

Sponsor: RONALD HUNSICKER,  
First Reading: JANUARY 24, 2009  
Second Reading: APRIL 9, 2009

**AN ORDINANCE TO REPEAL ANY EXISTING "SUBDIVISION" ORDINANCE OF THE TOWN OF BOWERS AND TO ENACT A NEW TOWN OF BOWERS ORDINANCE ENTITLED "AN ORDINANCE REGULATING SUBDIVISIONS IN THE TOWN OF BOWERS"**

WHEREAS, it is, in the opinion of the Town Council of the Town of Bowers, in the best interest of the property owners and residents of the Town of Bowers to repeal any existing ordinances and adopt a new ordinance regulating subdivisions in the Town of Bowers to further protect the health, safety and general welfare of the property owners and residents of the Town of Bowers; and

WHEREAS, the Town Council of the Town of Bowers has authority to adopt ordinances "as they may deem necessary and proper for the good government, protection or preservation of persons and property, or for the preservation of the public health of the City and its inhabitants" pursuant to Chapter 20(i) of the Town Charter;

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 enacted:

**Section 1.** Any existing ordinances pertaining to subdivisions are hereby repealed.

**Section 2.** An Ordinance entitled "AN ORDINANCE REGULATING SUBDIVISIONS IN THE TOWN OF BOWERS" is hereby adopted as follows:

**AN ORDINANCE REGULATING SUBDIVISIONS IN THE TOWN OF BOWERS**

**Section 1. Definitions.**

For the purpose of this ordinance, certain terms are herein defined. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word "shall" is always mandatory and not merely directory. The word "subdivider" includes a corporation, association or partnership as well as an individual. The word "lot" includes the word "plot."

**Alley:** a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street. An "alley" may be private or publicly dedicated, but no "alley" will be permitted to serve as the primary means of vehicular access to any property or dwelling unit.

**Combining**: two or more lots of record which are combined by deed into one or more lots of record.

**DNREC**: State of Delaware Department of Natural Resources & Environmental Control

**Drainage right-of-way**: the lands required for the installation for stormwater sewers or drainage ditches or required along a natural watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

**Easement**: a right acquired by public authority to use or control property for a designated purpose.

**Final Approval**: approval of a subdivision shall be considered final when the signed, approved plot is recorded in the office of the Recorder of Deeds in Dover, Delaware.

**Final Plans**: the final plans of all or a portion of the subdivision which is presented to the Town Council for final approval in accordance with these regulations.

**Lot or Plot**: a parcel of land.

**Major subdivision**: a plot of ground subdivided into two or more lots delineated by lot boundary lines and/or a PRD, without interior lot lines, requiring public streets and/or extension of town facilities.

**Minor subdivision**: a plot of ground subdivided into three or more lots not requiring the expansion of any town or county facilities (including water, sewer, and streets) and (a) fronting on an existing town, county or state road or street, or (b) fronting on a private street and meeting the requirements of § 4.10.2 of the Town of Bowers Zoning Ordinance.

**Monument**: a reinforced concrete property marker, four by four by thirty-six (4 x 4 x 36) inches, or solid iron rod, five-eighths by thirty-six (5/8 x 36) inches.

**Official town map**: the most recently dated map of the Town of Bowers, authorized by the Town Council.

**Owner**: any individual, firm, association, syndicate, copartnership or corporation being holder of recorded title to the land sought to be subdivided.

**Partitioning**: any subdivision containing not more than two lots fronting on an existing state, county or municipal street not involving any new street or road or the extension of town facilities.

**Performance guaranty**: any security which may be accepted by the Town Council to insure that

required improvements are accomplished. Examples are performance bonds, escrow agreements and other similar collateral or surety agreements.

**Planned Residential development (PRD):** a lot or plot of ground improved or to be improved by two or more principal buildings, without interior property lines and with or without public streets, or in which proposed building locations make it impractical to apply the normal yard requirements to individual buildings.

**Preliminary Plan:** an engineer's or professional land surveyor's drawing of a subdivision showing all material required by this ordinance for a preliminary plan review by the Town Council.

**Professional Engineer:** an engineer legally registered under the laws of any state of the United States to practice engineering.

**Private Way:** any land, other than an "alley," intended for vehicular passage which is not required to be dedicated as a public street.

**Record Plat:** a plat of a subdivision recorded in the Kent County Recorder of Deeds' office.

**Right-of-Way:** a general term denoting deeded land, property or interest therein acquired for or devoted to a street and alley.

**Sketch Plan:** a sketch map of a proposed subdivision of sufficient accuracy to be used for the purpose of initial discussion and informal review by the Town Council.

**Street, Collector:** a street designed primarily to carry traffic between one or more minor streets and a major highway.

**Street, Minor:** a street designed primarily to provide access to residential property.

**Street Profile:** the trace of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal center line of the right-of-way. "Profile grade" means both elevation and gradient of such trace.

**Street, Public Street:** a public way intended for purposes of vehicular travel, including the entire area within the right-of-way, publicly dedicated to and accepted by the town, the county and/or the state.

