance, and prior to occupancy or use, the holder of such permit shall notify the Zoning Compliance Officer of such completion. Occupancy shall not be authorized until the Zoning Compliance Officer has certified that the work has been inspected and approved as being in conformity with the provisions of this and any other applicable Town Ordinances, and has issued an certificate of zoning compliance.

(b) An application for a Certificate of Zoning Compliance shall be accompanied by an "as-built" drawing, in duplicate, drawn to scale, bearing the signature and seal of a registered land surveyor which drawings shall contain all of the information required under §15.4.3 showing the building or structure as completed; provided however, that the Zoning Compliance Officer may, in writing, waive the requirement of "as-built" drawings and/or of any of the data required under §15.4.3 under the same conditions as set forth in §15.4.5.

(c) Certificates of Zoning Compliance shall be granted or refused within ten (10) days after the Zoning Compliance Officer has been notified of the completion of the authorized construction or alteration, or, where no construction or alteration is involved, within five (5) days after receipt of written application therefor.

(d) Upon written request from the owner, the Zoning Compliance Officer shall issue a certificate of zoning compliance for any building or land existing at the time of enactment of this Ordinance, certifying, after inspection, the extent and kind of use or disposition of the buildings or land, and whether such use or disposition conforms with the provisions of this Ordinance.

Pending completion of a building or of alterations thereto, a temporary certificate of zoning compliance may be issued by the Zoning Compliance Officer for the use of part or all of the building, provided that such temporary occupancy or use would not tend in any way to jeopardize life or property. A record of all certificates of zoning compliance shall be kept on file in an office of the Town and shall be a public record.

15.8 Fees: Zoning Compliance Permit, Certificate of Zoning Compliance, Board of Adjustment Application. Each applicant for a Zoning Compliance Permit, a Certificate of Zoning Compliance, or for an appeal, special exception, or variance request to the Board of Adjustment shall, at the time of making application, pay a fee, for the cost of administration (including legal fees) and/or of advertising and mailing notices as may be required by this Ordinance, and the rules of the Board of Adjustment. Such fees shall be set forth in a

resolution adopted by the Town Council and all such fees shall be paid into the Town Treasury.

16. Board of Adjustment

16.1 Appointment. A Board of Adjustment shall be appointed by the Town Council in any manner authorized by statute.

16.2 Powers. The Board of Adjustment shall have the following powers:

16.2.1 Appeals From Decisions of the Zoning Compliance Officer. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Compliance Officer in the enforcement of this Ordinance. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as in its opinion, ought to be made.

16.2.2 Special Exceptions. To hear and decide requests for those special exceptions which are specifically enumerated in this Ordinance according to the standards set out herein and imposing such conditions thereon as are reasonably calculated to minimize any impact on adjoining and nearby properties.

16.2.3 Variances. To hear and decide requests for variances from the dimensional requirements of this ordinance where, owing to special conditions or exceptional situations, the literal interpretation of any provision of this ordinance would result in unnecessary hardship or exceptional practical difficulties to the owner of the property so that the spirit of the ordinance will be observed and substantial justice done; provided however, that no variance shall be granted unless the Board of Adjustment determines that such variance can be granted without substantial detriment to the public good and without substantially impairing the purpose and intent of this ordinance. In granting any dimensional variance, the Board of Adjustment shall be authorized to impose such reasonable conditions in relation to such variance as it

deems appropriate to minimize the impact of such variance on other nearby properties. The Board of Adjustment shall have no authority to grant variances from the use restrictions of this ordinance.

### 16.3 Meetings, Rules

16.3.1 Meetings. Meetings of the Board of Adjustment shall be held at the call of the chairman, and at such other times as the Board may determine. All meetings of the Board shall be open to the public, subject to the provisions of the Delaware Freedom of Information Act regarding Executive Sessions. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations or other official actions, all of which shall be promptly filed with the Town's records and shall be a public record. A copy of any decision on an appeal, special exception or variance shall be promptly mailed to the applicant or appellant and to any person who notifies the Board, in writing, of his desire to receive a copy of such decision and providing an address where such decision should be sent. A majority vote of the members of the Board of Adjustment present at any meeting at which a quorum is present shall be sufficient and necessary to constitute the act and decision of the Board. A majority of the entire Board of Adjustment shall constitute a quorum.