**Subdivider:** any legal entity commencing proceedings under this ordinance to effect a subdivision of land.

**Subdivision:** the division of a lot, tract or parcel of land into two or more lots, sites or other legal divisions of land, more specifically defined within this ordinance as combining, partitioning, minor subdivision, major subdivision and planned residential development.

Town: Town of Bowers

Town Code Official: the Town Code Official includes any officer or official of the Town or his or her designee.

## **Section 2. General Provisions**

(a) Combining: Combining shall follow the procedure for approval as outlined within this ordinance.

(b) Relocation of property lines: No existing property lines shall be moved, relocated, extended or erased nor shall a new property line be created without first obtaining approval of the Town Council by the procedures outlined within this ordinance.

(c) Approved lots to be recorded: Any plat representing ground within the corporate limits of the Town presented for recording in the office of the Recorder of Deeds, Dover, Kent County, Delaware, shall first be approved and signed by the Town Council. All approved plats of subdivisions shall be recorded in the office of the Recorder of Deeds, Dover, Delaware, by the Town Code Official within seven days from the date of approval.

(d) Plats to be filed with Town Council: An un-reduced copy of the approved, signed and recorded plat of all subdivisions shall be filed with the Town Council.

(e) Subdivision approval by part: A subdivision may be approved in total or by part, section, phase or other term denoting part of the total parcel of ground. For purposes of Town Council approval, each section shall be considered as a separate subdivision.

(f) Classification of subdivisions: Subdivisions shall be classified by the Town Code Official as a partitioning, combining, minor subdivision, major subdivision or planned residential development at the time of application.

(g) Applications: Applications, provided by the town, for all types of subdivisions must be complete and on file with the Town Code Official no less than 15 days before the date of review by the Town Council. To be complete, an application must contain the signed application form, fee paid, and all required plans and supporting documents. Incomplete applications shall not be reviewed by the Town Council.

(h) Nonconforming lots: No subdivision shall be approved which would create or cause to exist lots or parcels of ground within or without the subdivision that are not in conformance with the requirements of this ordinance or the Town's Zoning Ordinance.

(i) Subdivision construction restricted: No construction of any improvements, as shown on the application, shall be started nor shall any sign be erected nor shall any material or

equipment be stored on the property under application as a subdivision during the period between initial application and final approval, as defined within this ordinance.

(j) Property monuments: Property monuments shall be either reinforced concrete of a size no less than four by four (4 x 4) inches in cross section and no less than 36 inches in length or solid iron rod of a size no less than five-eighths (5/8) inches in diameter and no less than 36 inches in length.

(k) Street access requirements: No building shall be constructed on any lot which does not have the required minimum frontage on a public street. All alleys and private ways shall be connected directly to one or more public streets. Excepting alleys, no private way will be permitted to serve more than: (1) Four dwelling units; or (2) One dwelling unit if it exceeds 180 feet in length. Any recorded lot existing of public record in the Recorder of Deeds' office in and for Kent County, Delaware, as of February 12, 2009, shall be exempt from the provisions of this subsection.

(l) Fees. The fees prescribed for applications and inspections of minor and major subdivisions and planned residential developments shall be as provided in the fee schedule on file and available for inspection from the Town Council and/or Town Code Official.

(1) Where inspections involve use of a professional engineer to conduct inspections of any or all improvements referenced in § 13 – 18, of this ordinance, the following fees, unless waived or reduced by the Town Council, shall be charged and must be placed in escrow before the letter to proceed can be issued:

(i) Minor subdivision: the amount of inspection cost as estimated by a professional engineer or the Town Code Official.

(ii) Major subdivision: the amount of inspection cost as estimated by a professional engineer or the Town Code Official.

(iii) Planned residential development: the amount of inspection cost as estimated by a professional engineer or the Town Code Official.

### **Section 3. Public Notice.**

Public notice of applications for combining, partitioning, minor subdivisions, major subdivisions and planned residential developments is required as provided in this section.

(a) Notice by mail. Upon filing an application, the applicant shall provide a notarized list of property owners and addresses for all property owners within 200 feet of the site of the proposed action. The Town Mayor or his or her designee (hereinafter referred to as "Town Mayor") shall send by first class mail addressed to the listed property owners a copy of the information required to be posted on the property under this section. Property owners will be determined by the Kent County Assessment Office property maps.

(b) Notice by publication. The Town Mayor shall cause to be published in one issue of at

least one newspaper of general circulation in the Town of Bowers a notice containing the information required to be posted on the property by this section.

(c) Notice by posting. The Town Mayor shall cause to be posted at two or more prominent and easily visible places on the property on eighteen-by-twenty-four-inch yellow cardboard a public notice setting forth the date and the place at which the Bowers Town Council has scheduled a hearing on the application; the name of the applicant; a description and size of the property involved; and a statement in plain language of the action applied for. The notice shall also state where further information may be obtained. The Town Code Official shall notify the applicant when the notices are posted, and, thereafter, it shall be the responsibility of the applicant to maintain the notices in good condition during the posting period. In addition, the Town Mayor shall cause to be posted at two or more public places in the town a public notice setting forth the date and the place at which the Town Council has scheduled a hearing on the application; the name of the applicant; a description and size of the property involved; and a statement in plain language of the action applied for. The notice shall also state where further information may be obtained.

(d) Time of notice. Notices by mail shall be placed in the mail at least 45 days before the hearing date. At least one notice by publication shall be published at least 30 days before the hearing date. Notice shall be posted on the property at least 45 days before the hearing date and shall remain until the day before the hearing date. Notice shall be posted in five public places in the town at least 45 days before the hearing date and shall remain until the day before the hearing date.

#### **Section 4. Partitioning**

(a) Application. Subdividers intending to partition a parcel of ground shall file a complete application with the Town Council. This application must be on file with the Town Code Official no less than 15 days before the date of review by the Town Council. Plans required must be drawn and sealed by a professional engineer or a professional land surveyor licensed to do such work in the State of Delaware. The subdivider must submit four copies of a plat of the parcel to be partitioned showing the new property line to be established and any structures, watercourses, ditches or utility easements on the property and one recordable plat of each new parcel of ground resulting from the partitioning.

(b) Review procedure. A review of an application for a partitioning shall be considered a final review. If approved, both plats, representing the new parcels, shall be signed by a majority of the members of the Town Council.

(c) Recording. The approved plats shall be recorded in the office of the Recorder of Deeds, Dover, Delaware, by the Town Code Official within seven days from the date of approval by the Town Council.

#### **Section 5. Combining**

(a) Application. Subdividers intending to combine two or more or portions of two or more lots of record into one lot of record shall file an application with the Town Council. This application must be on file with the Town Code Official no less than 15 days prior to the date of review by the Town Council. The application must contain the completed form, the prescribed fee paid, four copies of a plat of the lots or parcels as presently recorded showing the placement of any existing buildings or structures, also, six copies of a plat showing the new lot or parcel and six copies of a plat of any lot or parcel which is dimensionally affected by the combining, two of each of which shall be suitable for recording with space for a date of approval and signatures of the Town Council. All plats must be sealed by a professional engineer, or a professional land surveyor licensed in the State of Delaware.

(b) Review procedure. The Town Council shall review the submitted plans for conformance with this chapter and other town codes and ordinances. If approved, two copies of each plat representing new lots or parcels of ground shall be signed by a majority of the members of the Town Council, and both plats shall be recorded in the office of the Recorder of Deeds, Dover, Delaware.

(c) Recording. The approved plats shall be recorded in the office of the Recorder of Deeds, Dover, Delaware, by the Town Code Official within seven days from the date of Town Council approval.

#### **Section 6. Minor Subdivisions**

(a) Application. Subdividers intending to subdivide a lot or plot of ground as a minor subdivision shall file a complete application with the Town Council. This application must be complete and on file with the Town Code Official no less than 15 days before the date of review by the Town Council. Required plans must be drawn by a professional engineer or a professional land surveyor licensed to do such work in the State of Delaware. The subdivider must submit four copies of a plat showing the entire property of the subdivider and the lots constituting the minor subdivision, four copies of the lots constituting the minor subdivision and two copies of the minor subdivision suitable for signature of the Town Council and recording in the Recorder of Deeds' office in Dover, Delaware.

(b) Review procedure. The Town Council may approve the final plan of a minor subdivision at one review.

(c) Recording. The approved plat shall be recorded in the office of the Recorder of Deeds, Dover, Delaware, by the Town Code Official within seven days from the date of approval by the Town Council.

#### **Section 7. Major subdivisions.**

(a) Application. Subdividers intending to subdivide a lot or plot of ground as a major

subdivision must file a complete application to the Town Council. This application shall be on file with the Town Code Official no less than 15 days before the date of review by the Town Council.

(b) Review procedure. A major subdivision is subject to and must satisfy all the requirements and procedures specified in § 8 – 12 of this ordinance.

### **Section 8. Sketch Plans.**

(a) Submission. Subdividers of a major subdivision shall submit a sketch plan of the proposed subdivision to the Town Council prior to submitting a preliminary plan to enable the Town Council and subdivider to conduct an informal review of the site plan for general scope and conditions affecting the final plan. No application or fee shall be required for review of a sketch plan. The subdivider shall file six copies of the sketch plan with the Town Code Official no less than 15 days prior to the date of review by the Town Council.

(b) Contents. The sketch plan shall be titled “Sketch Plan” and shall show the following:

- (1) The entire perimeter of the subdivider’s property.
- (2) The geographic area to be subdivided.
- (3) A location map showing the location of the subdivision in relation to the surrounding area.
- (4) The name of the subdivision.
- (5) The name and address of the owner of record.
- (6) The consent of the owner of record.
- (7) The scale of the drawing and true North arrow.
- (8) Area, in square feet, of the subdivision.
- (9) The Federal Insurance Rate Map Zone Classification.
- (10) A general plan of all lots, streets, easements and areas for recreation.
- (11) All lots consecutively numbered.
- (12) All existing ditches, watercourses and bodies of water.
- (13) All areas designated as wetlands by the current State Wetlands Map.
- (14) Existing drainage facilities outside the subdivision that will be used as part of the drainage of the subdivision.