16.3.2 Rules. The Board may adopt such standing rules, not inconsistent with the provisions of this Ordinance, as it deems necessary or appropriate to carry out its responsibilities hereunder. In the event any such rules are adopted, they shall be reduced to writing and a copy of such rules shall be provided to any person upon request for such reasonable fee as set forth in the Schedule of Fees adopted by the Town Council.

### 16.4 Hearings, Oaths, Subpoenas, Public Notice

16.4.1 Any appeal from a decision of the Zoning Compliance Officer and any application for a special exception or variance shall be decided by the Board of Adjustment only after a public

hearing at which the appellant or applicant shall carry the burden of proof as to why such appeal or application should be granted. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel the attendance of witnesses as authorized by 22 Del.C. §323 (or any future corresponding provision of law).

Any party may appear in person or by agent or by attorney.

In addition to any standing rules adopted under §16.3.2 above, the Board may establish additional appropriate ad hoc rules, for the conduct of any hearing as regards reasonable limits on the total time of the hearing, the length of time and number of times any person will be permitted to speak, the prohibition of repetitive testimony or comments, and such other matters as pertain to the reasonable conduct of the hearing.

16.4.2 Scheduling Hearings; Public Notice.

a. Where any written appeal or application for a special exception or variance is received, the Chairman shall fix a reasonable date, time, and place for the hearing of such appeal. Absent compelling circumstances or the request of the applicant or appellant, a public hearing shall be held within 30 days of the date the appeal or application is received.

b. Public notice of the hearing shall be posted in at least two public places in the Town and on the property involved at least 15 days prior to the date of the public hearing. Such public notice shall also be published in a newspaper of general circulation in the Bowers area, at least 15 days before the date of the public hearing. Where the postings and publication do not occur all on the same date, the date of the last posting or publication shall control. In addition, at least 15 days before the date of the hearing, the applicant and adjoining property owners shall be sent copies of the public notice by mail. ("Adjoining property owners", for purposes of this paragraph, means properties contiguous to the 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.) Such public notices shall state:

1. The date, time, and place of the hearing.
2. The names of the applicant(s) or appellant(s).
3. A brief description of the property.
4. A brief description of the nature of the appeal or application.

16.5 Appeals; Stay of Further Proceedings.

16.5.1 Appeals. The Board of Adjustment shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Zoning Compliance Officer in the enforcement, interpretation, or application of this ordinance.

16.5.2 Stay of Proceedings - An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Compliance Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court having jurisdiction on application, on notice to the Zoning Compliance Officer from whom the appeal is taken and on due cause shown.

16.6 Application for Special Exceptions; Conditions Governing; Procedures. The Board of Adjustment shall hear and decide requests for those special exceptions which are specifically enumerated in this ordinance when, in the judgement of the Board of Adjustment, the particular use will be in harmony with the purpose and intent of the ordinance and will not significantly impair the appropriate use of adjoining or nearby property. No special exception shall be granted for a period of less than one year, and there shall be no limit upon the number of times a special exception can be renewed.

16.6.1 In making such determination, the Board of Adjustment may consider, among other things:

- a. The volume of existing traffic and the volume of traffic that will be generated by the proposed use;
- b. The adequacy or inadequacy of available parking and the possible need for and availability of additional off-street parking;
- c. The potential for objectionable or nuisance-causing activities, including but not limited to air pollution, (smoke, ash, dust, fumes, vapors or gases), vibration, noise, heat, glare, light, noxious odors, or radio or television interference;
- d. The economic and aesthetic effect upon adjoining or nearby properties;
- e. The suitability of the proposed use in keeping with the harmony of adjoining or nearby properties;
- f. The amount of pedestrian traffic generated, including the potential for congregation of individuals at or near the property involved.