(c) Drawing requirements. A sketch plan need not be drawn by or sealed by a professional land surveyor or professional engineer but shall be drawn to scale. The scale shall be in accordance with specifications established by the Town Code Official. In the case of a large subdivision requiring more than one sheet, a single sheet showing the entire property shall accompany the submission.

(d) Town Council action. The Town Council shall review the sketch plan with the subdivider with primary regard to conformance with all town codes and ordinances, applicable state and federal regulations and the compatibility of the proposed subdivision with abutting



developed or undeveloped lands. No sketch plan shall bear formal approval by the Town Code Official. The Town Code Official shall initial and note the date of review on two copies of the sketch plan.

(e) Plan disposition. One initialed and dated plan with the Town Code Official's comments, suggestions and requirements shall be returned to the subdivider, and one copy shall be filed with the Town Code Official.

### **Section 9. Preliminary Plans.**

(a) Submission. Subdividers of a major subdivision shall apply for and receive approval of the Town Council of a preliminary plan before submitting a final plan. Application shall be made to the Town Code Official on forms supplied by the town. To be complete, the application shall contain the form completed and signed by the applicant, the required fee paid, four copies of each of the required plans and supporting documents and be on file with the Town Code Official no less than 15 days before the date of review.

(b) Required drawings. A complete application for a preliminary plan review of a major subdivision shall contain four copies of each of the following drawings: a street and lot plan; a street profile; a drainage plan; a waterline and sewer line plan; and an electric line and streetlight plan.

(c) Drawing Contents. The drawings shall show the following specific information:

(1) Street and lot plans:

- (a) Each drawing shall bear the words "preliminary street and lot plan."
- (b) Private and public property lines outside of the subdivision that intersect the perimeter line of the subdivision.
- (c) The owner of record of all abutting properties.
- (d) A survey plat of the entire subdivision showing the property perimeter line, all lots, streets, easements and recreation, reserved and public areas, with distances to the nearest foot of all perimeter and interior property lines.
- (e) A vicinity location map.
- (f) True North arrow.
- (g) Consent to subdivide the property signed by the owner of record.
- (h) The name of the subdivision.
- (i) The names of all streets.
- (j) All lots consecutively numbered.
- (k) All parcels identified.
- (l) The drawing scale.
- (m) The name and license number of the professional land surveyor or professional engineer.
- (n) Curve data: the length and radius of the curve.

- (o) Lot data: the area, in square feet, and the length of the street frontage.
- (p) The total area of all public rights-of-way or the right-of-way to be dedicated.
- (q) The area of the subdivision.
- (r) All monuments, concrete and iron, existing and proposed.
- (s) The width of the street right-of-way.

(2) Drainage drawings:

- (a) Each drawing shall bear the words “preliminary drainage plan.”
- (b) Contour lines at one-foot vertical intervals of existing grades.
- (c) If new grades are to be established, existing contour lines shall be shown as solid lines and new contour lines shown as broken lines. Contours and spot elevations shall be displayed with a minimum of a seven-foot-wide strip on all properties adjoining all sides of a PRD. Spot elevations shall be three feet apart in width and 10 feet apart in parallel. All contours and elevations shown on the plans shall be referenced to a common datum established on a benchmark by the United States Coast and Geodetic Survey (NOAA) or the United States Geological Survey and that reference shall be denoted on the plans.
- (d) All existing ditches, watercourses and bodies of water.
- (e) Any existing ditches, watercourses and bodies of water that will be altered during development shall be shown as solid lines, and proposed new locations or dimensions shall be shown as broken lines.
- (f) Proposed underground drainage pipes, culverts, catch basins and other drainage facilities with dimensions and type of material.
- (g) Existing drainage facilities outside the subdivision which connect with the subdivision drainage system.
- (h) Any lands designated as “wetlands” by the state or federal agency having jurisdiction over such area.
- (i) The flood zone classification as shown on the current Flood Insurance Rate Map.
- (j) Location of all drainage easements.
- (k) Drainage flow arrows.

(3) Water and sewer line drawing:

- (a) This drawing shall bear the words “preliminary water and sewer line plan.”
- (b) The size and location of all water distribution lines and valves.
- (c) The size and location of all water distribution lines and detailed drawings of connections to the town water distribution line.
- (d) The size and location of all lateral waterlines, curb stops and valve covers.
- (e) The location of all fire hydrants.
- (f) The dimensions and location of all easements for proposed town waterlines that cross private property.
- (g) The depth of all waterlines.

- (h) The location of all existing and proposed sewer lines.
- (i) The dimensions and location of all easements for existing or proposed sewer lines.

(4) Electric line and streetlight drawing:

- (a) This drawing shall bear the words "preliminary electric line and streetlight plan."
- (b) The location of all electric lines.
- (c) The location of all transformers.
- (d) The depth of all underground electric lines.
- (e) The size, type and location of all proposed streetlights.

(5) Street profile:

- (a) A longitudinal elevation and slope of the center line of the entire length of all streets and drainage swales within the right-of-way.
- (b) A lateral cross section of all streets of different width from right-of-way line to right-of-way line showing the type of material, width and depth of paving, subbase and subgrade, and the elevation of the shoulder area relative to the center line of the paved surface.

(d) Drafting requirements. All preliminary plans shall be drawn and sealed by a professional land surveyor or professional engineer licensed to do such work in the State of Delaware at the time of submission. A poorly drawn, illegible, incorrect or incomplete plan shall be sufficient cause for rejection of all or part of the application, in which case a new review shall be scheduled. The drawing scale shall be adequate to fit on paper no smaller than twenty-four by thirty-six (24 x 36) inches and no larger than thirty-six by forty-eight (36 x 48) inches. In the case of a large subdivision requiring more than one sheet, a single sheet showing the entire subdivision shall accompany the submission. The distance, to the nearest foot, shall be shown for each property line, perimeter boundary line and street right-of-way line. Each street shall be named, lots shall be consecutively numbered and all parcels within the subdivision shall be identified.

(e) Town Council action. Each drawing or supporting document may be accepted as submitted or accepted with minor corrections to be shown on the final plans. If major corrections are required, the subdivider shall be required to submit new preliminary plans and documents before submitting the final plans. Following review by the Town Council and the public hearing, two copies of each type of plan shall be initialed and dated by the Mayor and all required changes noted on each plan.

(f) Plan referral. The Town Council shall require the subdivider to submit a preliminary plan for approval to any other agency, person or persons who may, in the opinion of the Town Council, be affected by the proposed subdivision.

(g) Plan disposition. One copy of each drawing found to be acceptable shall be initialed and dated by the Town Mayor and shall be returned to the subdivider within 10 days after the date of review. One copy of each drawing, initialed and dated, shall be filed with the Town Code

Official. Rejected plans shall be returned to the applicant, accompanied by a written explanation of the reasons for the rejection.

### **Section 10. Final Plans.**

(a) Submission. After completing a preliminary plan review by the Town Council, a subdivider shall submit the final plans of the subdivision for review and approval within 90 days from the date of acceptance of the preliminary plans as dated on the plans by the Mayor. All required final plans and supporting documents shall be filed with Town Code Official no less than 15 days prior to the date of final review.

(b) Required drawings. Plans required at time of final approval of a minor or major subdivision shall be four copies each of a street and lot plan, a street profile plan, a drainage plan, a water- and sewer line plan and an electric line and streetlight plan and two copies of the street and lot plan suitable for signing by the Town Council and recording in the office of the Recorder of Deeds, Dover, Delaware.

(c) Drawing contents. The contents of the street and lot plan, street profile plan, drainage plan, water and sewer line plan, and the electric line and streetlight plan shall be the same as the accepted preliminary plan showing all additions, corrections and/or deletions required by the Town Council at the preliminary review.

(d) Drafting requirements. All final plans shall be drawn and sealed by a professional land surveyor or professional engineer licensed to do such work in the State of Delaware. Poorly drawn, illegible, incorrect or incomplete plans shall be sufficient cause for rejection of all or part of the application, in which case a new review shall be scheduled. The drawing scale shall be adequate to fit on paper no smaller than twenty-four by thirty-six (24 x 36) inches and no larger than thirty-six by forty-eight (36 x 48) inches. In the case of a large subdivision requiring more than one sheet, a single sheet showing the entire subdivision shall accompany the submission. The course, to the nearest second, and the distance, to the nearest hundredth foot, shall be shown for each property line, perimeter boundary line and street right-of-way line. Each street shall be identified.

(e) Supporting documents. Required documents to be submitted at the time of review for final approval shall be a performance guaranty, a memo of understanding and all specific documents requested by the Town Council at the preliminary plan review of the subdivision.

(f) Town Council action. The Town Council shall conduct a review of the final plan of the subdivision at a public meeting within 90 days from the date all required plans and supporting documents are filed with the Town Code Official. A quorum of the Town Council shall be present at the review of the final plans of all subdivisions. Each drawing of the final plans shall be reviewed individually and shall reflect all changes, additions and deletions required at the preliminary plan review. All required supporting documents must be submitted for approval at the final plan review, and, if approved, one copy shall be filed with the Town and

one copy shall be returned to the subdivider. All subdivisions must be approved and signed by a majority of the members of the Town Council. Changes or alterations to the record plats and supporting documentation are prohibited after approval and signature by the Town Council. Two copies of each drawing of the approved plan shall be dated, with the date of approval, and signed by a majority of the Town Council members.

(g) Disposition of final plans. One signed and dated copy of each approved plan shall be filed in the appropriate office of the Town, and one signed and dated copy of each approved plan shall be returned to the subdivider within 10 days from the date of approval shown on the plan. Two copies of the approved street and lot plan shall be recorded, by the Town Code Official, in the office of the Recorder of Deeds, Dover, Delaware, within seven days from the date of approval by the Town Council.

### **Section 11. Recording of record plat.**

Two copies of the record plat shall be signed by a majority of the Town Council when all required final plans and supporting documents have been approved. After signing and dating of the record plat by the Town Council, the Town Code Official shall record the signed plat in the Kent County Recorder of Deeds' office in Dover, Delaware, within seven days from the date of signing by the Town Council. Final approval of a subdivision shall be signified by recording of this signed plat in the Recorder of Deeds' office in Dover, Delaware.