16.6.2 In granting a special exception, the Board of Adjustment may impose any conditions not otherwise inconsistent with the terms of this ordinance reasonably calculated to minimize the impact of the permitted use upon adjoining and nearby properties, including but not limited to:

- a. Limiting the hours of operation;
- b. Requiring additional off-street parking above that otherwise required by the terms of this ordinance;
- c. Requiring the erection of fences, shrubbery or other screening devices;
- d. Further limiting the size, location and number of signs otherwise permitted by this ordinance;
- e. Limiting the number of persons involved in the use at any one time, including those conducting the use and those being served by the use;
- f. Limiting the use to a specific percentage of floor area or lot area or a specific portion of the lot or structure involved;
- g. Limiting the number and hours of deliveries;
- h. Limiting or prohibiting the display of

products or samples visible from nearby streets or public ways;

- i. Any other condition reasonably calculated to protect the community and nearby properties from any adverse effects resulting from the use if permitted as a special exception.

16.6.3 Any person desiring a special exception as authorized under the terms of this ordinance shall file a written application describing the requested use in detail. Such application shall include, among other information:

- a. The nature of the requested use;
- b. The specific section of the zoning ordinance authorizing such use as a special exception;
- c. The address of the property subject to the request;
- d. A detailed description of the intended use addressing those considerations (and other appropriate considerations, if any) listed in §16.6.1 above.

Applications shall be accompanied by a brief site plan drawn to scale showing the size and location of the lot and structures involved, adjoining properties and streets, the area where the use will be confined, and the location of off-street parking.

In addition to the above information and site plan, the applicant shall provide such other relevant information as requested by the Zoning Compliance Officer.

16.6.4 The Board of Adjustment shall make specific findings as to those relevant considerations listed in §16.6.1 and shall approve or deny the request accordingly. If the application is approved, the Board may impose any appropriate conditions as provided in paragraph 16.6.2 above.

The Board of Adjustment may limit a special exception to a specified period of time at the end of which time the special exception shall expire and the right to continue such use shall automatically terminate unless a new application to continue the special exception is approved; provided however, that no special exception shall be granted for a term of less than one year.

In allowing any application to renew or extend the term of a special exception, the Board of Adjustment shall consider and make appropriate findings taking into account changing circumstances of the area, if any, and the impact that the use has had on nearby properties during the period of time it has been in existence. If the request to renew or extend the term of the special exception is granted, the Board may, in so granting the request, impose new or alternate conditions reasonably calculated to effectuate the purpose and intent of this ordinance.

16.6.5 The violation of any condition imposed by the Board of Adjustment may be grounds for the termination of such special exception after notice and hearing before the Board on the issue of such violation.

16.7 Variances. The Board of Adjustment may authorize variances from the terms of this ordinance in accordance with the standards set forth in §16.2.3.

16.7.1 Before granting any such variance, the Board of Adjustment shall find and determine that:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;
- b. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
- c. The special conditions and circumstances do not result from the actions of the applicant;
- d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- e. The variance granted is the minimum variance reasonably necessary to make possible the reasonable use of the land, building, or structure at issue.
- f. The granting of the variance will not be injurious to the neighborhood, harmful to the public welfare, or create or impose a

significant detriment to adjoining or nearby properties.

16.7.2 In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and may result in revocation of the variance by the Board of Adjustment after notice and hearing.

16.7.3 Use Variances Prohibited - A variance shall not be given, and the Board of Adjustment shall be without authority to grant, any variance which would permit a use which is not permitted generally or as a special exception in any given district.

16.8 Appeals to the Court. Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any official of the Town, may present to a court of record a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board.

17. Amendments

17.1 Amendment by Town Council. 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 in relation thereto, duly noticed in accordance with §17.3 hereof, at which parties in interest and citizens shall have an opportunity to be heard.

17.2 Citizen Protest Against Amendments. In case of a written protest against any amendment, supplement, change, modification, or repeal signed by the owners of twenty (20) percent or more, either of the area of the lots included in such proposed change, or of those immediately adjacent thereto extending one hundred (100) feet therefrom, or of those directly

opposite thereto extending one hundred (100) feet back from the street frontage of such opposite lots, such amendments, supplement, or changes or modification shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the Town Council.

17.3 Public Notice. Public notice of any public hearing required to be held under §17.1 hereof shall be given as follows.

17.3.1 Content. All public notices shall state:

(a) the date, time, and place of the hearing

(b) a brief description of the nature of the proposed amendment

(c) if involving a specific lot or lots, a description thereof, including the name of the owner(s).

17.3.2 Posting. Public notice shall be posted at least 15 days before the date of the hearing in at least two public places by the Town. If a specific lot or lots is/are involved, notice shall also be posted on such lot(s).

17.3.3 Publication. Public notice shall be published in a newspaper of general circulation in the Bowers area at least 15 days before the date of the hearing. Such published notice shall be in bold print or bordered in black so as to call attention thereto.

17.3.4 Mail. At least 15 days before the date of the public hearing: (a) Notice shall be mailed to any individual, group, or corporation which in writing specifically requests to be placed on such a mailing list. To remain on such mailing list, the applicant shall pay such reasonable annual fee as set by the Town Council; (b) Where a specific lot or lots is involved, notice shall be mailed to the property owner(s) and to adjoining property owners [as defined in §16.4.2(b) of this ordinance].

18. Remedies; Penalties; Stop-Work Orders

18.1 Remedies. In case any building or structure is erected, constructed, reconstructed, altered,

repaired, converted or maintained, or any building, structure, or land is used in violation of this Ordinance, the Zoning Compliance Officer, Mayor, or Town Council may, in addition to other remedies, institute any appropriate action or proceedings to prevent, abate, restrain, enjoin, or correct such violation, in any court of competent jurisdiction.

- 18.2 Penalties For Violation. For any violation of the provisions of this ordinance, the owner, general contractor or agent of a building or premises where such violations have been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violations have been committed or shall exist, and the owner, general contractor, agent, architect, builder, or any other person who commits, takes part in, or assists in any such violation or maintains any building or premises in which such violation shall exist, shall upon conviction thereof, be guilty of a violation of this ordinance and shall be punished by a fine not exceeding \$100.00 and the cost of prosecution. Each day any violation of any provision of this ordinance occurs or continues to exist, shall constitute a separate violation and shall be subject to a separate fine as above provided and the cost of prosecution.
- 18.3 Violations Declared a Nuisance. Any violation of the provisions of this ordinance is hereby declared to be a common nuisance.
- 18.4 Revocation of Zoning Compliance Permits and Stop Work Orders; Appeals. At any time it appears to the Zoning Compliance Officer or Mayor that any construction is being undertaken in violation of any provision of this zoning ordinance, either of them may issue a stop work order or revoke the zoning compliance permit under which such work was being performed; provided however, that prior to issuance of any stop work order or revocation of any zoning compliance permit under this subsection, the Town Zoning Compliance Officer or Mayor shall provide the contractor or builder on site with written notice of the alleged zoning ordinance violation which notice shall state specifically the nature of the violation with reference to pertinent sections of the zoning ordinance and specify a place and time (not less than 24 hours and not more than 72 hours from the