### **Section 12. Letter to proceed; approval expiration.**

(a) When all the requirements of this chapter and other applicable ordinances have been fulfilled to the satisfaction of the Town Council, the Town Mayor shall issue a letter to proceed to the subdivider, and a copy shall be filed with the Town Code Official. No construction or work of any kind shall be done, except perimeter line surveying, nor any sign erected in the subdivision prior to issuance of a letter to proceed.

(b) Substantial construction to commence within one year.

(1) Any letter to proceed, and the subdivision approval contained therein, shall expire unless substantial construction shall commence within one year of the date of such letter to proceed and reasonably continue until final completion. For purposes hereof:

(a) "Substantial construction" shall mean on-site construction activities (e.g., earth moving, excavation, installation of utility equipment and facilities, road construction and/or paving) costing at least 20% of the projected cost of the total required subdivision improvements for that subdivision [or phase thereof, if development is proceeding under § 200-33A(3) of this chapter].

(b) "Reasonably continued until final completion" shall mean continuous on-site construction work excepting reasonable interruption required by

sound and generally-accepted engineering and construction standards and practices, including by way of example and not in limitation, inclement weather conditions, temporary unavailability of suppliers or contractors and stoppages due to federal, state, county or municipal regulations or orders.

(2) The Town Code Official shall, in the first instance, determine whether the requirements of this subsection have been met, but such decision shall be subject to appeal to the Town Council which may affirm, reverse or modify that decision.

(3) Where any letter to proceed shall expire under this subsection, no further construction shall continue and no further transfer of title to any of the lands within such subdivision shall be permitted until a new letter to proceed shall have been issued by the Town Council.

### **Section 13. Required Improvements; Performance guaranties.**

(a) Prior to the granting of approval of a subdivision, the subdivider shall have furnished performance guaranties for the installation of the following improvements that have a rational nexus to the impact of the subdivision, whether on-site or off-site, as required by the town:

(1) Streets. Streets shall be designed in conformance with this ordinance and shall conform to any other street specifications established by the town.

(2) Street name signs. Street name signs shall be installed by the subdivider in accordance with the specifications of the town.

(3) Streetlighting. Streetlights shall be installed at street intersections and at the end of dead-end streets and shall be spaced approximately 300 feet apart.

(4) Grading, fill, top soil and erosion control. Grading, fill, top soil and erosion control shall be done in conformance with the requirements as shown on the approved drainage plan.

(5) Drainage. Drainage shall be properly installed and connected with the town drainage system.

(6) Sanitary sewers. Sanitary sewers shall be properly installed and connected to the sanitary sewer system in accordance with the requirements of the Kent County Engineer.

(7) Water. Installation of the water system shall be in compliance with the Kent Count and the DNREC specifications.

### **Section 14. Improvements for major subdivisions.**

In major subdivisions, the following improvements are required:

(1) Streets to be paved with bituminous Type C asphalt.

(2) Street signs.

(3) Curbs or gutters, or both.

(4) Street lighting.

- (5) Grading, fill, topsoil and erosion control as shown on the approved drainage plan.
- (6) Water system approved by DNREC and Kent County.

**Section 15. Improvements for minor subdivisions and planned residential developments.**

In minor subdivisions and planned residential developments, the following improvements are required:

- (1) Driveways and parking lots shall be paved with four courses of bituminous surface treatment over six inches of select borrow, and public streets shall be paved with bituminous Type C asphalt.
- (2) Street signs.
- (3) Curbs or gutters, or both.
- (4) Street lighting
- (5) Grading, fill, topsoil and erosion control as shown on the approved drainage plan.

**Section 16. Required improvements inspections; approval; completion.**

(a) All such installations shall be adequate to handle all present and probable future development. All the above-listed improvements shall be subject to inspection and approval by the Town Code Official, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.

(b) The developer shall complete all utilities and street improvements not specifically waived by the Town Council in accordance with specifications adopted by the town or as issued by the Town Code Official and with any additional requirements specified by the Town Council. Construction drawing shall be submitted in form satisfactory to the Town Code Official.

**Section 17. Variances and waivers of required improvements.**

Upon the findings of the Town Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Town Council may vary or waive the requirements of §§ 2(l) and 13 through 16 of these regulations with respect to streets, curbs and gutters and inspection fees, provided that such variances shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, the Zoning Code, the development plan or these regulations. In varying or waiving certain requirements, the Town Council may specify such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

**Section 18. Additional requirements for certain subdivisions.**

Subdivisions receiving final approval after February 12, 2009.

(a) The subdivider shall complete all required subdivision improvements within a subdivision within two years of the date that the first lot, dwelling unit or condominium unit is conveyed or leased to any party not closely affiliated with the subdivider (hereinafter referred to as a "conveyance out"). "Parties closely affiliated with the subdivider" shall include a wholly-owned subsidiary, a parent corporation and a partnership or association consisting solely of the stockholders or partners of the subdivider.

(b) For cause shown, however, a subdivider may obtain an extension of time, not to exceed one year, to complete any required subdivision improvements from the Town Council (after public notice and hearing). Not more than two such extensions may be granted.