delivery of such notice) where the Zoning Compliance Officer or Mayor will sit to hear the builder/contractor and/or owner on the issue of whether or not the construction is in violation of the zoning ordinance. The Zoning Compliance Officer or Mayor shall promptly attempt to provide the owner of record of such lands with actual notice thereof by telephonic communication and shall immediately send a copy of such written notice to the owner of record at his address as shown on the Town public records; but failure of the record owner to receive such notice shall not void the hearing so long as the contractor or builder on site receive actual notice. At the hearing, the contractor/builder and/or owner may appear with or without counsel to be heard on the issue of whether or not construction is in violation of the zoning ordinance. If the person conducting the hearing concludes at the end thereof that construction is proceeding in violation of the zoning ordinance, he shall issue a stop work order or revoke the zoning compliance permit as appropriate. In such event, no zoning compliance permit shall be re-issued and no stop work order shall be lifted until the violation has been corrected. The decision of the Mayor or Zoning Compliance Officer under this subsection 18.4 may be appealed to the Town Board of Adjustment under §16.2.1 hereof.

19. Repealer. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.
20. Effective Date. This Ordinance shall become effective at 12:01 a.m. on August 12, 1994.
21. Table of District Regulations. See next page.

This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Bowers on August 11, 1994; and that public hearings thereon were duly held on August 19, 1993 and July 30, 1994, following duly published notice thereof in the Delaware State News and in the Wilmington News Journal on August 3, 1993 and on July 7, 1994.

So Certifies

Attest:

\_\_\_\_\_  
Secretary

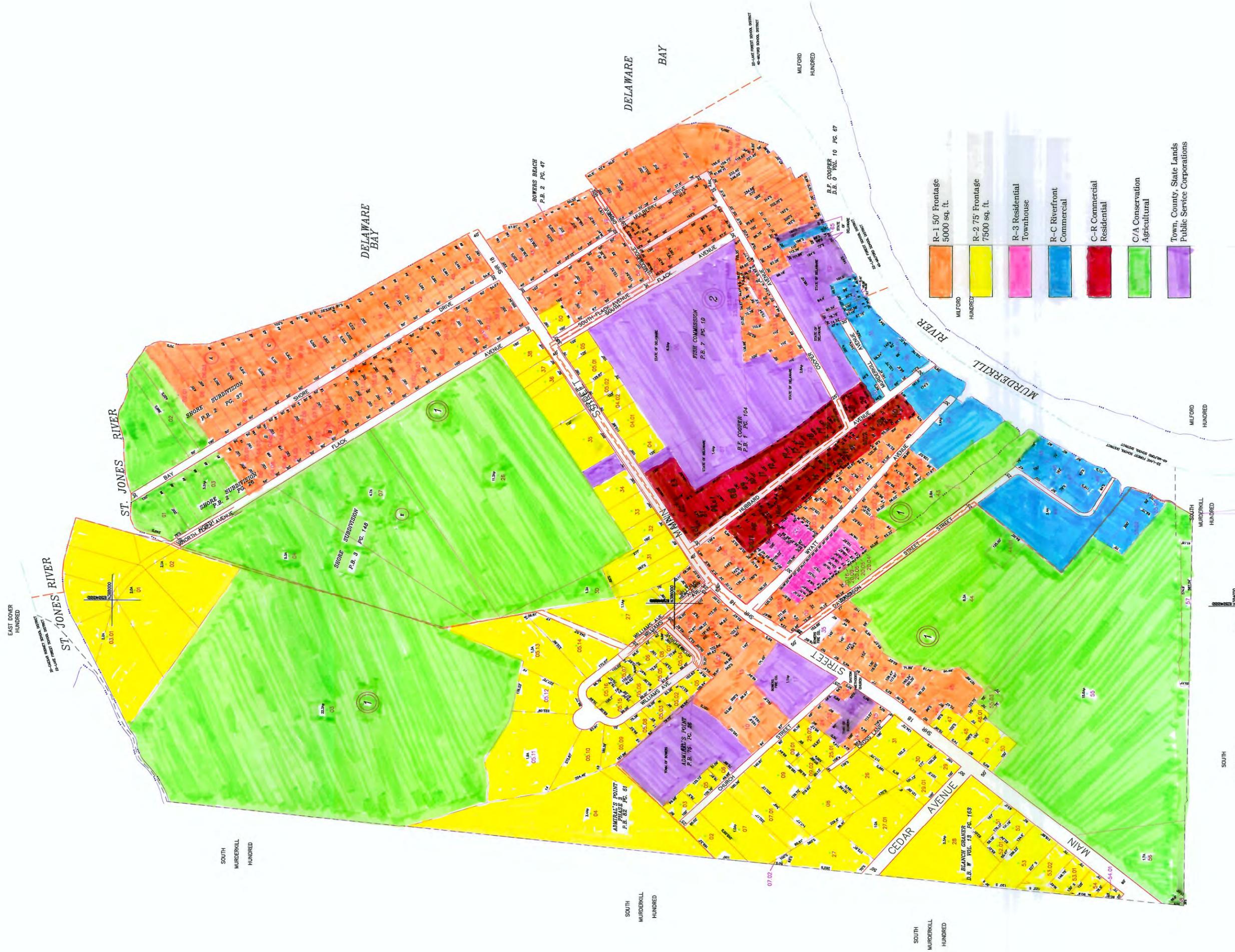
8/11/94  
Date

\_\_\_\_\_  
Elizabeth Banks, Mayor

Section 21 - TABLE OF DISTRICT REGULATIONS

District	Uses Permitted	Minimum Frontset	Minimum Area	Maximum Coverage	Minimum Lot Coverage For Dwelling	HEIGHT			YARD REQUIREMENTS		
						Principle Building	Accessory Building	Front	Side	Rear	
R-1 (Residential)	See Text	50' per D.U.	5,000 sq. ft. per D.U.	40% of lot area lying landward of DMAC bldg. line	1,000 sq. ft. on ground floor or 750 sq. ft. on ground floor in dwelling area retaining MLT	35'	12' (20' pvt. garage)	20' (10' long side corner lot)	MLT 8' either side	15'	
R-2 (Residential)	See Text	75' per D.U.	7,500 sq. ft. per D.U.	40% of lot area lying landward of DMAC bldg. line	(ground floor area may include 20% or 200 sq. ft. max of any enclosed porch)	35'	12' (20' pvt. garage)	20' (10' long side corner lot)	MLT 8' either side	15'	
R-3 (Residential-Townhouse)	See Text	20' per D.U.	1,800 sq. ft. per D.U. 1,500 sq. ft. per apt.	60% of lot area lying landward of DMAC bldg. line	Same as R-1 & R-2	35'	12' (20' pvt. garage)	20' (10' long side corner lot)	0'	15'	
C-R (Commercial-Residential)	See Text	Com. use - 75' per lot Res. use - 50' per D.U.	Com. use - 7,500 sq. ft. per lot Res. use - 3,000 sq. ft. per D.U.	Com. use - 60% Res. use - 40% of lot area lying landward of DMAC bldg. line	Com - N/A Res - same as R-1	35'	20'	Com. use - 15' Res. use - 20' 10' long side corner lot)	Com. - None (10' if abut rec. lot or use) Res. - MLT 8' either side	Com. - 25' Res. - 15'	
R-O (Riverfront-Commercial)	See Text	50'	1,250 sq. ft. per lot	Com. 100% Res. - 40%	N/A	35'	20'	0'	100'	0'	
C/A (Conservation/Agriculture)	See Text	None required	2 Acres (3A & 5A for specified uses)	N/A	N/A	35'	33'	100'	100'	50'	

excepting windmill, radio or television tower



This is to certify that this Official Zoning Map supercedes and replaces the Official Zoning Map adopted September 9, 1994 amended August 13, 1998 as part of the Zoning Ordinance of the Town of Bowers, Delaware Approved and adopted by the Town Council of the Town of Bowers, DE on the day of

Mayor *[Signature]*  
 Council Member *[Signature]*  
 Council Member *[Signature]*  
 Council Member *[Signature]*  
 Council Member *[Signature]*  
 Town Solicitor *[Signature]*