(c) Where any subdivider proposed to lay out and develop a subdivision in clearly identifiable sections, each section, for purposes hereof, shall be treated as a separate subdivision, and the time limit to complete all required subdivision improvements within that section shall be applied from the date of the first conveyance out in that section.

**Section 19. Inspections.**

All of the above-listed improvements, excepting sewer lines, shall be subject to inspection and approval by the proper town authority, who shall be notified 24 hours prior to such installation. No underground installations shall be covered until inspected and approved by the appropriate town authority.

**Section 20. As-built plans.**

Upon completion of subdivision improvements and prior to release of the performance guaranty, the subdivider shall submit to the Town Code Official an as-built plat plan of the subdivision showing the actual location of waterlines, sewer lines and any underground stormwater drainage and buried utility lines and certifying any necessary easements for the same. Contours and spot elevations shall be displayed on the as-built drainage plan with a minimum of a seven-foot-wide strip on all properties adjoining all sides of a PRD. Spot elevations shall be three feet apart in width and 10 feet apart in parallel. All contours and elevations shown on the plans shall be referenced to a common datum established on a benchmark by the United States Coast and Geodetic Survey (NOAA) or the United States Geological Survey and that reference shall be denoted on the plans.

**Section 21. Subdivision improvements completion & payment bond or irrevocable letter of credit.**



Prior to final approval of a subdivision, the subdivider shall furnish the town a secured subdivision improvements completion and payments bond or irrevocable letter of credit (in form acceptable to the town) to guarantee the proper and complete installation of all improvements within or without the subdivision which are or will become the property or responsibility of the town, the amount thereof to be equal to 150% of the then-current market cost of material and labor necessary to complete such improvements. Such subdivision improvements completion and payment bond or irrevocable letter of credit shall, by its terms, provide that it shall remain in full force and effect until all the required improvements it guarantees are accepted, in writing, by the town and should the subdivider fail to complete the required improvements in any subdivision or any section of a subdivision within the time limits (or any extension thereof) as provided in this ordinance hereof, the town shall have the right to enforce any and all of its rights under the performance bond or irrevocable letter of credit. An amount equal to 20% of the subdivision improvements completion and payment bond or irrevocable letter of credit shall remain in force for one year after acceptance by the town.

## **Section 22. Dedication and acceptance.**

### **(a) Streets.**

(1) Streets shall be dedicated to the town. Dedication of a street to the town shall be by a deed of dedication properly signed by the legal owner, notarized and dated on or after the named improvement is completed as signified, in writing, by a professional engineer. This deed of dedication shall specify the name of the street or streets and the width and length of the right-of-way and shall further specify the dedication of all monuments marking the right-of-way, all traffic control signs or devices, all street name signs and all surface and underground drainage facilities within the right-of-way. The dedication shall be accompanied by a recorded plat showing the streets specified in the deed.

(2) Acceptance of a street by the town shall be by proper dating, signing by the Mayor and Secretary of the Town Council and notarizing the signatures on the acceptance pages of the deed of dedication. This completed deed of dedication shall then be recorded by the town in the Recorder of Deeds office, Dover, Delaware.

(b) Easements. Easements required by the town shall be transferred by the owner to the town by a deed of easement properly dated, signed by the owner and notarized. The deed of easement shall specify the length, width, location and purpose of the easement and shall be accompanied by a recorded plat showing the size and location of all easements being transferred by the deed of easement. A deed of easement may be accepted by the town effective the date of the deed, signed by the Mayor and Secretary of the Town Council, notarized and recorded in the Recorder of Deeds office, Dover, Delaware.

## **Section 23. Subdivision maintenance bonds.**

The subdivider shall, as a condition precedent to acceptance of any subdivision improvement by the town, furnish the town with a secured subdivision maintenance bond or irrevocable letter of credit, in form acceptable to the town and in an amount equal to 110% of the then-current market cost of labor and material of the improvements for which dedication is sought, to guarantee the condition, maintenance and repair of all such improvements for a period of one year from the date of their acceptance, in writing, by the town.

#### **Section 24. Design standards.**

(a) Compliance Required. The subdivider shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof.

(b) General Standards. The subdivision plan shall conform to design standards that will encourage good development patterns within the town. The town's requirements of streets, drainage right-of-way, storm sewer, public parks and playgrounds shall be satisfied before approval of a subdivision plat. The streets, drainage right-of-way, storm sewer or sanitary sewer plans shall be such as to lend themselves to the harmonious development of the town and enhance the public welfare in accordance with the following design standards.

(c) Streets.

(1) The arrangement of streets shall be such as to provide for connections to existing streets or streets deemed necessary for future development.

(2) The right-of-way width shall be not less than 50 feet for minor streets and 60 feet for collector streets, measured from lot line to lot line. Internal roads, alleys, driveways, aisles and parking areas shall be designed and built to satisfy traffic and safety requirements.

(3) The surface of a street shall be improved in compliance with town street specifications. The paved width shall be no less than 22 feet on a minor street. A collector street may be required to be wider to satisfy traffic and safety requirements. Paving shall be done an equal distance on each side of the center line of the right-of-way.

(4) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded at the paving line with a curve having a radius of not less than 25 feet when at a ninety-degree angle.

(5) Street jogs with center-line offsets of less than 125 feet shall be prohibited.

(6) When connecting street lines deflect from each other at any one point by more than 10° but less than 60°, they shall be connected by a curve with a radius of not less than 100 feet.

(7) Dead-end streets (culs-de-sac) shall not be longer than 400 feet and shall provide a turnaround at the end with a radius of 50 feet.

(8) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing

street shall have the same name.

(9) The right-of-way line of all streets shall be permanently marked by concrete monuments at all course changes in the right-of-way line.

(10) The design of saving, subbase and subgrade shall be based on the type of soil as shown by test borings.

(d) Blocks. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Zoning Ordinance and to provide for convenient access, circulation control and safety of street traffic.

(e) Lots.

(1) Lot dimensions and area shall not be less than the requirements of the Zoning Ordinance.

(2) In so far as is practical, side lot lines shall be at right angles to a straight street and radial to curved streets.

(3) Where there is a question as to the suitability for development of a lot or lots, the Town Council may, after adequate investigation of flood conditions, wetlands or similar conditions, withhold development approval of such areas.

(4) Lots fronting on a collector and minor street shall establish access on the minor street only.

(5) All lot corners shall be permanently marked by iron-rod monuments.

(f) Public use and service areas.

(1) In developments, easements along real property lines or elsewhere for utility installation shall be required. Such easements shall be at least 10 feet wide and located in consultation with the companies or municipal departments concerned.

(2) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided an easement or drainage right-of-way conforming substantially with the lines of such watercourse.

(3) A drainage way or ditch, existing or proposed, that would be a hazard to health and life shall be adequately replaced by an underground storm sewer pipe.

(g) Parking areas. Adequate parking shall be provided for recreation areas.

(h) Flood control. Land subject to flooding and land deemed to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land with the plat shall be set aside for such uses as will not be endangered by periodic or occasional inundation or will not produce unsatisfactory living conditions or shall be adequately drained and filled in accordance with regulations to the satisfaction of the Town Council.

(i) Utilities. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize or eliminate flood damage and to prevent infiltration of floodwaters. Subdivisions utilizing on-site septic systems shall not be

approved.

### **Section 25. Penalties for Offenses**

(a) Generally. Any person, partnership, corporation or association or any agent or representative thereof who shall violate any provision of this subdivision chapter shall, upon conviction thereof, be guilty of a violation and shall pay a fine of not less \$100 nor more than \$500, plus court costs and Victims Compensation Fund assessment.

(b) Continuing violations. Each day a violation of this chapter 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.

(c) Penalties limited by statute. If the penalty for a particular offense is limited by state law, then such limitation shall be applicable to the provisions of this chapter, notwithstanding the provisions of this chapter.

### **Section 26. Appeals.**

Any person aggrieved by the action of the Town Council pursuant to this ordinance may, within thirty (30) days after the date of the action, apply to a court of competent jurisdiction to appeal such decision by the Town Council.

### **Section 27. Amendments.**

(a) Authority. The regulations, restrictions, boundaries and provisions of this code may from time to time be amended, supplemented, changed, modified or repealed by ordinance by the Town Council according to the following sections.

(b) Public hearings. No amendment, supplement or change shall become effective until after a public hearing in relation thereto. Parties in interest and other citizens shall have an opportunity to be heard. Notice of such hearings shall be provided in accordance with the same procedures established for amendments to the Zoning Code.

SYNOPSIS

This SUBDIVISION ORDINANCE repeals any existing Subdivision Ordinance of the Town of Bowers and creates a new ordinance regulating subdivisions in the Town of Bowers. This ordinance sets forth standards regulating the creation of subdivisions in Bowers. Public notice requirements and procedures for combining, partitioning, minor subdivisions, major subdivisions and planned residential developments are outlined in the ordinance. Review of major subdivisions requires the submission and approval of sketch plans, preliminary plans, and final plans. The subdivider must furnish performance guaranties and a secured subdivision improvements completion and payments bond or irrevocable letter of credit prior to final approval for improvements that have a rational nexus to the impact of the subdivision as outlined in this ordinance. The subdivider shall also furnish a subdivision maintenance bond or an irrevocable letter of credit to guarantee the condition and maintenance of the improvements for one year from the date of their acceptance by the town. This ordinance outlines design standards for streets, blocks, lots, public use and service areas, parking areas, flood control, and utilities. Finally, this ordinance creates penalties for violating this ordinance and amendment procedures for this ordinance.

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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 at a duly-noticed and convened meeting at which a quorum was present on APRIL 9<sup>th</sup>, 2008 ~~9<sup>th</sup>, 2008~~

Attest: Shirley A. Pennington  
Town Secretary

So Certifies:   
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Mayor

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This shall certify that the title and synopsis of the foregoing ordinance was posted in the Agenda for the APRIL 9<sup>th</sup>, 2008 Town Council meeting, and was posted beforehand at the Bowlers Fire Hall on MARCH 25<sup>th</sup>, 2008

APRIL 9<sup>th</sup>, 2009  
Date

So Certifies:  
Shirley A. Pennington  
Town Secretary